

## Announcement of Funding Opportunity

### School Year 2019-2020 Additional Grants for the Expanded Prekindergarten for Three- and Four-Year Old Students (EPK Round 4)

#### Application Guidance

<b>Legislative Authority and Purpose of Grant Funds</b>	Chapter 53 of the Laws of 2019 appropriates \$15 million for additional prekindergarten grants to establish new full-day prekindergarten placements, convert existing half-day placements to full-day, or create new half-day placements for three- and/or four-year old students, targeting the highest need schools and children within school districts.
<b>Purpose of Grant</b>	The purpose of Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old Students is to increase the availability of high quality prekindergarten placements for high need children and schools within New York State.
<b>Project Period</b>	Initial period: July 1, 2019, through June 30, 2020.  In the 2020-2021 school year and thereafter, each grantee's award will be consolidated with the district's Universal Prekindergarten allocation as specified in Section 3602-e of Education Law, subject to an available appropriation in the State budget for this purpose and provided that the grantee has met all requirements of this grant.
<b>Eligible Applicants</b>	All public school districts are eligible to apply.  Due to the highly competitive nature of this grant, a strong preference for funding will be given to high need districts, especially those that currently do not offer a state funded prekindergarten program.  A school district is considered high need if it has a Needs Resource Index of 0.75 or higher, as most recently calculated by the State Education Department, or if it is a high-need school district based on the State Education Department's most recent calculation of the Need Resource Category.  Appendix F provides a list of the high need school districts.  For purposes of this grant, charter schools and BOCES are not included in the definition of public schools and are not eligible to apply.
<b>Amount of Funding</b>	The New York State Education Department will award up to \$15 million to fund grants for the 2019-2020 school year.
<b>Questions and Answers</b>	All questions must be submitted via E-Mail to <a href="mailto:PREKRFP@nysed.gov">PREKRFP@nysed.gov</a> by close of business <b>August 16, 2019</b> . A complete list of all Questions and Answers will be posted to <a href="#">NYSED Funding Opportunity Web Page</a> no later than <b>August 23, 2019</b> .
<b>Mandatory Notice of Intent</b>	To assist the Department in planning for the grant review process and expediting the announcement of awards, school districts that intend to submit a proposal <b>must submit a Notice of Intent</b> via email to

	<p><a href="mailto:PREKRFP@nysed.gov">PREKRFP@nysed.gov</a> no later than <b>August 30, 2019</b>. The Department will post on its website by <b>September 6, 2019</b> a list of school districts that submitted the mandatory Notice of Intent to apply for these funds.</p>
<b>Application Due Date</b>	<p>Receipt of 1 original and 3 copies by 5:00 PM <b>September 18, 2019</b> to:  New York State Education Department  Attn: Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old Students (EPK)  Office of Early Learning  Room 319 EB  89 Washington Avenue  Albany, NY 12234</p> <p>Applications are also <b>required</b> to be submitted to the Department via email to <a href="mailto:PREKRFP@nysed.gov">PREKRFP@nysed.gov</a>. The file format should be in Word. The subject line of the email should read as follows: <b>Expanded PreK RFP GC 19-021 and the legal name of applicant school district</b></p>
<b>Appendices</b>	<p>Appendix A: Standard Clauses for New York State Contracts  Appendix A-1 G: General Assurances  Appendix B: Statement of Assurances  Appendix C: EPK Grant Calculator  Appendix D: NYS Pre-K Self-Assessment &amp; Quality Improvement Action Plan  Appendix E: Collaboration Variance Request  Appendix F: High Need School Districts  Appendix G: Relative Need Points, UPK Utilization Points, and Preference Category  Appendix H: Proposal Evaluation Rubric</p>

The State Education Department does not discriminate on the basis of age, color, religion, creed, disability, marital status, veteran status, national origin, race, gender, genetic predisposition or carrier status, or sexual orientation in its educational programs, services and activities. Portion of any publication designed for distribution can be made available in a variety of formats, including Braille, large print or audiotape, upon request. Inquiries regarding this policy of nondiscrimination should be directed to the Department's Office for Diversity, Ethics, and Access, Room 530, Education Building, Albany, NY 12234.

## **Purpose**

The purpose of the Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old Students (EPK Round 4) is to increase the availability of high quality prekindergarten placements for high need children and schools within New York State. This competitive grant initiative builds on the foundation established by the \$800 million investment in prekindergarten across the state.

Grant funds will create new full-day placements, convert existing half-day prekindergarten placements to full-day, or create new half-day placements for three- and/or four-year old students. A strong preference for funding will be given to high need districts, especially those that currently do not offer a state funded prekindergarten program.

This prekindergarten grant program will promote program quality by requiring grantees to adopt approved quality indicators within two years, including valid and reliable measures of environmental quality, the quality of teacher-student interactions and student outcomes. In addition, awardees must ensure that any such assessment of child outcomes will not be used to make high stakes educational decisions for individual children.

Studies show that children who participate in high-quality early education programs are far more likely to read at grade level and graduate from high school<sup>1</sup> and that quality full-day prekindergarten programs in particular are credited with producing significant increases in student performance in math and reading for participating students by the second grade as well as decreasing the rates of grade retention.<sup>2</sup> Research indicates that as much as one-half of the achievement gap is already established before students enter the first grade.<sup>3</sup> Investing in high-quality prekindergarten programs has been demonstrated to have a positive long-term impact on children's life outcomes, narrow the achievement gap between poor and affluent youth, and provide benefits to children and taxpayers that outweigh their cost. High quality prekindergarten programs, especially those that provide full-day services and serve low-income or high need students, will help those students stay on track to graduate from high school and, over the long term, significantly reduce costs for remedial education, social services, health and criminal justice programs.<sup>4</sup> In addition, existing research supports the idea that early, high-quality exposure to multiple languages results in enhanced child language outcomes across each of the languages.<sup>5</sup>

## **Classroom Continuity**

Children receiving full-day prekindergarten should remain in the same physical location throughout the day, whenever practicable, and the program should keep the same classroom

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<sup>1</sup> The Pew Charitable Trusts (2010). *The Costs of Divestment: Why States Can't Afford to Cut Smart Early Childhood Programs*. April 2010.

<sup>2</sup> Ackerman, D., and Barnett, W.S., 2006. Increasing the Effectiveness of Pre-K Programs. New Brunswick, NJ: Rutgers University, National Institute for Early Education Research.

<sup>3</sup> David T. Burkam and Valarie Lee, "Inequality at the Starting Gate" (Washington, DC: Economic Policy Institute, 2002); U.S. Department of Education, National Center for Education Statistics, "Entering Kindergarten: A Portrait of American Children When They Begin School: Finds from the Condition of Education" (Washington, DC: U.S. Department of Education, National Center for Education Statistics, 2000); Nicolas Zill and Jerry West, "NCES 2001-35" (Washington, DC: U.S. Government Printing Office, 2001).

<sup>4</sup> Haskins, R. & Rouse, C. "Closing Achievement Gaps" *The Future of Children*. Policy Brief: Spring 2005.

<sup>5</sup> Kovelman, I., Baker, S.A., and Petitto, L.A., 2008. Bilingual and Monolingual Brains Compared: A Functional Magnetic Resonance Imaging Investigation of Syntactic Processing and a Possible "Neural Signature" of Bilingualism. *J Cogn Neurosci*. January; 20(1): 153-69.

staff throughout the day to help children develop a secure attachment with these significant adults. When consistent staff are available to children all day the adults become attuned to each child's unique needs and personality and can support, nurture, and guide the child's growth and development. The relationship between the adult and child fosters children's development of self-confidence and social competence. Self-confidence and social competence help children adapt to kindergarten and contribute to their success throughout their school years.

In addition to the relationship between the program staff and child, classroom continuity offers the opportunity for better relationships between the staff and families. This improves communication and partnership between the home and the prekindergarten program. Children who are in extended care, beyond the hours of full-day prekindergarten, benefit from a seamless transition which includes remaining in the same setting throughout the entire day.

### **Program Planning for Three-Year Old Students**

Decisions about how best to support growth and learning during the early years should be guided by principles of child development derived from the predictable sequence of human development. It is especially crucial that districts planning three-year-old programs consider all aspects of key milestones, within each domain, of children's development and their impact for teaching and learning. The developmental domains include Approaches to Learning, Physical Development and Health, Social and Emotional Learning, Communication, Language and Literacy, and Cognition and Knowledge of the World. It is equally important that districts articulate why they will employ a specific strategy or plan and how it addresses the unique needs of three-year-old children. When planning for three-year old students applicants must align with the New York State Early Learning Guidelines (2012 edition) and clearly demonstrate the differentiation in learning needs for this age group.

### **Project Funding**

The Department will award up to \$15 million to fund grants for the 2019-2020 school year. In the 2020-2021 school year and thereafter, each grantee's award will be consolidated with the district's Universal Prekindergarten allocation as specified in Section 3602-e of Education Law, subject to an available appropriation in the State budget for this purpose and provided that the grantee has met all requirements of this grant.

Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old Students (EPK Round 4) will create high quality prekindergarten placements for high need children and schools within New York State. Grant funding may be used to establish new full-day placements, convert existing half-day placements to full-day, or create new half-day placements for three and four-year old students. **To be eligible for funding to serve three-year old students, the district must have an equal or greater number of slots available for four-year old students.**

Prekindergarten programs operated under this grant generally must operate 180 days per year, five days per week; however, in the 2019-2020 school year, awardees implementing programs must operate a minimum of 90 days. Year One grant awards for winning school districts will be based on the number of days in which students are to be served. The grant payable will be reduced by 1/180<sup>th</sup> for each day less than 180 that the program is in operation.

For purposes of this grant, no school district shall receive an award of more than forty percent (40%) of the total grant funds. Further, no grantee may receive final payment that exceeds the total actual expenditures incurred by the district.

Awards under the EPK grant will be based on the number of new or conversion placements and on a school district's selected grant per pupil as set forth in Appendix C: EPK Grant Calculator. Award amounts will be calculated as follows:

- **New Full-day Placements:** The applicant's approved number of new full-day placements multiplied by twice the selected grant per pupil amount; and
- **New Half-Day or Full-Day Conversions Placements:** The applicant's approved number of new half-day or conversion placements multiplied by the selected grant per pupil amount.

Applicants must use the EPK Grant Calculator in Appendix C to determine the maximum grant request based on the number of new full-day placements, half-day placements converted to full-day, and/or half-day placements to be created and the adjusted grant for Year One based on the number of days the program will be in operation.

Grant funding must be used to supplement, not supplant, any existing prekindergarten programs.

### **Program Requirements**

Chapter 53 of the Laws of 2019 establishes several requirements that school districts must meet or assure to be eligible to receive an EPK grant.

1. **Length of the school day:** Programs funded with this grant must agree to provide instruction for at least five hours per school day; 25 hours per week for full-day programs, and at least two and one-half hours per school day; 12.5 hours per week for half-day prekindergarten programs. Prekindergarten programs operated under this grant must operate 180 days per year, five days per week; however, in the 2019-2020 school year, awardees implementing programs must operate a minimum of 90 days.
2. **Alignment with State Learning Standards:** Programs must offer instruction consistent with the [New York State Prekindergarten Learning Standards](#) for four-year old students, and the [New York State Early Learning Guidelines \(2012 edition\)](#) for three-year old students.
3. **Inclusion of Community-Based Organizations (CBOs):** Applicants must maximize collaboration with community-based organizations when creating new slots with this grant. School districts are intended to work in collaboration with high-quality community-based providers that demonstrate best practice for three and four-year-old students in prekindergarten. Section 3602-e of Education Law requires that school districts shall set aside not less than 10 percent of the total grant award to collaborate with CBOs for the provision of the prekindergarten instructional program to enrolled children. School districts should collaborate to the extent possible with CBOs to ensure consistent and efficient community coordination. A field memo titled *Pre-K Collaboration Requirement* provides more details about this requirement and is available at <http://www.p12.nysed.gov/upk/>.

Potential CBO collaborators include existing providers of early care and education, licensed or registered day care providers, Head Start programs, nursery schools, special education

4410 providers, BOCES, non-public schools, libraries and museums. Such providers must currently meet, or be willing to adapt their programs to meet, the standards and requirements of Subpart 151-1 of the regulations of the Commissioner of Education ([UPK Regulations Web Page](#)), as well as the requirements of this grant. School districts must visit each potential collaborator prior to entering into a contract for prekindergarten services.

School districts are encouraged to use the “Find Child Care” function on the NYS Office of Children and Family Services (OCFS) website to assist them in identifying potential CBO collaborators. This site allows a search by a variety of elements, including school district of location, and can be accessed at [https://ocfs.ny.gov/main/childcare/ccfs\\_template.asp](https://ocfs.ny.gov/main/childcare/ccfs_template.asp).

The Department will consider a variance from the collaboration requirement based on documented evidence that the district is unable to develop a collaborative arrangement for reasons that are outside the control of the district. Allowable reasons include: a lack of eligible CBOs located within the district’s boundaries; the existing agencies are not interested or able to collaborate with the district; or there is good cause for not entering into a contract (e.g., health and safety concerns). Such request should describe the district’s efforts to identify and recruit eligible CBOs and the specific reasons for not collaborating. Applicants seeking a variance from the collaboration requirement must complete and submit Appendix E, Collaboration Variance Request.

Additionally, all prekindergarten teachers employed by eligible CBOs must meet requirements pursuant to Commissioner’s Regulations Subpart 151-1.3(e)(iii) and paragraphs d-1 and d-2 of subdivision 12 of Section 3602-e of Education Law, which require that teachers meet **ONE** of the following criteria:

- NYS Early Childhood Teacher (Birth - Grade 2) Certificate – OR
- NYS Students with Disabilities (Birth - Grade 2) Certificate – OR
- a Bachelor's degree in ECE or a related field and have a written plan for becoming certified within five years of commencing employment as a prekindergarten teacher – OR
- for Pre-K teachers employed by a community-based organization (CBO) that is regulated by another State agency, the qualifications established by the program’s regulatory authority and have a written plan for becoming certified within five years of commencing employment as a prekindergarten teacher – OR
- for Pre-K teachers employed by a community-based organization (CBO) that is not regulated by another State agency, meet the qualifications established by the program’s administration and have a written plan for becoming certified within five years of commencing employment as a prekindergarten teacher.

CBOs that employ teachers who are not certified must have a supervisor who is certified for service in the early childhood or childhood grades and who is on-site during the hours of prekindergarten operation.

4. Compliance: Programs funded with this grant must comply with all the same rules and requirements as prekindergarten programs funded pursuant to Section 3602-e of Education Law, unless otherwise noted in this Request for Proposals (RFP). Subpart 151-1 of 8 NYCRR establishes requirements that apply to all prekindergarten programs, including both district-operated and CBO-operated classrooms. Applicants must

incorporate the implementation of these requirements in their program design. The prekindergarten regulations and guidance for districts implementing a prekindergarten program can be found on the Department's [UPK Website](#). Licensed programs must adhere to a staff to student ratio that is compliant with the licensing agency of the provider.

5. Quality Indicators: The school district must agree to adopt approved program quality indicators within two years, including, but not limited to, valid and reliable measures of environmental quality, and the quality of teacher-student interactions and child outcomes.
6. Evaluation data: The school district must ensure that any measurement of student outcomes will not be used to make high-stakes, educational decisions for individual children. Such data must not be used to preclude or discourage a child's enrollment in kindergarten.

### **Eligible Children**

An eligible student for a three-year old classroom is a child who resides in the school district and who is three years of age on or before December 1<sup>st</sup> or who will otherwise be first eligible to attend a four-year old prekindergarten program the following school year. An eligible student for a four-year old classroom is a child who resides in the school district who is four years of age on or before December 1<sup>st</sup> of the year in which he or she will be enrolled or who will otherwise be first eligible to attend public school kindergarten the following school year. Children who are eligible for kindergarten enrollment are not eligible for prekindergarten.

### **Approved Quality Indicators**

A condition of a school district's eligibility for these funds includes the adoption of an approved research-based set of quality indicators within two years including, but not limited to, valid and reliable measures of environmental quality, the quality of teacher-student interactions and child outcomes. The State's approved quality indicators are set forth in the New York State Pre-K Self-Assessment and Quality Improvement Action Plan (Appendix D). These high-quality program indicators address the following categories:

- Classroom Environment
- Staff and Program Oversight
- Curriculum Planning and Implementation
- Child Screening and Assessment
- Professional Learning
- Family Engagement
- Transitions to Kindergarten for Four-Year Old Students

Upon receiving an award, successful applicants must complete and submit to the Department the Pre-K Self-Assessment and Quality Improvement Action Plan (Appendix D). The Action Plan will establish goals and objectives, action steps, key responsibilities and a timeline for implementation. Districts that have a currently approved Action Plan will be required to review the existing plan and submit a revised plan only if modifications are needed to reflect program changes resulting from the new grant award. Once approved by the Department, the goals, action steps, and timeline in the approved Action Plan constitute the performance targets that must be met for a grantee to receive continued funding in subsequent years, subject to an appropriation for this purpose in the State budget.

## **Suspension and Expulsion of Preschool Children**

The New York State Education Department (Department) is committed to reducing and severely limiting expulsion and suspension practices, with the goal of eliminating these practices in all early childhood settings. Districts and their collaborating early childhood programs are urged to review their school's practices and take steps to ensure that high-quality behavioral and social-emotional supports are in place to prevent suspensions and expulsions of preschool children. Additional guidance on the suspension and expulsion of preschool children is available at

<http://www.p12.nysed.gov/earlylearning/documents/SuspensionandExpulsionofPreschoolChildren.pdf>.

## **Allowable Expenditures**

Approved expenditures are any expenses for which grant funds may be used, such as, but not limited to, program components, professional salaries, professional development, support services, materials and supplies, administrative support services, transportation services, leasing expenses or other appropriate facilities expenses and other costs as approved by the commissioner. Pursuant to §§ 1712, 2514, and 2555 of the Education Law, no parent and/or guardian of a child participating in a prekindergarten program should be subjected to a fee/charge for the instructional program.

## **Budget (FS-10)**

Applicants must submit a FS-10 budget with this application, for the initial 12-month project period of 7/01/2019 – 6/30/2020. The total budget may not exceed the maximum grant request calculated using the EPK Grant Calculator (Appendix C). The budget will be reviewed and scored.

The applicant must complete the FS-10 Budget Form. Budgeted costs must comply with applicable State and federal laws and regulations and follow the Department's Fiscal Guidelines. These guidelines, as well as the FS-10 form, are available online at the [Grants Finance website](#). The FS-10 must bear the original signature of the Chief School/Administrative Officer.

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](#).

The budget should be reasonable and appropriate to cover program expenses.

For more information, visit the [Grants Finance website](#)

## **Payment Schedule**

Initial payment in the amount of 25% of the annual budget will be payable upon approval of the form FS-10 Proposed Budget for a Federal or State Project.



To receive interim payments, the subgrantee will submit form FS-25 Request for Funds for A Federal or State Project. Requests for interim payments may only represent actual expenditures plus anticipated expenditures during the next month. Up to 90% of the total approved annual budget amount will be reimbursed through the interim payment process.

To receive final payment, the subgrantee will submit form FS-10F Final Expenditures for A Federal or State Project. Final payment shall be made upon satisfactory statement of expenditures consistent with the approved budget and any budget amendments on a properly completed form (FS-10A). Final payments are also contingent upon submission on of all required program reports.

### **Application Submission Instructions**

**August 16, 2019:** Questions due to the Department  
**August 23, 2019:** Questions & Answers are posted to the Department's website  
**August 30, 2019:** Mandatory Notice of Intent due  
**September 18, 2019:** **Application Received by 5pm**

**Only complete applications will be reviewed.** A complete application must include all items on the Application Checklist in the order listed on the checklist.

### **Method of Award**

Grant awards will be based upon the full annualized value of each winning school district's approved application. However, in the 2019-2020 school year, payment will be prorated based upon the actual number of students served and the number of days out of 180 that the program is in operation. Grant funding must be used to supplement, not supplant, existing prekindergarten programs (including programs funded by State, federal, and/or local sources).

Proposals received after **5pm September 18, 2019** will not be reviewed.

Each eligible proposal will be reviewed by at least two reviewers. Each reviewer will score the proposal according to the indicated point criteria in the Proposal Narrative and the Budget Narrative using Appendix H Proposal Evaluation Rubric. Scores from each reviewer will be averaged to compute the final score. If there is a difference of more than 15 points 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. In those instances where the third review falls equally between the initial two scores, the score of the third review will be used as the final score. A third review will not be required when it is mathematically impossible for an applicant to achieve an average score of 70 or higher with a third review.

Budgets will be adjusted to eliminate any unallowable or inappropriate expenditure.

Proposals that receive a final average score of 70 or more will be considered for funding. **A strong preference for funding will be given to high need districts, especially those that currently do not offer a state funded prekindergarten program.**

In making awards, proposals from high need applicants scoring 70 or higher that do not currently offer a state funded prekindergarten program will be awarded first, starting with the highest scoring proposal in rank order. If funds are not exhausted after a score of 70 for the high need districts without a current state funded prekindergarten program is reached, awards

will be made starting with the highest scoring proposal in rank order for all other high need districts. If funds are not exhausted after a score of 70 for all other high need districts is reached, awards will be made starting with the highest scoring proposal in rank order for all other districts.

In the event of tie scores, proposals with the highest combined score on Part 1 Need Narrative will be ranked higher. If a tie remains, the proposal with the highest combined score on Part 3 Program Quality Narrative will be ranked higher.

### **Entities' Responsibility**

Projects must operate under the jurisdiction of the local board of education, or other appropriate governing body, and are subject to at least the same degree of accountability as all other expenditures of the local agency. The local board of education, or other appropriate governing body, is responsible for the proper disbursement of, and accounting for project funds. Written agency policy concerning wages, mileage and travel allowances, overtime compensation, or fringe benefits, as well as State rules pertaining to competitive bidding, safety regulations and inventory control must be followed. Supporting or source documents are required for all grant related transactions entered into the local agency's recordkeeping systems. Source documents that authorize the disbursement of grant funds consist of purchase orders, contracts, time and effort records, delivery receipts, vendor invoices, travel documentation and payment documents.

Supporting documentation for grants and grant contracts must be kept for at least six years after the last payment was made unless otherwise specified by program requirements. Additionally, audit or litigation will "freeze the clock" for records retention purposes until the issue is resolved. All records and documentation must be available for inspection by State Education Department officials or its representatives.

For additional information about grants, please refer to the [Fiscal Guidelines for Federal and State Aided Grants](#).

### **Reporting**

As a condition of continued receipt of grant funds, grantees will be required to submit annual program and fiscal reports to the Department in the proscribed format:

*Program Reporting:* Grantees will be required to submit a report at the end of the grant period, but no later than July 31<sup>st</sup> of each year, assuring that programs included in this application meet quality standards and all applicable requirements of this RFP.

*Fiscal Reporting:* Grantees will be required to report expenditure data and student enrollment data at the end of the grant period. Thirty days following the end of the grant period (July 30<sup>th</sup>), grant recipients will be expected to complete an FS-10F long form ([Grants Finance Web Page](#)). Additionally, the grantees will be required to submit updated Applicant Information and Grant Calculator forms to reflect the actual number of children served, and the number of days in operation during the school year and information about the prekindergarten sites. No grantee may receive final payment that exceeds the total actual expenditures incurred by the district. Payment amounts will also be adjusted if the number of days in operation or number of children served are lower than originally submitted on the Grant Calculator. Also, as part of the end of grant period reporting, grant recipients will be required to certify that grant funds were used to

supplement and not supplant current local expenditures or sources. Current local expenditures shall include any local expenditure of federal, state, or local funds used to supplement or extend services provided directly or via contract to eligible children enrolled in a prekindergarten program pursuant to section 3602-e and/or section 3602-ee of the Education Law.

### **Monitoring**

Awarded programs will may be subject to monitoring by the State Education Department on an annual basis.

### **Accessibility of Web-Based Information and Applications**

Any documents, web-based information and applications development, or programming delivered pursuant to the contract or procurement, will comply with New York State Education Department IT Policy NYSED-WEBACC-001, Web Accessibility Policy as such policy may be amended, modified or superseded, which requires that state agency web-based information, including documents, and applications are accessible to persons with disabilities. Documents, web-based information and applications must conform to NYSED-WEBACC-001 as determined by quality assurance testing. Such quality assurance testing will be conducted by NYSED employee or contractor and the results of such testing must be satisfactory to NYSED before web-based information and applications will be considered a qualified deliverable under the contract or procurement.

### **Debriefing Procedures**

All unsuccessful applicants may request a debriefing within fifteen (15) calendar days of receiving notice from NYSED. Bidders may request a debriefing letter on the selection process regarding this RFP by submitting a written request to [prekrfp@nysed.gov](mailto:prekrfp@nysed.gov).

Within ten (10) business days, the program staff will issue a written debriefing letter to the bidder. The debriefing letter provide a written summary of the proposal's strengths and weaknesses, as well as recommendations for improvement.

### **Contract Award Protest Procedures**

Applicants who receive a notice of non-award or disqualification 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 or disqualification letter. The protest letter must be filed with:

NYS Education Department  
Contract Administration Unit  
Attn: Richard Duprey  
Room 501W EB

89 Washington Avenue  
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.

**Minority and Women-Owned Business Enterprise (M/WBE) Participation Goals Pursuant to Article 15-A of the New York State Executive Law**

***The following M/WBE requirements apply when an applicant submits an application for grant funding that exceeds \$25,000 for the full grant period.***

***All forms referenced here can be found in the M/WBE Documents section at the end of this RFP.***

All applicants are required to comply with NYSED's Minority and Women-Owned Business Enterprises (M/WBE) policy. Compliance can be achieved by one of the three methods described below. Full participation by meeting or exceeding the M/WBE participation goal for this grant is the preferred method.

M/WBE participation includes services, materials, or supplies purchased from minority and women-owned firms certified with the NYS Division of Minority and Women Business Development. Not-for-profit agencies are not eligible for this certification. For additional information and a listing of currently certified M/WBEs, see the [NYS MWBE Directory](#).

The M/WBE participation goal for this grant is 30% of each applicant's total discretionary non-personal service budget for each year of the grant. Discretionary non-personal service budget is defined as total annual budget, excluding the sum of funds budgeted for:

1. direct personal services (i.e., professional and support staff salaries) and fringe benefits;  
and
2. rent, lease, utilities and indirect costs, if these items are allowable expenditures.

The M/WBE Goal Calculation Worksheet is provided for use in calculating the dollar amount of the M/WBE goal for this grant application.

All requested information and documentation should be provided at the time of submission. If this cannot be done, the applicant will have thirty days from the date of notice of award to

submit the necessary documents and respond satisfactorily to any follow-up questions from the Department. Failure to do so may result in loss of funding.

## **METHODS TO COMPLY**

An applicant can comply with NYSED's M/WBE policy by one of three methods:

**1. Full Participation** - This is the preferred method of compliance. Full participation is achieved when an applicant meets or exceeds the participation goals for this grant.

**COMPLETE FORMS:**

- M/WBE Goal Calculation Worksheet
- M/WBE Cover Letter
- M/WBE 100 Utilization Plan
- M/WBE 102 Notice of Intent to Participate
- M/WBE 100 EEO Staffing Plan

**2. Partial Participation, Partial Request for Waiver** - This is acceptable only if good faith efforts to achieve full participation are made and documented, but full participation is not possible.

**COMPLETE FORMS:**

- M/WBE Goal Calculation Worksheet
- M/WBE Cover Letter
- M/WBE 100 Utilization Plan
- M/WBE 101 Request for Waiver
- M/WBE 102 Notice of Intent to Participate
- M/WBE 105 Contractor's Good Faith Efforts
- M/WBE 100 EEO Staffing Plan

**3. No Participation, Request for Complete Waiver** - This is acceptable only if good faith efforts to achieve full or partial participation are made and documented, but do not result in any participation by M/WBE firm(s).

**COMPLETE FORMS:**

- M/WBE Goal Calculation Worksheet
- M/WBE Cover Letter
- M/WBE 101 Request for Waiver
- M/WBE 105 Contractor's Good Faith Efforts
- M/WBE 100 EEO Staffing Plan

## **GOOD FAITH EFFORTS**

Applicants must make a good faith effort to solicit NYS certified M/WBE firms as subcontractors and/or suppliers to achieve the goals for this grant. Solicitations may include, but are not limited to: advertisements in minority and women-centered publications; solicitation of vendors found in the [NYS Directory of Certified Minority and](#)

[Women-Owned Business Enterprises](#); and the solicitation of minority and women-oriented trade and labor organizations.

Good faith efforts include actions such as setting up meetings or announcements to make M/WBEs aware of supplier and subcontracting opportunities, identifying logical areas of the grant project that could be subcontracted to M/WBE firms, and utilizing all current lists of M/WBEs who are available for and may be interested in subcontracting or supplying goods for the project.

Applicants should document their efforts to comply with the stated M/WBE goals and submit this with their applications as evidence. Examples of acceptable documentation can be found in form M/WBE 105, Contractor's Good Faith Efforts. NYSED reserves the right to reject any application for failure to document "good faith efforts."

## **REQUEST FOR WAIVER**

When full participation cannot be achieved, applicants must submit a Request for Waiver (M/WBE 101). Requests for Waivers must be accompanied by documentation explaining the good faith efforts made and reasons they were unsuccessful in obtaining M/WBE participation.

NYSED reserves the right to approve the addition or deletion of subcontractors or suppliers to enable applicants to comply with the M/WBE goals, provided such addition or deletion does not impact the technical proposal and/or increase the total budget.

All payments to Minority and Women-Owned Business Enterprise subcontractor(s) should be reported to the NYSED M/WBE Program Unit using the M/WBE 104G Quarterly M/WBE Compliance Report. This report should be submitted on a quarterly basis and can be found on the [NYSED MWBE unit website](#).

NYSED's M/WBE Coordinator is available to assist applicants in meeting the M/WBE goals. The Coordinator can be reached at [MWBEgrants@nysed.gov](mailto:MWBEgrants@nysed.gov).

## **Equal Employment Opportunity Reporting (EEO) Pursuant to Article 15-A of the New York State Executive Law**

Applicants must complete and submit form EEO 100: Staffing Plan.

## **NYSED's Reservation of Rights**

NYSED reserves the right to: (1) reject any or all proposals received in response to the RFP; (2) withdraw the RFP at any time, at the agency's sole discretion; (3) make an award under the RFP in whole or in part; (4) disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP; (5) seek clarifications of proposals; (6) use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP; (7) prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available; (8) prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments; (9) change any of the

scheduled dates; (10) waive any requirements that are not material; (11) negotiate with the successful bidder within the scope of the RFP in the best interests of the state; (12) conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder; (13) utilize any and all ideas submitted in the proposals received; (14) unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 90 days from the bid opening; (15) require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offeror's proposal and/or to determine an offeror's compliance with the requirements of the solicitation; (16) to request best and final offers.

### **Vendor Responsibility**

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

NYSED recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the [OSC VendRep System Instructions](#) or go directly to the [VendRep System online](#).

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

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the [VendRep website](#) or may contact NYSED or the Office of the State Comptroller's Help Desk for a copy of the paper form.

### **Subcontractors:**

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

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

### **Workers' Compensation Coverage and Debarment**

New York State Workers' Compensation Law (WCL) has specific coverage requirements for businesses contracting with New York State and additional requirements which provide for the debarment of vendors that violate certain sections of WCL. The WCL requires and has required

since introduction of the law in 1922, the heads of all municipal and State entities to ensure that businesses have appropriate workers' compensation and disability benefits insurance coverage *prior* to issuing any permits or licenses, or *prior* to entering into contracts.

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

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

## **PROOF OF COVERAGE REQUIREMENTS**

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

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

### **Proof of Workers' Compensation Coverage**

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

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

### **Proof of Disability Benefits Coverage**

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



forms from the contractor and submit to OSC to prove the contractor has appropriate disability benefits insurance coverage:

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

For additional information regarding workers' compensation and disability benefits requirements, please refer to the [New York State Workers' Compensation Board website](#). Alternatively, questions relating to either workers' compensation or disability benefits coverage should be directed to the NYS Workers' Compensation Board, Bureau of Compliance at (518) 486-6307.

**2019-2020**  
**Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old**  
**Students Grant Program (EPK Round 4)**  
**Application Cover Page**

**Agency Code:**

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Name LEA:	Name and Title of Contact Person:
Address:	Telephone:
<b>City:</b> <b>Zip Code:</b>	Fax:
	E-Mail:

**Funding Request**

Year One: \$	Annualized: \$ (Must match amount from Appendix C – Grant Calculator)
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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, 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 due to changed circumstances.

Original Signature of Chief Administrative Officer (in blue ink)	Chief Administrative Officer Contact Information
	Telephone:
Typed Name:	Fax:
Date:	E-mail:

**Indicate the type(s) of placements to be created by this grant request.**

**Options for 4-year olds**

**Options for 3-year olds**

- New full-day for four-year olds
- Converting half-day to full-day for four-year olds
- New half-day for four-year olds

- New full-day for three-year olds
- Converting half-day to full-day for three-year olds
- New half-day for three-year olds

**The completed application must be received by 5pm September 18, 2019 to:**

New York State Education Department  
 Attn: Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old Students (EPK)  
 Office of Early Learning, Room 319 EB  
 89 Washington Avenue  
 Albany, NY 12234

## Application Checklist

Listed below are the required documents for a complete application package, in the order that they should be submitted. Use this checklist to ensure that your application submission is complete and in compliance with application instructions.

<b>REQUIRED DOCUMENTS</b>	<b>CHECKED – APPLICANT</b>	<b>CHECKED – SED</b>
Application Cover Page	<input type="checkbox"/>	<input type="checkbox"/>
Application Checklist	<input type="checkbox"/>	<input type="checkbox"/>
Program Abstract	<input type="checkbox"/>	<input type="checkbox"/>
EPK Grant Calculator form (Appendix C)	<input type="checkbox"/>	<input type="checkbox"/>
Collaboration Variance: required if there are no CBO collaborating partners funded by project (Appendix E)	<input type="checkbox"/>	<input type="checkbox"/>
Section 1 – Need Narrative	<input type="checkbox"/>	<input type="checkbox"/>
Section 2 – Program Design Narrative	<input type="checkbox"/>	<input type="checkbox"/>
Section 3 – Program Quality Narrative	<input type="checkbox"/>	<input type="checkbox"/>
Section 4 – Budget Narrative	<input type="checkbox"/>	<input type="checkbox"/>
FS-10 Budget	<input type="checkbox"/>	<input type="checkbox"/>
Statement of Assurances (Appendix B)	<input type="checkbox"/>	<input type="checkbox"/>
M/WBE Documents Package	<input type="checkbox"/>	<input type="checkbox"/>

<b>M/WBE Documents Package (original signatures required)</b>			
<input type="checkbox"/> Full Participation <input type="checkbox"/> Request Partial Waiver <input type="checkbox"/> Request Total Waiver			
	<b>Forms Required</b>		
Type of Form	Full Participation	Request Partial Waiver	Request Total Waiver
M/WBE Cover Letter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
M/WBE Goal Calculation Worksheet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>M/WBE 100</b> Utilization Plan	<input type="checkbox"/>	<input type="checkbox"/>	N/A
M/WBE 102 Notice of Intent to Participate	<input type="checkbox"/>	<input type="checkbox"/>	N/A
EEO 100 Staffing Plan and Instructions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
M/WBE 105 Contractor's Good Faith Efforts	N/A	<input type="checkbox"/>	<input type="checkbox"/>
M/WBE 101 Request for Waiver Form and Instructions	N/A	<input type="checkbox"/>	<input type="checkbox"/>

SED Comments:

Has the applicant complied with the application instructions?  YES       NO

SED Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

## Submission Standards and Page Limits

**The Program Abstract and the narrative sections must be submitted on one and one-half-spaced 8.5” x 11” pages with one-inch margins.** Use a Times Roman or Arial font in a 12-point size for the narrative sections. Charts/tables within the narrative sections are not required to adhere to this standard. The use of a 10-point font size is permissible in charts/tables. **Do not include any attachments or addenda.**

The Need Narrative, Program Design Narrative, Program Quality Narrative, and Budget Narrative should not exceed 15 pages. The Abstract is not counted in page limits.

**If the narrative sections exceed the page limit, the excess pages will not be read by the reviewers.**

**Proposals that do not comply with the margin, spacing and/or font size standards stated above will not be reviewed.**

**Incomplete applications will not be reviewed.**

### **Proposal Submission (100 points)**

Provide a comprehensive description of the proposed project. Each section of the proposal builds logically on the preceding section. Be clear, concise and adhere to the following required format. The narrative will be reviewed in accordance with the following points and according to the Proposal Evaluation Rubric (Appendix H). The proposal submission consists of five distinct sections. These are: 1) Abstract; 2) Need Narrative, 3) Program Design Narrative, 4) Program Quality Narrative; and 5) Budget Narrative and FS-10 Proposed Budget. The Need Narrative, Program Design Narrative, Program Quality Narrative, and Budget Narrative sections must adhere to the above page limits.

### **Abstract (0 points, but required)**

The abstract is the applicant's opportunity to provide a clear and concise **one-page** summary that describes the entire project. The abstract should illustrate the primary purpose of the project, touch upon those children and schools most in need of services and highlight planned collaboration efforts that will provide high quality programming for children and their families. The abstract should provide information and context that will assist the reviewers as they read and score the proposal.

### **Part 1 - Need Narrative (25 Points)**

In this section, applicants should clearly document the resources and needs of the community to be served by the project; the needs of the students to be served; and gaps in services currently available. Applicants are strongly encouraged to use a variety of data sources as evidence. Applicants with existing prekindergarten programs should include performance data to support the need for the project. Applicants must provide clear, concise and comprehensive responses to address each age group that they propose to serve. A quality application will describe the overall need for this project by addressing the following:

1. The district is high need as measured by Economic Disadvantage, English Language Learner numbers as a percent of school enrollment, Need Resource Category, and

Need Resource Index. Based on these factors, high need school districts (Appendix F) will receive up to 5 points for these criteria. All other districts will receive zero points.

- The district maximizes the Universal Prekindergarten (UPK) funding currently allocated to it. Based on the district's three year average UPK enrollment compared with its funded capacity, the applicant will be automatically awarded up to 5 points for this criterion (Appendix G). Points will be awarded as follows:

Served 95% - 100% of the UPK funded capacity OR received no UPK allocation prior to the 2019-2020 school year	5 points
Served 85% - 94% of the UPK funded capacity	3 points
Served 75% - 84% of the UPK funded capacity	1 point
Served less than 75% of the UPK funded capacity	0 points

- Specific indicators of district need, including the percent and number of eligible children currently not served by state funded early learning or prekindergarten programs or other publicly-funded programs for three- and four-year old students; and if applicable; the proportion of prekindergarten students currently enrolled in locally funded half-day programs and the proportion of prekindergarten students currently enrolled in locally funded full-day programs.
- The specific needs of students to be served by the district, including the needs of the parents of eligible children and the number of children who need full-day programs because of their parents'/guardians' work schedules. Also, describe the recruitment plan, including how the district will publicize its education program to a broad cross-section of prospective students, particularly those who are unserved or underserved, and the district's specific plan to recruit students with disabilities, Emergent Multilingual Learners, and students who are economically disadvantaged.
- The specific gaps or needs in early learning services, critical issues and problems of the community, and the method for determining these. Include the availability or lack of other resources and programs to serve the community's three and four-year old children, as applicable for the proposed project. Cite the specific source(s) of any demographic, socioeconomic or educational data used in the description of needs.

**Part 2 Program Design Narrative (21 Points)**

In this section, applicants should thoroughly, clearly, and concisely describe how the prekindergarten program supported by this grant will be structured and organized. Applicants currently operating State-Administered Prekindergarten programs should describe the interface between their existing program and the expansion services that would be provided through this grant. A quality application will describe:

- Using the below chart, the number and ages of children to be served, the length of program day, the anticipated start date and number of days the program will operate in Year One,

and who will provide the instructional program (public school/CBO/combination). In addition, describe how this proposal would prioritize funds to maximize the total number of eligible children in the district served by prekindergarten programs and how services will be focused on the highest need schools and students.

Anticipated Start Date (Year 1):	Number of Days (Year 1):		
	Public School Operated	CBO Operated	Total
New full-day slots for four-year old students			
Conversion slots for four-year old students			
New half-day slots for four-year old students			
New full-day slots for three-year old students*			
Conversion slots for three-year old students*			
New half-day slots for three-year old students*			
<b>Total:</b>			

*\* To serve three-year old students in the program, the applicant must have an equal or greater number slots available for four-year old students.*

2. How the applicant will agree to maximize partnerships with community-based organizations for the provision of the prekindergarten instructional program when developing new prekindergarten slots, including:

- the process for identifying and reaching out to potential collaborators;
- the number and type of new slots (full-day/half-day) that will be created using this grant; and
- the roles and responsibilities of both the collaborating agency and the district in the operation of the prekindergarten program.

**Applicants that do not have at least one CBO collaborating partner must complete and submit a request for a variance from the collaboration requirement (Appendix E).**

3. How the applicant will maximize the enrollment and inclusion of preschool children with disabilities in the prekindergarten program, including;

- the processes and procedures the applicant has, or will have, in place to ensure that, to the maximum extent possible and as appropriate, preschool students with disabilities are served in the general education prekindergarten classroom;
- how the grant funds will be used to address the need for integrated settings; and
- the placement of typically developing students to integrate settings to ensure that students of all learning and physical abilities are educated together.

4. The need to plan supports for language diverse prekindergarten students, including how the applicant proposes to use grant funds to support Bilingual Education, Dual Language, and/or English as a New Language programming.

### **Part 3 – Program Quality Narrative (34 Points)**

The school district must ensure that its prekindergarten program is providing high quality services and appropriately supporting its youngest and most vulnerable students. As a condition of receiving Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old Students Grant (EPK), **applicants must agree to adopt the approved quality indicators listed below within two years.**

Applicants must detail how they currently meet, or will meet, the approved quality standards for prekindergarten services offered directly by the district and its collaborating CBOs. The narrative should describe the policies, processes and procedures that the school district has in place or will implement across the following standard areas, including the specific action steps that the school district will take.

#### **1. Classroom Environment** - A quality application will describe:

- The daily schedule that allows for a balance of intentionally-planned active and quiet play; indoor and outdoor gross motor activities; and individual and small group activities. Approximately one-third of the daily schedule is designated for children to engage in self-initiated activities.
- The classroom arrangement that provides clearly defined, well-equipped learning centers including, but not limited to: dramatic play; blocks and construction; library, language arts, technology/media; science and nature; mathematics and manipulative materials; writing; creative arts; sand and water play; and music. If requesting funds to serve three-year old students, the applicant describes how an appropriate classroom environment has or will be created for the three-year old age group differs from the classrooms for four-year old students.
- How the district uses or will use a valid and reliable measure of quality for the prekindergarten classroom environment that allows it to evaluate the program's strengths and weaknesses and make program improvements that will increase quality.

#### **2. Staff and Program Oversight** - A quality application will describe:

- The district's written procedures for ensuring that all Prekindergarten teaching staff are certified or for staff in CBOs have a viable plan for becoming certified within five years of commencing employment as a prekindergarten teacher.
- How the district uses or will use a valid and reliable measure of teacher-student interactions to identify and support the use of classroom practices and processes that have the most positive effects on children's learning.
- The district's plan to monitor compliance with program requirements across all prekindergarten settings (public school and CBO sites), including regular classroom observations, professional development, meetings with teachers and administrators.

#### **3. Curriculum, Planning & Implementation** - A quality application will describe:

- The district's use of a written curriculum or curriculum framework that:



- For three-year old students aligns with the New York State Early Learning Guidelines (2012 edition)
  - For four-year old students aligns with the NYSED Prekindergarten Learning Standards;
  - Is developmentally appropriate; and
  - Ensures continuity with the district's Kindergarten to Grade 3 curriculum.
- How all teaching staff receive annual training to implement the curriculum and supervisory support to assist with curriculum implementation.
  - The district's efforts to implement appropriate modifications and additional supports to enable children with Individual Education Programs (IEPs) to be more effectively included in the full range of the program's activities.
  - The district's efforts to implement appropriate modifications and additional supports to ensure that participating children who are Emergent Multilingual Learners (EMLLs) are provided equal access to the program and opportunities to achieve the same program goals and standards as other participating children.

**4. Child Screening & Assessment** - A quality application will describe:

- The district's use of a developmental screening tool that is valid and reliable and that at a minimum assesses language, cognitive, and motor development.
- How the district will document the developmental progress of each child at least two times per school year using a child development assessment tool(s) that is valid and reliable and at that a minimum assesses language, cognitive, and social-emotional development.
- The district's process for using assessment results to inform instruction and address the needs of individual children.
- The district's process for using aggregated assessment results are used to inform program practice.

**5. Professional Learning** - A quality application will describe:

- How staffs from both the district and CBOs are or will be involved in identifying needs and planning professional learning that:
  - focuses on improving teacher performance;
  - connects to the goals and needs of the prekindergarten and K-3 programs;
  - integrates all the domains of early learning; and
  - uses trainers with the qualifications, experience and knowledge to provide informative, practical, research-based training.

**6. Family Engagement** - A quality application will describe:

- The district's written policies and procedures to ensure active engagement of parents and/or guardians in the education of their children.

- How the district uses the results of an annual program evaluation or survey completed by families for program improvement.
- How the district provides, directly or through referral, comprehensive services to children and their families as necessary to support a child's participation in the prekindergarten program. Whenever possible, comprehensive services are provided in collaboration with other community organizations in a non-duplicative manner and in the language or mode of communication best understood by the children and their families.

**7. Transitions to Kindergarten for Four-Year Old Students** - A quality application will describe:

- The district's plan for establishing and maintaining contact with early childhood programs located within the district's boundaries (not only those collaborating with the district for Pre-K services) for the purpose of meeting with directors and teachers from early childhood programs to:
  - share and learn the curricular content of both prekindergarten and kindergarten; and
  - to discuss how to help children and family's transition to kindergarten.
- The district's process for kindergarten registration that includes:
  - questions about a child's preschool experience (parent questionnaire or interview); and
  - outreach to families of those children not enrolled in its prekindergarten program.

**Part 4 –Budget Narrative (20 Points)**

This section will describe proposed expenditures that are appropriate, reasonable, and necessary to support the project activities and goals. The proposed budget (FS-10) should reflect all required components of the program. The expenditures must supplement and not supplant services, current local expenditures of federal, state, or local funds on prekindergarten programs, and/or the number of slots in prekindergarten programs from such sources. Current local expenditures shall include any local expenditures of federal, state, or local funds used to supplement or extend services provided directly or via contract to eligible children enrolled in State-administered prekindergarten programs.

Budgeted costs must comply with applicable State and federal laws and regulations and follow the Department's Fiscal Guidelines. These guidelines, as well as the FS-10 form, are available online on the [Grants Finance website](#). The FS-10 must bear the original signature of the Chief School/Administrative Officer.

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](#).

**Budget Narrative**: - A quality application will describe:

- For each category of the FS-10, why program expenditures are appropriate and necessary to support the project and are primarily targeted to the provision of direct

services to students (i.e. how will funds be used to provide a developmentally appropriate learning experience for the prekindergarten students).

- Why programs expenditures are reasonable in relation to the number of children to be served, the services to be provided, and the anticipated results and benefits of the program.
- The system the district will use to track costs that are allocated specifically for Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old Students (EPK) grant program.

**M/WBE Documents**

**M/WBE Goal Calculation Worksheet**  
**(This form should reflect Year 1 budget totals)**

**RFP # and Title:** \_\_\_\_\_

**Applicant Name:** \_\_\_\_\_

The M/WBE participation for this grant is 30% of each applicant’s total discretionary non-personal service budget for each year of the grant. Discretionary non-personal service budget is defined as the total annual budget, excluding the sum of funds budgeted for direct personal services (i.e., professional and support staff salaries) and fringe benefits, as well as rent, lease, utilities, and indirect costs, if these are allowable expenditures. Please complete the following table to determine the dollar amount of the M/WBE goal for this grant application.

	<b>Budget Category</b>	<b>Amount budgeted for items excluded from M/WBE calculation</b>	<b>Totals</b>
<b>1.</b>	<b>Total Budget</b>		
<b>2.</b>	<b>Professional Salaries</b>		
<b>3.</b>	<b>Support Staff Salaries</b>		
<b>4.</b>	<b>Fringe Benefits</b>		
<b>5.</b>	<b>Indirect Costs</b>		
<b>6.</b>	<b>Rent/Lease/Utilities*</b>		
<b>7.</b>	<b>That portion of the budget in purchased services used for direct educational services provided by public or not for profit organizations.</b>		
<b>8.</b>	<b>Sum of lines 2, 3 ,4 ,5, 6, and 7</b>		
<b>9.</b>	<b>Line 1 minus Line 8</b>		
<b>10.</b>	<b>M/WBE Goal percentage (30%)</b>		<b>0.30</b>
<b>11.</b>	<b>Line 9 multiplied by Line 10 =M/WBE goal amount</b>		

\*If not included in #5

**M/WBE COVER LETTER Minority & Woman-Owned Business Enterprise Requirements**

**NAME OF GRANT PROGRAM** \_\_\_\_\_

**NAME OF APPLICANT** \_\_\_\_\_

In accordance with the provisions of Article 15-A of the NYS Executive Law, 5 NYCRR Parts 140-145, Section 163 (6) of the NYS Finance Law and Executive Order #8 and in fulfillment of the New York State Education Department (NYSED) policies governing Equal Employment Opportunity and Minority and Women-Owned Business Enterprise (M/WBE) participation, it is the intention of the New York State Education Department to provide real and substantial opportunities for certified Minority and Women-Owned Business Enterprises on all State contracts. It is with this intention the NYSED has assigned M/WBE participation goals to this contract.

To promote and assist in the participation of certified M/WBEs as subcontractors and suppliers on this project for the provision of services and materials, the bidder is required to comply with NYSED's participation goals through one of the three methods below. Please indicate which one of the following is included with the M/WBE Documents Submission:

- Full Participation – No Request for Waiver (PREFERRED)
- Partial Participation – Partial Request for Waiver
- No Participation – Request for Complete Waiver

By my signature on this Cover Letter, I certify that I am authorized to bind the Bidder's firm contractually.
Typed or Printed Name of Authorized Representative of the Firm
Typed or Printed Title/Position of Authorized Representative of the Firm
Signature/Date

## M/WBE UTILIZATION PLAN

**INSTRUCTIONS:** All bidders/applicants submitting responses to this procurement/project must complete this M/WBE Utilization Plan unless requesting a total waiver and submit it as part of their proposal/application. The plan must contain detailed description of the services to be provided by each Minority and/or Women-Owned Business Enterprise (M/WBE) identified by the bidder/applicant.

Bidder/Applicant's Name \_\_\_\_\_ Telephone/Email: \_\_\_\_\_/\_\_\_\_\_

Address \_\_\_\_\_ Federal ID No.: \_\_\_\_\_

City, State, Zip \_\_\_\_\_ RFP No.: \_\_\_\_\_

Certified M/WBE	Classification (check all applicable)	Description of Work (Subcontracts/Supplies/Services)	Annual Dollar Value of Subcontracts/Supplies/Services
NAME ADDRESS CITY, ST, ZIP PHONE/E-MAIL FEDERAL ID No.	NYS ESD Certified  MBE _____  WBE _____		\$ _____
NAME ADDRESS CITY, ST, ZIP PHONE/E-MAIL FEDERAL ID No.	NYS ESD Certified  MBE _____  WBE _____		\$ _____

PREPARED BY (Signature) \_\_\_\_\_ DATE \_\_\_\_\_

**SUBMISSION OF THIS FORM CONSTITUTES THE BIDDER/APPLICANT'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-1, 5 NYCRR PART 143 AND THE ABOVE REFERENCE SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR PROPOSAL/APPLICATION DISQUALIFICATION.**

NAME AND TITLE OF PREPARER: \_\_\_\_\_  
*(print or type)*

TELEPHONE/E-MAIL \_\_\_\_\_

DATE \_\_\_\_\_

REVIEWED BY \_\_\_\_\_ DATE \_\_\_\_\_

UTILIZATION PLAN APPROVED YES/NO DATE \_\_\_\_\_

NOTICE OF DEFICIENCY ISSUED YES/NO DATE \_\_\_\_\_

NOTICE OF ACCEPTANCE ISSUED YES/NO DATE \_\_\_\_\_

**M/WBE 100**

**M/WBE SUBCONTRACTORS AND SUPPLIERS**

**NOTICE OF INTENT TO PARTICIPATE**

INSTRUCTIONS: Part A of this form must be completed and signed by the Bidder/Applicant unless requesting a total waiver. Parts B & C of this form must be completed by MBE and/or WBE subcontractors/suppliers. The Bidder/Applicant must submit a separate M/WBE Notice of Intent to Participate form for each MBE or WBE as part of the proposal/application.

Bidder/Applicant Name: \_\_\_\_\_ Federal ID No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ E-mail: \_\_\_\_\_  
\_\_\_\_\_  
Signature of Authorized Representative of Bidder/Applicant's Firm      Print or Type Name and Title of Authorized Representative of Bidder/Applicant's Firm  
Date: \_\_\_\_\_

**PART B - THE UNDERSIGNED INTENDS TO PROVIDE SERVICES OR SUPPLIES IN CONNECTION WITH THE ABOVE PROCUREMENT/APPLICATION:**

Name of M/WBE: \_\_\_\_\_ Federal ID No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_ E-mail: \_\_\_\_\_

**BRIEF DESCRIPTION OF SERVICES OR SUPPLIES TO BE PERFORMED BY MBE OR WBE:**

**DESIGNATION:**    \_\_\_ MBE Subcontractor    \_\_\_ WBE Subcontractor    \_\_\_ MBE Supplier    \_\_\_ WBE Supplier

**PART C - CERTIFICATION STATUS (CHECK ONE):**

- \_\_\_\_\_ The undersigned is a certified M/WBE by the New York State Division of Minority and Women-Owned Business Development (MWBD).
- \_\_\_\_\_ The undersigned has applied to New York State's Division of Minority and Women-Owned Business Development (MWBD) for M/WBE certification.

**THE UNDERSIGNED IS PREPARED TO PROVIDE SERVICES OR SUPPLIES AS DESCRIBED ABOVE AND WILL ENTER INTO A FORMAL AGREEMENT WITH THE BIDDER/APPLICANT CONDITIONED UPON THE BIDDER/APPLICANT'S EXECUTION OF A CONTRACT WITH THE NYS EDUCATION DEPARTMENT.**

The estimated dollar amount of the agreement \$ \_\_\_\_\_      \_\_\_\_\_  
Signature of Authorized Representative of M/WBE Firm  
Date \_\_\_\_\_      \_\_\_\_\_  
Printed or Typed Name and Title of Authorized Representative

**M/WBE CONTRACTOR GOOD FAITH EFFORTS CERTIFICATION (FORM 105)**

PROJECT/CONTRACT # \_\_\_\_\_

I, \_\_\_\_\_  
(Bidder/Applicant)

\_\_\_\_\_ of \_\_\_\_\_  
(Title) (Company)

\_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
(Address) (Telephone Number)

do hereby submit the following as evidence of our good faith efforts to retain certified minority- and women-owned business enterprises:

- (1) Copies of its solicitations of certified minority- and women-owned business enterprises and any responses thereto;
- (2) If responses to the contractor's solicitations were received, but a certified minority- or woman-owned business enterprise was not selected, the specific reasons that such enterprise was not selected;
- (3) Copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publication of such advertisements;
- (4) Copies of any solicitations of certified minority- and/or women-owned business enterprises listed in the directory of certified businesses;
- (5) The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the State agency awarding the State contract, with certified minority- and women-owned business enterprises which the State agency determined were capable of performing the State contract scope of work for the purpose of fulfilling the contract participation goals;
- (6) Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified minority- and women-owned business enterprises.
- (7) Describe any other action undertaken by the bidder to document its good faith efforts to retain certified minority - and women- owned business enterprises for this procurement.

Submit additional pages as needed.

\_\_\_\_\_  
Authorized Representative Signature

\_\_\_\_\_  
Date



**M/WBE CONTRACTOR UNAVAILABLE CERTIFICATION**

**RFP#/PROJECT NAME** \_\_\_\_\_

I, \_\_\_\_\_  
 (Authorized Representative) (Title) (Bidder/Applicant's Company)  
 \_\_\_\_\_  
 (Address) (Phone)

I certify that the following New York State Certified Minority/Women Business Enterprises were contacted to obtain a quote for work to be performed on the abovementioned project/contract.

List of date, name of M/WBE firm, telephone/e-mail address of M/WBEs contacted, type of work requested, estimated budgeted amount for each quote requested.

<u>DATE</u>	<u>M/WBE NAME</u>	<u>PHONE/EMAIL</u>	<u>TYPE OF WORK</u>	<u>ESTIMATED BUDGET</u>	<u>REASON</u>
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____

To the best of my knowledge and belief, said New York State Certified Minority/Women Business Enterprise contractor(s) was/were not selected, unavailable for work on this project, or unable to provide a quote for the following reasons: Please check appropriate reasons given by each MBE/WBE firm contacted above.

- \_\_\_\_\_ **A.** Did not have the capability to perform the work
- \_\_\_\_\_ **B.** Contract too small
- \_\_\_\_\_ **C.** Remote location
- \_\_\_\_\_ **D.** Received solicitation notices too late
- \_\_\_\_\_ **E.** Did not want to work with this contractor
- \_\_\_\_\_ **F.** Other (give reason) \_\_\_\_\_

\_\_\_\_\_ **Authorized Representative Signature** \_\_\_\_\_ **Date** \_\_\_\_\_ **Print Name**

M/WBE 105A

## REQUEST FOR WAIVER FORM

**BIDDER/APPLICANT NAME:**

**TELEPHONE:**

**ADDRESS:**

**EMAIL:**

**FEDERAL ID NO.:**

**CITY, STATE, ZIPCODE:**

**RFP#/PROJECT NO.:**

**INSTRUCTIONS:** By submitting this form and the required information, the bidder/applicant certifies that Good Faith Efforts have been taken to promote M/WBE participation pursuant to the M/WBE goals set forth under this RFP/Contract. Please see Page 2 for additional requirements and document submission instructions.

<b>BIDDER/APPLICANT IS REQUESTING (check all that apply):</b>	
<input type="checkbox"/> <b>MBE Waiver</b> - A waiver of the MBE goal for this procurement is requested.  <input type="checkbox"/> <b>Total</b> <input type="checkbox"/> <b>Partial</b> _____%	<input type="checkbox"/> <b>WBE Waiver</b> - A waiver of the WBE goal for this procurement is requested.  <input type="checkbox"/> <b>Total</b> <input type="checkbox"/> <b>Partial</b> _____%
<input type="checkbox"/> <b>Waiver Pending ESD Certification</b> (check here if subcontractor or supplier is not certified M/WBE, but an application for certification has been filed with Empire State Development)	
Subcontractor/Supplier Name: _____ Date of application filing: _____	

PREPARED BY (*Signature*): \_\_\_\_\_

DATE: \_\_\_\_\_

**SUBMISSION OF THIS FORM CONSTITUTES THE BIDDER/APPLICANT'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR PROPOSAL DISQUALIFICATION.**

NAME OF PREPARER:	<b>FOR AUTHORIZED USE ONLY</b>
TITLE OF PREPARER:	REVIEWED BY: _____
TELEPHONE:	DATE: _____
EMAIL:	<b>WAIVER GRANTED</b> <input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/> <b>TOTAL WAIVER</b> <input type="checkbox"/> <b>PARTIAL WAIVER</b> <input type="checkbox"/> <b>ESD CERTIFICATION WAIVER</b> <input type="checkbox"/> <b>NOTICE OF DEFICIENCY</b> <input type="checkbox"/> <b>CONDITIONAL WAIVER</b> COMMENTS:

## **M/WBE 101 REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS**

**When completing the Request for Waiver Form, please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1-11, as listed below. If a Waiver Pending ESD Certification is requested, please see Item 11 below. Copies of the following information and all relevant supporting documentation must be submitted along with the request.**

1. A statement setting forth your basis for requesting a partial or total waiver.
2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals.
3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.
4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.
6. Provide copies of responses made by certified M/WBEs to your solicitations.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Bidder/Applicant and the M/WBEs undertaken for purposes of complying with the certified M/WBE participations goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide the name, title, address, telephone number and email address of the Bidder/Applicant's representative authorized to discuss and negotiate this waiver request.
11. Copy of notice of application receipt issued by Empire State Development (ESD).

**NOTE: Unless a Total Waiver has been granted, Bidder/Applicant will be required to submit all reports and documents pursuant to the provisions set forth in the procurement and/or contract, as deemed appropriate by NYSED, to determine M/WBE compliance.**

**EQUAL EMPLOYMENT OPPORTUNITY - STAFFING PLAN (Instructions on Page 2)**

Applicant Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Project No: \_\_\_\_\_

Report includes:

Work force to be utilized on this contract OR

Applicant's total work force

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

EEO - Job Categories	Total Work Force	Race/Ethnicity - report employees in only one category																	
		Hispanic or Latino		Male										Female					
		Male	Female	White	African-American or Black	Native Hawaiian or Other Pacific	Asian	American Indian or Alaska Native	Two or More Races	Disabled	Veteran	White	African-American	Native Hawaiian or Other Pacific	Asian	American Indian or Alaska Native	Two or More Races	Disabled	Veteran
Executive/Senior Level Officials and Managers																			
First/Mid-Level Officials and Managers																			
Professionals																			
Technicians																			
Sales Workers																			
Administrative Support Workers																			
Craft Workers																			
Operatives																			
Laborers and Helpers																			
Service Workers																			
<b>TOTAL</b>																			

PREPARED BY (Signature): \_\_\_\_\_

DATE: \_\_\_\_\_

NAME AND TITLE OF PREPARER: \_\_\_\_\_

TELEPHONE/EMAIL: \_\_\_\_\_

## STAFFING PLAN INSTRUCTIONS

General Instructions: All Bidders/Applicants in the proposal/application must complete an EEO Staffing Plan (EEO 100) and submit it as part of the package. Where the work force to be utilized in the performance of the State contract/project can be separated out, the Bidder/Applicant shall complete this form only for the anticipated work force to be utilized on the State contract/project. Where the work force to be utilized in the performance of the State contract/project cannot be separated out, the Bidder/Applicant shall complete this form for Bidder/Applicant's total work force.

### Instructions for Completing:

1. Enter the Project number that this report applies to, along with the name, address, and federal ID number of the Bidder.
2. Check the appropriate box to indicate if the work force being reported is just for the contract/project or the Bidder/Applicant's total work force.
3. Check off the appropriate box to indicate if the Bidder completing the report is the contractor or subcontractor.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and race/ethnic background and enter under the heading Race/Ethnicity. Contact the M/WBE Coordinator, [mwbe@nysed.gov](mailto:mwbe@nysed.gov), if you have any questions.
6. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in designated areas.

### RACE/ETHNIC IDENTIFICATION

For purposes of this form NYSED will accept the definitions of race/ethnic designations used by the federal Equal Employment Opportunity Commission (EEOC), as those definitions are described below or amended hereafter. (Be advised these terms may be defined differently for other purposes under NYS statutory, regulatory, or case law). Race/ethnic designations as used by the EEOC do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. The race/ethnic categories for this survey are:

- **Hispanic or Latino** - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
- **White (Not Hispanic or Latino)** - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- **Black or African American (Not Hispanic or Latino)** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino)** - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian (Not Hispanic or Latino)** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **American Indian or Alaska Native (Not Hispanic or Latino)** - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- **Two or More Races (Not Hispanic or Latino)** - All persons who identify with more than one of the above five races.
- **Disabled** - Any person who has a physical or mental impairment that substantially limits one or more major life activity; has a record of such an impairment; or is regarded as having such an impairment
- **Vietnam Era Veteran** - a veteran who served at any time between and including January 1, 1963 and May 7, 1975.

## Appendix A

### STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

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

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any



such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

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

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

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](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)  
[MWBE Directory](#)

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

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

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

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

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

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

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

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("[Prohibited Entities List](#)").

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

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

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

(January 2014)

## APPENDIX A-1 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.

#### Responsibility Provisions

##### A. General Responsibility Language

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of Education or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

##### B. Suspension of Work (for Non-Responsibility)

The Commissioner of Education or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Education or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

##### C. Termination (for Non-Responsibility)

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate SED officials or staff, the Contract may be terminated by the Commissioner of Education or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of Education or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

#### 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.

Rev. 5/12/14

## **Appendix B**

### **Statement of Assurances**

As Chief School Officer, I have signed the cover page assuring that the district and each participating agency classroom will operate according to Sections 3602-e of Education law and Subpart 151-1 of the Commissioners Regulations. Specifically, I assure the District will:

1. Adopt and implement age and developmentally appropriate curriculum and activities that are learner centered across all settings and are aligned with the *New York State Prekindergarten Learning Standards* for classrooms serving four-year old students, and the *New York State Early Learning Guidelines (2012 edition)* for classrooms serving three-year olds;
2. Adopt and implement approved quality standards in newly funded slots within two years of first accepting this grant;
3. Screen all enrolled prekindergarten students in all prekindergarten sites in accordance to Commissioner's Regulations Part 117;
4. Provide for an age appropriate assessment of the development of language, cognitive, and social-emotional development of all enrolled prekindergarten students;
5. Ensure that people with disabilities can access the program site as required by the Americans with Disabilities Act of 1990;
6. Ensure that the measures of student outcomes will not be used to prohibit or discourage a child's enrollment in kindergarten;
7. Ensure continuity between all prekindergarten classrooms and instruction in kindergarten and the early elementary grades;
8. Encourage students to be self-assured and independent;
9. Encourage the participation, inclusion, and integration of preschool students with disabilities and provide all required supports as well as those necessary to ensure that preschool students with disabilities can access, participate, and progress in the curriculum;
10. Encourage the participation, inclusion, and integration of Emergent Multilingual Learners and provide all required supports as well as those necessary to ensure that Emergent Multilingual Learners can access, participate, and progress in the curriculum;
11. Recognize preschool special education providers as eligible entities to receive funds to establish prekindergarten classes in the community;
12. Provide equal access for parents of all children for opportunities to actively participate in all phases of the program, including volunteering in classes, serving as chaperones for field trips, and if applicable, serving on a prekindergarten program's Advisory Board;

13. Utilize staff who meet the qualifications set forth in Section 3602-e of Education Law and 8NYCRR, Section 151-1.3(e);
14. Provide for strong parent partnerships and family engagement in the education of their students;
15. Provide professional learning, integrated with Kindergarten-Third Grade, for staff and teachers in all public and non-public prekindergarten classrooms based upon the instructional needs of students;
16. Establish a method for selection of eligible students to receive prekindergarten program services on a random basis when there are more eligible students than can be served in each school year, except as provided in a plan for prioritizing or targeting enrollment that is specified in the district's application for this grant;
17. Provide supervision for all classrooms regardless of setting. School districts are also responsible for supervision of prekindergarten classrooms in community based organizations (CBOs);
18. Adopt and use proper methods of administering each program, including (a) the enforcement of any obligations imposed by law on agencies, institutions, organizations and other recipients for carrying out each program; and (b) the correction of deficiencies in program operations that are identified through audits, monitoring or evaluation;
19. Use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, funds under each program;
20. Maintain on file a detailed accounting of grant expenditures including other sources of funding used to support the District's prekindergarten program including local tax levy;
21. Participate in any independent evaluation conducted by the State of the effectiveness of the prekindergarten program, which shall include providing information requested by the Department including but not limited to: a summary of student progress, determined in a manner approved by the Department; identification of best practices; and other program quality indicators as determined by the Commissioner;
22. Only use Additional Grants for Expanded Prekindergarten for Three- and Four-Year Old Students (EPK) Program funds to supplement and not supplant current local expenditures of state, or local funds on prekindergarten programs and the number of slots in prekindergarten programs from such sources. Current local expenditures shall include any local expenditures of federal, state, or local funds used to supplement or extend services provided directly or via contract to eligible children enrolled in State-administered prekindergarten programs pursuant to Sections 3602-e of the Education Law;
23. Make reports to the State Education Department as may be necessary to enable the Department to perform its duties under the program;
24. Ensure that each facility providing prekindergarten meets all applicable fire and safety and building codes and any applicable facility requirements of a state or local licensing or registering agency and at all times shall maintain building and classroom space in a manner that ensures and protects the health and safety of students in the program;

25. Ensure that the program is administered in full compliance with Education Law §§ 305(44), 3602(15), and 8 N.Y.C.R.R. Sections 100.3(a)(5), 151-1.2(e), and 151-1.3(b)(4), which prohibit the administration of traditional standardized tests in prekindergarten programs;
26. The District will maintain on file and provide to the State Education Department as requested:
- a. A description of the school district's competitive selection process for collaboration;
  - b. A copy of any contracts or agreements between the collaborative agencies and the school district to implement a prekindergarten program;
  - c. Maintain a list of all prekindergarten providers on file and provide to the State Education Department as requested:
    - The number of prekindergarten students,
    - The number of preschool students with disabilities with individualized education programs,
    - The number of students who speak a language other than English at home,
    - The number of prekindergarten teachers,
    - The number of uncertified prekindergarten teachers in CBOs with a plan for becoming certified within five years of commencing employment as a Pre-K teacher and the date when they are anticipated to obtain certifications, and
    - The qualifications of teachers with a five-year plan for each CBO teacher who is not certified in accordance with the requirements articulated in this RFP;
    - A description of the process used to randomly select eligible students for enrollment when there are more applicants than available placements; and
    - Documentation to support any variances requested by the district, if applicable.