



RFP #: GC22-004 FY 2021 National School Lunch Program Equipment Assistance Grant for
 School Food Authorities

Announcement of Funding Opportunity

<p>Purpose of Grant</p>	<p>The School Food Service Equipment Grant is intended to improve the infrastructure of the National School Lunch Program (NSLP). This will be achieved by providing the opportunity for schools to purchase equipment to serve healthier meals, improve the overall quality of meals, improve food safety, expand participation in school meals programs, and help to support the establishment, maintenance, or expansion of the School Breakfast Program.</p>
<p>Eligible Applicants</p>	<p>All Recipient Agencies (RAs) under a School Food Authority (SFA) participating in the NSLP in New York State (NYS) are eligible (including public school districts, non-profit nonpublic schools, charter schools and residential childcare institutions).</p> <p>The SFA will apply on behalf of their eligible RAs. Unless otherwise exempt, as detailed in this RFP, the SFA will submit a separate application for each piece of requested equipment for an eligible RA.</p> <p>Priority will be given to RAs that did not receive a previous grant award through the Fiscal Year (FY) 2018, FY 2019 or the FY 2020 National School Lunch Program Equipment Assistance Grant for School Food Authorities.</p> <p>A list of RAs that previously received an equipment grant is available at: Previous Food Service Equipment Grant Recipients</p>
<p>Mandatory Requirements</p>	<p>Equipment Assistance Grant Applications will only be considered if the following Mandatory Application Requirements are met:</p> <ul style="list-style-type: none"> • Non-public and charter school SFA applicants are prequalified in the Grants Gateway by the application deadline of 5:00 p.m. on March 31, 2022. Additional information is provided in the Prequalification for Individual Applicants section below. • Applications are submitted by an eligible SFA applicant that is currently approved to participate in the NSLP or that receives formal approval from the New York State Education Department (NYSED) to operate the NSLP by the application deadline. • Applications request equipment that is allowable under this RFP with a value greater than \$1,000. • All applications for non-public school RAs include a current Certificate of Occupancy or other documentation from the local government authority having jurisdiction for determining compliance with applicable building codes of NYS and current building fire inspection that indicates no violations from the local government authority having jurisdiction for determining compliance with applicable fire codes of NYS for the RA building in which the equipment will be placed. (See Mandatory Requirements for Non-public Schools section of RFP for details.) • Applications must be submitted to the SharePoint submission website by the application deadline. Please see the “FY21 SharePoint Instructions” document posted with the RFP.

<p>Funding and Project Dates</p>	<ul style="list-style-type: none"> • Funds Available: \$1,848,246 • Project Dates: 7/1/2022-6/30/2023 • SFAs must complete the solicitation of the equipment and obligation of funds by 9/30/2022. All procurement and expenditure activities must be completed no later than 6/30/2023. • Grant Amounts: A value greater than \$1,000 up to a maximum of \$20,000. Unless otherwise exempt, as detailed in this RFP, separate applications must be submitted for each piece of requested equipment. Total combined awards to an SFA for an individual RA cannot exceed \$20,000. 	
<p>Due Date</p>	<p>Fully completed applications including all required pieces must be uploaded into the SharePoint site by 5:00 p.m. on March 31, 2022.</p> <p>Submission process: A SharePoint site for submissions has been created for the RFP#GC22-004 FY21 National School Lunch Program Equipment Assistance Grant Application for School Food Authorities. Permission to access the SharePoint site for uploading applications is granted by the NYSED Child Nutrition Office. All food service directors, business officials and Child Nutrition Fiscal Contacts entered in the Child Nutrition Management System (CNMS) will be sent an email invitation to gain access to the SharePoint website. Please allow 24-48 hours from the posting of the RFP to receive this email invitation.</p> <p>Potential applicants that did not receive the invitation email should request an invitation via foodequip@nysed.gov . The email request must contain the SFA name, SFA LEA code, the individual's name, title, and email that wishes to be granted access to the SharePoint site. Invitation requests for SharePoint will be accepted and approved until 4:00 pm March 31, 2022. Requests to access SharePoint after this time will not be granted. It is recommended that the SFA administration designate only one duly authorized user to upload all submissions for the SFA. The SharePoint site exists only to upload completed applications and is not used to complete the application itself.</p>	
<p>Questions and Answers</p>	<p>Questions regarding this grant must be emailed to foodequip@nysed.gov by March 2, 2022. A Questions and Answers Summary will be posted at: P-12 Funding Opportunities by March 14, 2022.</p>	
<p>Non-Mandatory Notice of Intent</p>	<p>The Notice of Intent (NOI) is not a requirement for submitting a complete application by the application date; however, NYSED strongly encourages all prospective applicants to submit an NOI to ensure a timely and thorough review and rating process. An NOI submitted for non-public and charter school SFAs will also help to facilitate timely review of their prequalification materials. The notice of intent is a simple email notice stating your SFA's (use the legal name) intent to submit an application for this grant. Please include your SFA LEA code and NYS Vendor ID number. The NOI due date is March 17, 2022. Please send the NOI to foodequip@nysed.gov</p>	
<p>Contacts</p>	<p>Program: Tara Webster/Colleen Hasselbach foodequip@nysed.gov</p>	<p>Fiscal: Thomas McBride foodequip@nysed.gov</p>

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(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

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FY 2021 National School Lunch Program Equipment Assistance Grant for School Food Authorities

Guidance Manual

Introduction

The Fiscal Year (FY) 2021 Consolidated Appropriations Act has provided funding in the amount of \$30,000,000 to be distributed to State Agencies (SAs) that will competitively award equipment assistance grants to eligible School Food Authorities (SFAs) participating in the National School Lunch Program (NSLP).

The SFA will apply on behalf of their eligible Recipient Agencies (RAs). Unless otherwise exempt, as detailed in this Request for Proposals (RFP), the SFA will submit a separate application for each piece of requested equipment for an eligible RA.

These funds will allow SFAs to purchase equipment to serve healthier meals that meet the meal patterns, with emphasis on more fruits and vegetables in school meals; improve the overall quality of meals, improve food safety; and expand access and help to support the establishment, maintenance, or expansion of the School Breakfast Program (SBP).

The equipment purchased with the FY 2021 NSLP Equipment Assistance Grant must be used to support the federally assisted school meals programs. **Equipment may not be purchased exclusively for programs outside of the federally assisted school meals programs.** When a RA participates in other school meal programs [such as the School Breakfast Program (SBP), Afterschool Snack Program (ASP), Fresh Fruit and Vegetable Program (FFVP), Summer Food Service Program (SFSP)], in addition to the NSLP, those other meals programs may benefit from equipment purchased with FY 2021 NSLP Equipment Assistance Grant funds. For example, if an RA participating in the NSLP and SBP purchases a new refrigerator with the FY 2021 NSLP Equipment Assistance Grant funds, food items for both federal programs may be stored in the refrigerator.

This project has been funded at least in part with federal funds from the U.S. Department of Agriculture. The contents of this publication do not necessarily reflect the view or policies of the U.S. Department of Agriculture, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

Project Period

The project period for this grant is 7/1/2022 - 6/30/2023. SFAs must complete the solicitation of the equipment and obligation of funds by 9/30/2022. All procurement and expenditure activities must be completed no later than 6/30/2023.

Eligible Applicants

All SFAs are eligible to apply for funding for their RAs that participate in the NSLP, including public school districts, non-profit nonpublic schools, charter schools and residential childcare institutions in New York State.

Applicants should review the RFP in its entirety to ensure the application is completed accurately.

Note: For School Year 2021-2022, any SFA/RA with a previously approved State agency agreement on file to operate NSLP is eligible to apply for the FY21 NSLP Equipment Assistance Grant while utilizing the flexibilities granted under the current Seamless Summer Option (SSO) Nationwide Waiver.

New SFAs and new RAs in their first year of operation must receive formal approval by the New York State Education Department (NYSED) Child Nutrition Program Office to participate in the NSLP by the submission deadline of March 31, 2022, at 5:00 p.m. for the FY 2021 NSLP Equipment Assistance Grant Application to be eligible to apply for funding.

Selected SFAs/RAs must operate the NSLP and be in good standing with all Child Nutrition Programs.

Failure to abide by the requirements and regulations of all Child Nutrition Programs and/or termination from any federal or state Child Nutrition Program prior to award and/or throughout the grant award period may result in ineligibility and/or immediate loss of the awarded grant and disallowance of Equipment Grant reimbursements and recoupment of equipment grant funding. Termination from the NSLP prior to award and/or throughout the grant award period will result in immediate loss of the awarded grant and disallowance of Equipment Grant reimbursements.

Mandatory Requirements for Non-Public Schools

Non-public schools must submit mandatory required documents with their application for the application to be eligible. Applications that do not contain required documentation as described below will be disqualified and will not be considered.

The following documents are required:

Non-Public Schools only:

1. A copy of the **RA's current Certificate of Occupancy** or other documentation from the local government authority having jurisdiction for determining compliance with applicable Building Codes of New York State. The Certificate of Occupancy, or other documentation, must be current and demonstrate that the building has been approved for use as a school in accordance with the appropriate provisions of such code.

AND

2. A **current building Fire Inspection indicating no violations** from the local government authority having jurisdiction for determining compliance with applicable Fire Codes of New York State. The building Fire Inspection must demonstrate that the building has been inspected and approved with no violations within the 12 months preceding the date of application in accordance with the appropriate provisions of such code.

Fire Inspections that indicate violations will NOT be accepted and will result in disqualification of the application.

*Both documents must be in the SFA/RA name. However, if the Certificate of Occupancy and/or the building Fire Inspection is in the building landlord's name, the SFA may submit a current lease agreement that indicates that the SFA/RA rents space in the building at the time of application. The lease agreement must list the specific space the entity is entitled to occupy (floors, classrooms, kitchen, common spaces, etc.) and must include the dates, terms, conditions and rent amount. If a Certificate of Occupancy or building Fire Inspection is submitted in a name other than the SFA/RA name and

documentation to support the landlord/tenant relationship is not submitted, the documents will not be accepted, and the application will be disqualified.

Prequalification Requirement - Required for Non-Public SFAs and Charter Schools

The State of New York has implemented a statewide prequalification process (described on the [Grants Gateway](#) website) designed to facilitate prompt contracting for not-for-profit vendors. All not-for-profit vendors are required to prequalify by the grant application deadline in order to receive an award under this RFP. This includes all currently funded not-for-profit institutions that have already received an award and are in the middle of the program cycle. Please review the additional information regarding this requirement below.

Please be advised, this requirement applies to all non-public schools and to all charter schools.

Pursuant to the New York State Division of the Budget bulletin H-1032, not-for profit organizations must Prequalify to do business with New York State agencies before they can compete for State grants. The process allows nonprofits to address questions and concerns prior to entering a competitive bid process. Nonprofits are strongly encouraged to begin the Prequalification process as soon as possible.

To become prequalified, a nonprofit must register with Grants Gateway and complete an online Prequalification application. This includes completing a series of forms by answering basic questions regarding the organization and uploading key organizational documents.

Detailed information on how to register with the Grants Gateway and become prequalified is available on the [Grants Management](#) website.

Disclaimer: Generally, it takes *5-10 business days from the receipt of complete Prequalification applications to conduct a review. However, volume is significantly higher in the months of December, November and May of the year. If supplementary information or updates are required, review times will be longer. Due to the length of time this process could take to complete, it is advised that nonprofits Prequalify as soon as possible. Failure to successfully complete the Prequalification process early enough may result in a grant application being disqualified.*

Applications received from nonprofit applicants that are not Prequalified in the Grants Gateway by 5:00 PM Eastern Time on the proposal due date of March 31, 2022, cannot be evaluated. Such proposals will be disqualified from further consideration.

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

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

Priority Funding

Previously Awarded RAs

RAs that did **not** receive a previous grant award through the FY 2018, FY 2019 or FY 2020 National School Lunch Program Equipment Assistance Grant for School Food Authorities will receive an extra 10 points toward their overall score. Though priority for funding will be given to RAs that meet this criterion, RAs that received a grant award in those three years are not excluded and may still apply.

A list of RAs that previously received an equipment grant is available at: [Previous Food Service Equipment Grant](#)

[Recipients](#)

For central kitchens, if none of the RAs served by the central kitchen received a previous equipment grant as described above, the application will receive an additional 10 points toward their overall score.

For Point of Sale (POS) Equipment requests, if none of the RAs listed on the application received a previous equipment grant as described above, the application will receive an additional 10 points toward the overall score.

Please note, unlike previous year grants, there will be no bonus points provided for RAs where at least 50% of enrolled students qualify for free or reduced-price school meals or for RAs with a high level of participation in the NSLP.

Focus of SFA Grants

The equipment request and grant application submission must address how the equipment improves the quality of school meals.

The application will also address one focus area from the following:

- **Focus 1: Food Safety**

Equipment that improves the safety of food served in the school nutrition programs (e.g., cold/hot holding equipment, dishwashing equipment, refrigeration, milk coolers, freezers, blast chillers, etc.)

- **Focus 2: Serving Healthier School Meals**

Equipment that allows for preparing, cooking, and serving healthier school meals and increasing nutritional quality (e.g., salad bars, steaming equipment, refrigeration units).

- **Focus 3: Expanded Participation in NSLP and/or SBP**

Equipment that allows SFAs to support expanded participation in the NSLP and/or SBP (e.g., equipment for serving meals in a non-traditional setting or to better utilize cafeteria space or equipment that will help to support the establishment, maintenance, or expansion of the SBP.)

Equipment Requests

Regulations at 2 CFR Part 200.33 define equipment as tangible personal property, having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000 per unit.

However, for the FY 2021 NSLP Equipment Assistance Grant, Congress has specified that the threshold for the purchase of equipment has been lowered to \$1,000. This definition will be used for purposes of this grant and recording of equipment costs.

Equipment requests may include new equipment, used equipment, and replacement of equipment with a **per item acquisition cost greater than \$1,000**. This grant does not apply to equipment that has already been purchased. SFAs may receive up to \$20,000 in equipment for each eligible RA.

Multiple items whose per-unit acquisition cost is less than \$1,000 may not be combined to meet the minimum value of greater than \$1,000.

Under no circumstance will a grant be awarded for an item that does not have an acquisition cost greater than \$1,000.

Grant funding may not be used to purchase items that are used solely for the sale of a la carte products.

As with all federal funds, the equipment purchases must be necessary, reasonable, and allocable. Using these funds to purchase a walk-in freezer for school nutrition programs is an allowable cost; however, renovation of the school nutrition area would fall under the category of construction costs, which must be charged to the school general fund or capital outlay fund.

New York State must comply with the statutory requirement that grants are to be based on the **need** for equipment assistance in participating Recipient Agencies (RA).

SFAs should consider and address the following factors, as applicable, when answering the grant application questions:

- How the equipment will benefit the school meals programs including contribution to improving quality of school meals
- The availability of existing State and Local funding for equipment purchases
- Age of current food service equipment or lack of appropriate items
- Strategies for adopting cafeteria changes that provide more convenience and appeal to the student
- Opportunities to realize a meaningful impact on nutrition and quality of school meals

Acquisition Cost

Acquisition cost is defined as the net invoice unit price of the property, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee’s regular accounting practices. The cost of building renovation or construction of school nutrition areas are not included under acquisition costs.

Examples of Eligible Equipment Requests

The following list is intended to serve as a guideline when considering equipment options. SFAs are not limited to the items listed. Equipment requested should contribute to improving your Child Nutrition Programs as evidenced through your application submission.

Refrigeration Units	Reimbursable Meal Vending Machine
Salad Service Table	Slicer
Cold/Hot Holding Equipment	Serving Line Equipment
Prep Tables	Dishwashing Equipment
Cooking Equipment	Mixer

Though it is not a requirement, SFAs that are awarded are encouraged to purchase domestically made equipment.

Application Instructions

Applicants must complete the application form posted with the RFP and provide clear, complete and concise answers that thoroughly demonstrate the equipment item is necessary, meets one of the focus areas of the grant and will benefit the NSLP and/or SBP. Applicants should review the RFP in its entirety to ensure the

application is completed accurately.

Application Checklist

The application checklist should be used by the SFA to ensure a complete application is submitted and all applicable mandatory requirements have been met.

Each application submitted to the SharePoint submission website shall include the following:

- One thoroughly completed application form (including all parts) as described in this RFP.
- Price quotes, equipment specification sheets and other supporting documentation to substantiate the equipment request.
- **All mandatory requirements for Non-public schools/RAs as described in the “Mandatory Requirements for Non-Public Schools” section of this RFP. If an application for a non-public school does not include the required items as described in this RFP, the application will be disqualified.**

Application Form

The application form contains 5 required parts. Applicants must provide detailed responses to all questions in Parts 1, 2, 4 and Part 5. Applicants must also sign the certification statement in Part 3.

To begin, applicants must select the type of equipment for which they are applying. Radio buttons for the equipment request will allow the applicant to choose from 3 different equipment types: 1. General Equipment, 2. Entire Serving Line, or 3. Point of Sale (POS) Equipment. Each selection will populate a different equipment request chart in Part 4 that is designed specific to the equipment type request. Questions that are not applicable to the equipment type selected will be hidden or in read-only status.

The 3 equipment types and guidelines to consider when applying for each type are described below:

1. General Equipment:

The following guidelines must be followed when applying for general equipment:

- Eligible SFAs must apply on behalf of their eligible RAs by selecting the General Equipment option at the beginning of the application.
- SFAs must complete a separate application for each piece of equipment requested for each eligible RA.
 - If a requested piece of equipment is unusable without additional pieces, the SFA may include the accessories on the same application (e.g. a walk-in freezer that requires a compressor to operate) and identify each item in the Equipment Request Chart (Part 4). **However, if the requested piece of equipment can operate alone, then separate applications must be completed for each requested item (e.g. stand-alone milk cooler, salad bar).**
- Requests for multiples of **the same piece of equipment** may be contained within one application for an RA, but **requests for different pieces of equipment at the same RA must be submitted separately.**
- Application requests must be for equipment with a value greater than \$1,000 and as described in the “Equipment Request” section of this RFP.

2. Food Serving Line:

For the purposes of this RFP, a food serving line is a make-up of equipment pieces that will be combined in the same physical space for use to **directly serve** reimbursable meals to students. These items may include:

hot/cold serving counters, milk cooler, cashier stands, utility carts that link to the serving station, salad bars, self-serve refrigerators/kiosks, and utility tables that connect on the serving line to hold food.

In cases where the SFA wishes to apply for an entire serving line for an RA, all items may be included on one application. However, the SFA may choose to apply for individual pieces of serving line equipment using the application selection for general equipment requests, as described above. Regardless of how the SFA chooses to apply, each application form is reviewed and scored **separately** as described in the “Application Scoring” section of the RFP.

The following guidelines must be followed when applying for an entire Food Serving Line:

- Eligible SFAs must apply on behalf of their eligible RA by selecting the Serving Line Equipment option at the beginning of the application.
- Making the selection Serving Line Equipment should only be done in cases when the entire serving line will be purchased and put into production together and the individual equipment pieces are necessary for the serving line to function.
 - **Equipment that is not used to directly serve reimbursable meals to students may not be included on the Food Serving Line application.** Cooking equipment and equipment used to prepare food from scratch are not considered part of a food serving line and must be requested by selecting the general equipment request, as described above.
 - For the purposes of this RFP, the following items are not considered a part of a serving line and may not be combined on the same application as other equipment pieces (this list is not all inclusive): cooking equipment (convection ovens, stoves, steamers, etc.), reach-in refrigerators/freezers, heated cabinet/warming unit, rolling racks, etc. **In cases where non-serving line equipment items are included on the same application with serving line equipment, NYSED reserves the right to remove any unallowable or inappropriate items from the request.**
- Each individual piece of equipment must have a value greater than \$1,000 as described in the “Equipment Requests” section of this RFP.

3. Electronic Point of Sale (POS) Equipment:

SFAs may apply for electronic POS system hardware and/or software to assist in daily food service operations.

Due to the nature of this request, the POS Equipment request selection allows the SFA to apply for POS equipment at multiple RAs on the same application. However, the SFA may choose to apply for POS equipment for individual RAs separately using the selection general equipment requests, as described above. Regardless of how the SFA chooses to apply, each application form is reviewed and scored **separately** as described in the “Application Scoring” section of the RFP.

The following guidelines must be followed when applying for an Electronic POS System:

- Eligible SFAs must apply on behalf of their eligible RAs by selecting the Electronic Point of Sale (POS) Equipment option at the beginning of the application.
- The individual equipment requests must have a value greater than \$1,000 as described in the “Equipment Requests” section of this RFP. If the SFA will consider the entire POS system (all components together instead of individual pieces) to be equipment for financial statement purposes rather than supplies and materials, the SFA should submit a written statement on letterhead indicating this. If the SFA does not indicate in writing with the application that the individual components of the POS system will be combined

and considered equipment, the cost of the individual POS components will be evaluated by SED to determine if each item has a value greater than \$1,000, as required.

Application Questions

*Applicants will be awarded up to 5 points for clearly identifying the equipment request in Part 4 and up to 44 total points for completing the Questions part of the application (Part 5). **Please also see the Selection Criteria Form in this RFP.***

5 Required Parts of the Application:

To begin the application, applicants must select the equipment request type at the top of the application form. Select from the following:

1. General Equipment, 2. Entire Serving Line, or 3. Point of Sale (POS) Equipment.

Next, applicants will navigate through the 5 required Parts of the application form and complete the questions that are applicable to the equipment type selected. The applicable questions will display with the ability for the applicant to enter data.

The 5 Parts of the application form are described below.

- 1. General Information-** Complete all questions in this part thoroughly. If you do not know your SFA/RA name or LEA code, contact foodequip@nysed.gov.
 - **School Food Authority (SFA):** indicate the SFA name and the 12-digit LEA Code of the SFA applying on the RA's behalf.
 - **Recipient Agency (RA):** indicate the RA name where the equipment will be placed and the RA's 12-digit LEA Code. **For POS Equipment requests only, the RA information will not appear in Part 1. It will be completed in Part 4 of the application.**
 - The remaining information in this section should be provided by completing all applicable boxes and information.
- 2. Contact Information-** Indicate the appropriate contacts and contact information.
- 3. Certification**
 - The SFA should fully read the written certification. Please also read the assurances and the Federal terms and conditions as outlined in this RFP. **The certification must be signed by the SFA's Chief School/Administrative Officer for the application to be considered.** The Food Service Director may not sign the written certification.
 - The following administrators are authorized to sign the certification: in cases of public schools – the Superintendent of the school district or their duly authorized designee; in cases of not-for-profit corporations operating recognized non-public schools or in cases of public or private non-profit residential childcare institutions – the officer of the corporation (e.g. Executive Director or their duly authorized designee); and in cases of charter schools – the chief school officer, administrator or their duly authorized designee.
 - Applicants must print the certification page to sign and upload as a required document into

Sharepoint.

4. Equipment Request

- **An Equipment Request chart within Part 4 of the application must be thoroughly completed to identify the equipment item requested and all related costs.**
- The Equipment Request chart displayed in Part 4 will correspond with the type of equipment request that the applicant selects at the beginning of the application form. Part 4 is designed differently to facilitate the application process for the item(s) requested.
 - **General Equipment:** Separate lines are provided for all associated costs including delivery, installation, disposition, and other. Complete the chart identifying each cost included in the total amount being requested.
 - **Entire Serving Line:** A chart is provided for the applicant to identify all equipment items that will make up the serving line. Complete all fields to identify each item's cost and related information.
 - **POS system:** A chart is provided for the applicant to identify the RA(s) that are requesting the new POS, and the POS equipment requested including cost.
- Please be specific and accurate. **This section is used to determine if your equipment request is allowable and, if awarded, this section is used to determine the awarded item and awarded amount. Ensure the total equipment cost is correctly calculated.**
- *Applicants will be awarded up to 5 Points for completing this part.*

5. Questions

- In part 5 of the application, there are 4 required sections of questions. The questions are the same for all three equipment request types. Applicants should review the selection criteria form in this RFP that indicates how the questions portion of the application (Part 5) will be scored.
 - **Section 1: Recipient Agency Equipment Needs**
 - **Section 2: Quality Improvement**
 - **Section 3: Focus Areas**
 - the applicant will select one focus area that best justifies and explains the need for the requested equipment. **No additional points will be awarded if responses are provided to questions in more than one focus area.** If the SFA provides responses to more than one focus area, points will be awarded for the first focus area addressed only.
 - **Select one of the following:**
 - **Focus 1: Food Safety**
 - **Focus 2: Serving Healthier School Meals**
 - **Focus 3: Expanded Participation**
 - **Section 4: Research and Budget**

Application Submission

SharePoint will be used to submit completed grant applications. **The SharePoint site exists only to upload completed applications and is not used to complete the application itself.**

SFAs must upload each complete grant application to the SharePoint submission website on or before 5:00pm on the application due date, March 31,2022.

SFAs submitting multiple applications must submit each application, including all supporting and mandatory documentation specific to that application, separately. Do NOT scan multiple applications together in one PDF document.

It is recommended that the SFA administration designate only one duly authorized user to upload all submissions for the SFA.

To upload the completed application into the SharePoint submission site, you must first obtain access by emailed invitation. All food service directors, business officials and Child Nutrition Fiscal Contacts entered in the Child Nutrition Management System (CNMS) will be sent an email invitation to gain access to the SharePoint website. Please allow 24-48 hours from the posting of the RFP to receive this email invitation.

If you are not listed in CNMS as a contact type listed above or if you have not received an invitation within 24-48 hours from this posting, please email foodequip@nysed.gov to request access. The email must contain: the SFA name; SFA LEA code; and the name, title and email of the individual asking to be granted access. Invitation requests for SharePoint will be accepted and approved until 4:00 pm March 31, 2022. Requests to access SharePoint after this time will not be granted.

Method of Awarding Grants

Application Scoring

Each application will be separately reviewed and scored by two reviewers. The scores of the two reviewers will be averaged to obtain the final average score.

A third review will be performed if there is a difference of eight (8) points or more between the two scores. In cases where a third review is necessary, all three scores will be averaged to obtain the final average score.

Applications will be ranked according to score from highest to lowest. In a case where two or more applicants receive the same evaluation score and funds are not available to fully fund those applications, the application that received the highest average score on question 2a under Section 2 of the Selection Criteria Form will be ranked higher. If there is also a tie score on question 2a, the average score for question 1a in Section 1 will be used as the tie-breaker. The Recipient Agency's enrollment from the most recent claim for reimbursement at the time awards are made will be used as a third tie-breaker, if necessary. Using the third tie-breaker, RAs with the highest enrollment will be awarded first.

Awards will be made for applications in rank order of average final score until funds are exhausted or there are no fundable applications remaining.

If any remaining funds are insufficient to award the next-highest ranked eligible application in full, that applicant will be offered a partial award.

No SFA may receive more than a combined \$20,000 for an individual Recipient Agency.

NYSED will not consider any unallowable or inappropriate items from the SFA's/RA's requests.

Awards will be made to SFAs for their eligible RAs for specific equipment pieces for specific dollar amounts.

Award Notification

Equipment grant awards will be posted to the Child Nutrition Knowledge Center (CNKC) website.

Awarded SFAs will be expected to submit an [FS-10 Budget form](#) with an original signature at the time of award to formally award the grant funding. The FS-10 form does not need to be submitted as part of the application.

Please refer to SED's [Fiscal Guidelines for Federal and State Grants](#) for additional information.

Debriefing Procedures

All unsuccessful applicants may request a debriefing within fifteen (15) calendar days of receiving notice from NYSED. Applicants may request a debriefing on the selection process regarding this Grant by emailing the request to foodequip@nysed.gov. The email must include the SFA name and 12-digit LEA code.

A summary of the strengths and weaknesses of the application, as well as recommendations for improvement will be sent to the applicant within ten (10) business days.

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. **The protest must be filed within ten (10) business days of receipt of a debriefing or disqualification letter. The protest letter must be emailed to foodequip@nysed.gov.**
2. 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 applicant 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 Office of the State Comptroller when the contract procurement record is submitted for approval and CAU will advise OSC that a protest was filed.
3. 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.

Guidelines for Award

SFAs must complete all activities (including expending the awarded funding and installation of awarded equipment etc.) within the project period begin and end dates.

Equipment must be used in the RA building for which it was awarded. Should the SFA determine that the awarded equipment would be better used in another RA under the SFA, at any time, the SFA must notify NYSED

Child Nutrition Program office at foodequip@nysed.gov and provide an explanation. NYSED will review the information and provide appropriate guidance.

SFAs must notify the NYSED Child Nutrition Program Office of any issues or complications relating to the grant before, during and after the project period.

The FY 2021 NSLP Equipment Assistance Grants are close-ended grants with fixed budgets. Therefore, the FY 2021 NSLP Equipment Assistance Grants are not part of the child nutrition cluster. Receiving funds from this grant opportunity may put the SFA above the \$750,000 threshold, which would require the SFA to conduct an organization-wide audit in accordance with OMB Circular A-133, instead of a program specific audit. Any recipient that expends \$750,000 or more in Federal funds must conduct a Single Audit in accordance with A-133.

Funds received through this grant cannot be combined with other school nutrition funds and must be tracked and reported separately. **The Catalog of Federal Domestic Assistance (CFDA) number for the equipment assistance grants is 10.579.**

Please Note: The terms of the agreement between State agencies and each SFA, require SFAs to retain their program-related records for a period of **three (3) years** from the day the SFA's final allowable payment under the contract has been recorded.

Procurement

As with all federal grant funds, procurement regulations at 7 CFR Part 210.21 and 2 CFR Part 200.317-326 apply and **SFAs must follow regulations at 2CFR Part 200: Subpart E, Cost Principles.**

Equipment competitively procured using these grant funds must be necessary, reasonable and allocable. **All SFAs, including those using the services of a Food Service Management Company, must adhere to the federal, State and local procurement requirements.**

Though it is not a requirement, SFAs that are awarded are encouraged to purchase domestically made equipment.

SFAs should:

- Ensure the purchase system allows for open and free competition.
- Maintain a contract system ensuring contractors comply with the specifications of their contracts or purchase orders
 - Give consideration to contractor integrity, compliance with public policy, record of past performance and financial and technical resources.
- Maintain written selection procedures for procurement process
 - Include a clear and accurate description of requirements for the product that does not unduly restrict competition.
- Make sure all lists of suppliers are current and include enough qualified sources to allow for maximum open and free competition.

It is strongly recommended that SFAs consider the following best practices to assist in upgrading food service equipment to serve healthier meals:

- School officials and local policymakers should work collaboratively with parents, teachers, students and funders to identify and implement strategies for meeting equipment, infrastructure, and training needs.

- Nonprofit and for-profit organizations that have an interest in improving children’s health, education, school infrastructure, and community wellness should provide assistance to schools in acquiring the necessary equipment.

As part of the application, SFAs should document the procurement process for the purchasing of commercial equipment. It is in the best interest of the SFA to thoroughly investigate a variety of options and products.

- Cost of commercial equipment plus installation cost
- Cost for disposal of old equipment
- Specification sheets
- Acquisition Costs:
 - The definition of acquisition cost is the net invoice unit price of the property, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property useable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee’s regular accounting practices.
- Any other necessary costs: labor, installation, etc. (direct labor costs only - do not include indirect costs)

Payments

Payments will be made on a reimbursement basis and requests for reimbursement should be submitted to NYSED Child Nutrition Program Office as soon as possible after equipment is purchased.

To receive reimbursement, SFAs will be required to submit an FS-10F budget form and include paid purchase invoices/receipts for the awarded/purchased equipment along with the serial number of each piece of equipment.

Please see the [Fiscal Guidelines for Federal and State Grants](#) for additional information.

Reporting/Evaluation Requirements

Equipment records must be maintained that include the description of the equipment, the serial number or other identification number, the source of the equipment, the title holder, the acquisition date, the cost of the equipment, the location, use and condition of equipment, and any ultimate disposition data including the date of disposal and the sale price of the equipment. SFAs must follow the appropriate equipment disposition guidance and procedures.

SFAs will be required to submit information regarding the equipment grant funds and will be required to complete and submit electronic surveys to the Child Nutrition Program Office.

Along with the items noted above, be prepared to substantiate:

- Progress/Challenges made in expending funds
- Types of equipment purchased
- Total funds expended for each school
- Total obligations and expenditures
- Serial number of purchased equipment
- Impact on the school food service operation of purchased equipment
- Accomplishments and challenges in expenditure activities
- Potential return of equipment
- Reason(s) for unliquidated funds

- Additional reporting requirements will be forthcoming based on OMB guidance

SFAs are required to make all records pertaining to activities under the grant available for audit/review purposes. SFAs must cooperate with any evaluation of the grant by providing NYSED requested data and access to records. SFAs must also cooperate with any onsite announced or unannounced reviews.

Close-out of the grant award does not affect:

- The right for NYSED to disallow costs and recover funds on the basis of an audit or later review
- Audit requirements
- Property management and disposition requirements
- Record retention requirements

SFAs found out of compliance with the terms of the grant are subject to a corrective action plan and/or immediate loss of the awarded grant and disallowance of Equipment Grant reimbursements and recoupment of equipment grant funding and/or ineligibility for future equipment grants. Termination from the NSLP prior to award and/or throughout the grant award period will result in immediate loss of the awarded grant and disallowance of Equipment Grant reimbursements.

Please Note: The terms of the agreement between State agencies and each SFA, require SFAs to retain their program-related records for a period of **three (3) years** from the day the SFA's final allowable payment under the contract has been recorded.

NYSED's Reservation of Rights

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

Resources

["Procurement Services."](http://www.ogs.state.ny.us/purchase/contact.asp) New York State Office of General Services. This resource is available at <http://www.ogs.state.ny.us/purchase/contact.asp>

"Equipment Purchasing and Facility Design for School Nutrition Programs," (National Food Service Management Institute NFSMI 2013) provides information on purchasing equipment for school nutrition

programs. This resource is available on NFSMI's website at [NFSMI Equipment Purchasing & Facility](#)



FY 2021 National School Lunch Program Equipment Assistance Grant for School Food Authorities Selection Criteria Form

RA LEA Code: _____ Application #: _____

Bonus Points	Score
<p>Points for previously unawarded RAs: If a Recipient Agency has not received a previous grant award through the FY 2018, FY 2019 or FY2020 National School Lunch Program Equipment Assistance Grant for School Food Authorities, give score of 10 points. For central kitchens and POS System requests: if <u>all</u> RAs did not receive a previous equipment grant. Give score of 10 points. (10 points)</p>	

Equipment Request	Score	Comments
0 pts = No response, 1-2 pts = Partial response, 3-4 pts = Most information included 5 pts = All requested information clearly included		
Application clearly states requested equipment including make/model, size, primary use, and cost (5 Points)		

Section 1: Recipient Agency Equipment Needs	Score	Comments
0 pts = No response, 1-4 pts = Partial or Generalized Response 5-7 pts = Adequate Response, 8-10 pts = Thorough and Detailed Response		
1a. Application includes a full detailed description of why the current equipment or lack of equipment is not meeting the needs of the NSLP. The answer indicates the age of existing equipment. (10 Points)		

Section 2: Quality Improvement	Score	Comments
0 pts = No response, 1-4 pts = Partial or Generalized Response 5-7 pts = Adequate Response, 8-10 pts = Thorough and Detailed Response		
2a. There is a detailed and credible justification of how the equipment will improve the overall quality of meals and specific improvements (cooking methods, appearance, taste, new items/recipes, nutritional quality) are indicated. (10 Points)		

*Reviewer: For Section 3, Check the focus area that the SFA selected and give a score for the questions in the selected focus area. Check the "N/A" box if the SFA did not complete the questions for the focus area. **If the SFA provided responses to more than one focus area, award points for the first focus area addressed only.**

Section 3: The SFA selected: <input type="checkbox"/> Focus 1- Food Safety	Score	Comments
0 pts = No response, 1-2 pts = Partial or Generalized Response 3-4 pts = Adequate Response, 5-6 pts = Thorough and Detailed Response		
3a. Justification explains how the equipment will improve safety of preparing, serving and/or storing food? The answer indicates health department citations, if applicable. (6 Points)	<input type="checkbox"/> N/A	
3b. Justification explains the challenges the RA is currently experiencing related to the safety of preparing, serving and/or storing food. (6 Points)	<input type="checkbox"/> N/A	

Section 3: The SFA selected: <input type="checkbox"/> Focus 2- Serving Healthier School Meals		Score	Comments
0 pts= No response, 1-2 pts = Partial or Generalized Response 3-4 pts = Adequate Response, 5-6 pts = Thorough and Detailed Response			
3c. There is a detailed justification that explains how the new equipment will allow the SFA/RA to serve healthier school meals. (6 Points)	<input type="checkbox"/> N/A		
3d. At least 3 specific examples of new food items or meal options that will be prepared/served in the reimbursable school breakfast and/or lunch meal with the new piece of equipment were provided and a detailed explanation of how each new menu option meets the focus area of serving healthier school meals was provided. (6 Points)	<input type="checkbox"/> N/A		

Section 3: The SFA selected: <input type="checkbox"/> Focus 3- Expanded Participation		Score	Comments
0 pts = No response, 1-2 pts= Partial or Generalized Response 3-4 pts = Adequate Response, 5-6 pts = Thorough and Detailed Response			
3e. Justification explains how the equipment will allow expanded participation in the NSLP/SBP and the explanation correlates directly to the requested piece of equipment. (6 Points)	<input type="checkbox"/> N/A		
3f. Justification indicates at least 3 specific strategies the SFA will be able to employ to increase the number of students participating in the NSLP/SBP (6 Points)	<input type="checkbox"/> N/A		

Section 4: Research & Budget (Required)		Score	Comments
0 pts = No response, 1= Partial or Generalized Response 2-3 pts = Adequate Response, 4 pts = Thorough and Detailed Response			
4a. Answer describes the steps taken to ensure the best quality, size, model and value. The individuals involved in the process and specific equipment models researched are indicated. (4 Points)			
4b. Answer reflects the research conducted to obtain the best possible price and how the SFA determined the dollar value to request. Answer also indicates the type of procurement, that was or will be conducted. (4 Points)			
4c. The application includes supporting documentation for at least 3 vendors to substantiate the cost (price quotes, equipment specification sheets, etc.) (4 Points)			

Reviewer Name:	Total Score _____/59
Comments:	

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 \$25,000, 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 § 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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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 (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, 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 Part 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, upgrading, 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 clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

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

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

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

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

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

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
[NYS M/WBE Directory](#)

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5))) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 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 § 5-a, if the contractor fails to make the certification required by Tax Law § 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.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

(October 2019)

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

New York State Education Department Required Assurances and Certifications

The following assurances and certifications are a component of your application. ***By signing the certification on the application cover page, you are ensuring accountability and compliance with applicable State and federal laws, regulations, and grants management requirements.***

Sexual Harassment Prevention Certification

By submission of this application, each applicant and each person signing on behalf of any applicant certifies, and in the case of a joint application each party thereto certifies its own organization, under penalty of perjury, that the applicant has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

ASSURANCES AND CERTIFICATIONS FOR FEDERAL PROGRAM FUNDS

Federal Assurances and Certifications, General:

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

Federal Assurances and Certifications, ESEA:

The following are required as a condition for receiving any federal funds under the Elementary and Secondary Education Act (ESEA).

- ESEA Assurances
 - School Prayer Certification
-

ASSURANCES - NON-CONSTRUCTION PROGRAMS

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

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

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards that may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Audits of States, Local Governments, and Non-Profit Organizations.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Standard Form 424B (Rev. 7-97), Prescribed by 2 CFR Part 200, Authorized for Local Reproduction, as amended by New York State Education Department

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

These certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 2 CFR Part 200, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Sections 82.105 and 82.110, the applicant certifies that:

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

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

This certification is required by OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180

A. The applicant certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of any offenses listed in 2 CFR §180.800(a) or had a civil judgment rendered against them for one of those offenses within that time period;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in 2 CFR §180.800(a); and
- (d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default.

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

3. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIERED COVERED TRANSACTIONS

The terms “debarment,” “suspension,” “excluded,” “disqualified,” “ineligible,” “participant,” “person,” “principal,” “proposal,” and “voluntarily excluded” as used in this certification have the meanings set forth in 2 CFR Part 180, Subpart I, “Definition.” A transaction shall be considered a “covered transaction” if it meets the definition in 2 CFR Part 180 Subpart B, “What is a covered transaction?”

A. The applicant certifies that it and its principals:

- (a) Upon approval of their application, in accordance with 2 CFR Part 180 Subpart C, they shall not enter into any lower-tier non-procurement covered transaction with a person without verifying that the person is not excluded or disqualified unless authorized by USDOE.
- (b) Will obtain an assurance from prospective participants in all lower tier covered non-procurement transactions and in all solicitations for lower tier covered non-procurement transactions that the participants will comply with the provisions of 2 CFR Part 180 subparts A, B, C and I.
- (c) Will provide immediate written notice to the New York State Education Department if at any time the applicant and its principals learn that a certification or assurance was erroneous when submitted or has become erroneous because of changed circumstances.

NEW YORK STATE EDUCATION DEPARTMENT ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA) ASSURANCES

These assurances are required for programs funded under the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act of 2015.

As the chief school officer of the applicant, by signing the Application Cover Page, I certify that:

- (1) the applicant will comply with the requirements of Education Law § 3214(3)(d) and (f) and the Gun-Free Schools Act (20 U.S.C. § 7151);
- (2) the applicant will comply with the requirements of 20 U.S.C. § 7908 on military recruiter access;
- (3) the applicant will comply with the requirements of 20 U.S.C. § 7904 on constitutionally protected prayer in public elementary and secondary schools;
- (4) the applicant will comply with the requirements of Education Law § 2802(7), and any state regulations implementing such statute and 20 U.S.C. § 7912 on unsafe school choice;
- (5) the applicant will comply with all fiscal requirements that apply to the program, including but not limited to any applicable supplement not supplant or local maintenance of effort requirements; and
- (6) the applicant understands the importance of privacy protections for students and is aware of the responsibilities of the grantee under section 20 U.S.C. 1232g (FERPA) (ESSA §854).

FEDERAL TERMS AND CONDITIONS

SFAs chosen for an award from this RFP must comply with the following regulations, principals and assurances:

GOVERNMENT-WIDE REGULATIONS

- 2 CFR Part 25: “Universal Identifier and System for Award Management”
- 2 CFR Part 170: “Reporting Sub-award and Executive Compensation Information”
- 2 CFR Part 175: “Award Term for Trafficking in Persons”
- 2 CFR Part 180: “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-Procurement)”
- 2 CFR Part 200: “: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”
- 2 CFR Part 400: USDA Implementing regulations” Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”
- 2 CFR Part 415: USDA “General Program Administrative Regulations”
- 2 CFR Part 416: USDA “General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments”
- 2 CFR Part 417: USDA “Non-Procurement Debarment and Suspension”
- 2 CFR Part 418 USDA “New Restrictions on Lobbying”
- 2 CFR Part 421: USDA “Requirements for Drug-Free Workplace (Financial Assistance)”
- 41 USC Section 22 “Interest of Member of Congress”
- Duncan Hunter National Defense Authorization Act of Fiscal Year 2009, Public Law 110-417
- Sections 738 and 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012 (Public Law 112-55)
- “The Federal Funding Accountability and Transparency Act (FFATA), dated September 26, 2006”

COST PRINCIPALS

- 2 CFR, Part 200: Subpart E, Cost Principles

USDA REGULATIONS

- 7 CFR Part 15: “Nondiscrimination”
- Freedom of Information Act (FOIA). Public access to Federal Financial Assistance records shall not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to the “Freedom of Information” regulation (5 U.S.C. 552).

ASSURANCE OF CIVIL RIGHTS COMPLIANCE

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-et seq.), USDA regulations at 7 CFR Part 15, Nondiscrimination, and Department of Justice regulations at 28 CFR Part 42, Nondiscrimination; Equal Employment Opportunity: Policies And Procedures
- Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and USDA regulations at 7 CFR Part 15a, Education Programs or Activities Receiving or Benefiting from Federal Financial Assistance
- ☐ Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 1681 et seq.) and USDA regulations at 7 CFR Part 15a, Education Programs or Activities Receiving or Benefiting from Federal Financial Assistance, and Department of Justice regulations at 28 CFR Part 41, Implementation of Executive Order 12250, Nondiscrimination on the Basis of Handicap In Federally Assisted Programs
- Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) The Grantee assures that it will immediately

take any measures necessary to effectuate the requirements in these laws, regulations, and directives. The Grantee gives this assurance in consideration of and for the purpose of obtaining the funds provided under this agreement.

- The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of disability in employment (Title I), state & local government services (Title II), places of public accommodation and commercial facilities (Title III). (42 U.S.C. 12101-12213)

NONDISCRIMINATION STATEMENT

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

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Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
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- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

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