

## Announcement of Funding Opportunity

School Year 2022-2023

### Universal Prekindergarten Expansion Grant for New Full-Day and Half-Day to Full-Day Placements for Four-Year-Old Students

<b>Legislative Authority and Purpose of Grant Funds</b>	Chapter 53 of the Laws of 2022 appropriates \$25 million for additional prekindergarten grants for school districts to establish New Full-Day and Half-Day to Full-Day prekindergarten placements for four-year-old students in accordance with applicable provisions in Education Law Section 3602-ee governing Statewide Universal Full-Day Prekindergarten (§3602-ee).
<b>Purpose of Grant</b>	The purpose of the Universal Prekindergarten Expansion Grant for New Full-Day and Half-Day to Full-Day Placements for Four-Year-Old Students is for New York State school districts in 2022-2023 to increase the availability of directly and collaboratively implemented prekindergarten programming aligned with applicable New York State Learning Standards along with relevant <a href="#">Education Law §3602-ee</a> requirements. In addition to addressing student and community need, proposals must demonstrate innovation and high quality.
<b>Project Period</b>	<p>Initial period: July 1, 2022, through June 30, 2023.</p> <p>Awards under this grant program will be based on the NYSED-approved number of New Full-Day and Half-Day to Full-Day prekindergarten placements for four-year-old students served by NYS-certified and uncertified prekindergarten teachers in a 180-day school year.</p> <p>For the purposes of this grant and pursuant to <a href="#">8 NYCRR 151-1</a>, during the 2022-2023 school year, awarded school districts will have the option to operate a full-day four-year-old prekindergarten program for a minimum of 90 days. Otherwise, awarded school districts will be able to operate a 180-day program during the 2023-2024 school year.</p> <p>Prekindergarten programs that operate fewer than 180 school days in the 2022-2023 school year and thereafter will be subject to Education Law <a href="#">§3602-e(16)</a> which outlines the proportionate reduction of the total grant payable by 1/180<sup>th</sup> for each day the prekindergarten program did not operate.</p> <p>Subject to an available appropriation in the State budget for this purpose and provided all requirements of this grant and §3602-ee quality standards have been met, all awarded school districts will retain their 180-day maximum grant award in the 2023-2024 school year and thereafter.</p>
<b>Eligible Applicants</b>	<p>All public school districts are eligible to apply for this grant program.</p> <p>Multiple school districts are permitted to form a consortium and submit a joint application for the grant program. One school district must be identified as the fiscal agent of the consortium.</p> <p>Collaboration with Eligible Agencies / Community-Based Organizations (CBOs): Pursuant to this grant and §3602-e, school districts are required to set aside no less than 10 percent of the total grant award to collaborate with high-quality eligible agencies / CBOs who demonstrate best practices for the</p>

	<p>provision of the prekindergarten instructional program and who meet the standards and requirements of this grant program and 8 NYCRR 151-1.</p> <p>Potential collaborating eligible agencies / CBOs include providers of approved, licensed and/or registered prekindergarten programs, such as those associated with:</p> <ul style="list-style-type: none"> <li>• Child Care and Early Education;</li> <li>• Early Childhood Centers;</li> <li>• Family/ Group Family Child Care;</li> <li>• Day Care Centers;</li> <li>• Head Start;</li> <li>• 4410 Preschool Special Education;</li> <li>• BOCES</li> <li>• Nursery Schools;</li> <li>• Charter Schools;</li> <li>• Non-Public Schools;</li> <li>• Libraries; and</li> <li>• Museums.</li> </ul> <p>For purposes of this grant, potential agency / CBO collaborators listed above are not eligible to directly apply for this funding opportunity. They are encouraged to apply to a school district to be considered for contracting collaborative prekindergarten programming.</p> <p>Due to the highly competitive nature of this grant, in addition to proposal quality, school district applicants' proposals will be evaluated on several factors, including, but not limited to, the level of existing prekindergarten services in the school district, the extent to which the school district would prioritize funds to maximize the total number of eligible four-year-old children served in its full-day prekindergarten programs, and the school district's plan to comply with all applicable rules and requirements pursuant to Education Law §3602-ee. Preference will be given to programs serving high levels of four-year-old students that are economically disadvantaged.</p>
<p><b>Amount of Funding</b></p>	<p>The New York State Education Department will award up to \$25 million to fund grants for the 2022-2023 school year.</p> <p>Grant awards will be based upon the full annualized value of each awarded school district's approved application. However, in the 2022-2023 school year, payment will be prorated based on the actual number of students served by certified and uncertified teachers, and the number of full school days out of 180 that the program is in operation.</p> <p>For the purposes of this grant and pursuant to 8 NYCRR 151-1, during the 2022-2023 school year, awarded school districts will have the option to operate a full-day four-year-old prekindergarten program for a minimum of 90 days. Otherwise, awarded school districts will be able to operate a 180-day program during the 2023-2024 school year. Grant funding will be awarded to school districts to create new Full-Day and Half-Day to Full-Day placements for four-year-old students that will supplement and not supplant current local expenditures of federal, state, or local funds on prekindergarten programs and the number of placements in such directly or collaboratively implemented</p>

	<p>prekindergarten programs from such sources.</p> <p>For purposes of this grant, no school district shall receive an award of more than ten percent (10%) of the total grant funds.</p> <p>Calculation of grant awards will be dependent on valid New York State teacher certification pursuant to Education Law §3602-ee(8).</p> <ul style="list-style-type: none"> <li>• Grant awards shall equal \$10,000 per student when served by a teacher of record with New York State teacher certification valid for service in the early childhood grades or a teaching license or certificate for students with disabilities valid for service in early childhood grades.</li> <li>• Grant awards shall equal \$7,000 per student when served by a teacher of record without valid New York State teacher certification in early childhood grades.</li> <li>• Half-Day to Full Day <b>Certified</b> Conversion Placements for four year old students taught by teacher(s) of record with New York State teacher certification valid for service in the early childhood grades or a teaching license or certificate for students with disabilities valid for service in early childhood grades; or <ul style="list-style-type: none"> <li>○ Per Student: \$10,000 - existing half-day UPK funding = full day certified conversion funding</li> </ul> </li> <li>• Half-Day to Full Day <b>Uncertified</b> Conversions Placements for four year old students taught by teacher(s) without valid New York State teacher certification in early childhood grades. <ul style="list-style-type: none"> <li>○ Per Student: \$7,000 - existing half-day UPK funding = full day certified conversion funding</li> </ul> </li> </ul> <p>Grant funds and associated expenditures must be separately accounted for and not commingled with other funds. School district funds must be maintained in, and expenditures made from, a special revenue (special aid) fund account.</p>
<p><b>Questions and Answers</b></p>	<p>All questions must be submitted via E-Mail to <a href="mailto:PREKRFP@nysed.gov">PREKRFP@nysed.gov</a> by close of business <b>August 16, 2022</b>. A complete list of all Questions and Answers will be posted to <a href="#">NYSED Funding Opportunity Web Page</a> no later than <b>August 23, 2022</b>.</p>
<p><b>Application Due Date</b></p>	<p>Receipt of 1 original and 3 paper copies by <b>5:00 PM, September 16, 2022</b>, to:</p> <p>New York State Education Department  Attn: School Year 2022-2023 Universal Prekindergarten Expansion Grant  Office of Early Learning  89 Washington Avenue  Room 319 EB  Albany, NY 12234</p> <p>Applications are also <b>required</b> to be received by <b>5:00 PM, September 16, 2022</b> by the Department via email to <a href="mailto:PREKRFP@nysed.gov">PREKRFP@nysed.gov</a>. The file format must be in Microsoft Word. The subject line of the email must read as follows:</p>

	<b>2022-23 UPK Expansion Grant RFP GC 22-010 and the legal name of applicant school district</b>
<b>Preliminary Notice of Award</b>	Preliminary notices of award and non-award are expected to be issued on October 17, 2022.
<b>Appendices</b>	<p>APPENDIX A: Standard Clauses for New York State Contracts</p> <p>APPENDIX A-1: General Assurances</p> <p>APPENDIX B: Statement of Assurances</p> <p>APPENDIX C: 2022-2023 Full-Day and Half-Day to Full-Day Four-year-old Prekindergarten Maximum Grant Award Request &amp; Collaboration Calculator</p> <p>APPENDIX D: New York State-Administered Universal Prekindergarten Quality Assurance Protocol for Grant Programs Initially Awarded in School Years 2014-2015, 2021-2022, and 2022-2023.</p> <p>APPENDIX E: Proposal Evaluation Rubric</p> <p>APPENDIX F: Teacher Certification Waiver</p> <p>APPENDIX G: Collaboration Variance Request</p>

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

## 2022-2023 UPK Expansion Grant for New Full-Day and Half-Day to Full-Day Placements for Four-Year-Old Students

### **Purpose**

Building upon the foundation established by the \$1.1 billion investment in prekindergarten to date across the State, the purpose of the Universal Prekindergarten Expansion Grant for New Full-Day and Half-Day to Full-Day Placements for Four-Year-Old Students in the 2022-2023 School Year is to incentivize and fund state-of-the-art prekindergarten programs by encouraging creativity through competition. This grant program will increase the availability of directly and collaboratively implemented prekindergarten programming in New York State school districts. Proposed prekindergarten programs that enhance child development and demonstrate creative approaches to early childhood education will have a competitive advantage in the application process. In addition to exceptional instruction aligned with the New York State Learning Standards, this prekindergarten grant program will also ensure high-quality early care and education by requiring all grantees to demonstrate quality program standards. School districts and their eligible agency / CBO collaborators will comprehensively meet the needs of their four-year-old students, their families and communities.

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

The Universal Prekindergarten Expansion Grant for New Full-Day and Half-Day to Full-Day Placements for Four-Year-Old Students will create new full-day prekindergarten placements in the 2022-2023 school year that will meet elevated program requirements for four-year-old students as set forth in Education Law Section 3602-ee (§3602-ee). A child eligible for such a placement is a child who resides within the school district and who is four years of age on or

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<sup>1</sup> Bakken, L., Brown, N. & Downing, B. (2017). Early Childhood Education: The Long-Term Benefits. *Journal of Research in Childhood Education*, 31 (2), 255-269.

<sup>2</sup> Conger, D., Gibbs, C.R., Uchikoshi, Y. & Winsler, A. (2019). New Benefits of Public School Prekindergarten Programs: Early School Stability, Grade Promotion, and Exit from ELL Services. *Early Childhood Research Quarterly*, 48, 26-35.

<sup>3</sup> Garcia, E. & Weiss, E. Reducing and Averting Achievement Gaps: 'Education Inequalities at the School Starting Gate' and Comprehensive Strategies to Mitigate Early Skills Gaps. Economic Policy Institute, 2017.

<sup>4</sup> McCoy, D. C., Yoshikawa, H., Ziol-Guest, K. M., Duncan, G. J., Schindler, H. S., Magnuson, K., ... Shonkoff, J. P. (2017). Impacts of Early Childhood Education on Medium- and Long-term Educational Outcomes. *Educational Researcher*, 46(8), 474-487.

<sup>5</sup> Kroll, J. F., & Dussias, P. E. (2017). The Benefits of Multilingualism to the Personal and Professional Development of Residents of the US. *Foreign language annals*, 50(2), 248-259.

before December 1st of the year in which he or she will be enrolled or who will otherwise be first eligible to attend public school kindergarten the following school year in their school district of residence.

### **Eligible Applicants and Project Funding**

The New York State Education Department (Department) will award up to \$25 million to fund grants for the 2022-2023 school year for public school districts to implement direct and collaborative prekindergarten programming. All public school districts are eligible for grant funding to create new Full-Day and Half-Day to Full-Day prekindergarten placements for four-year-old students. Grant awards will supplement and not supplant school districts' current local expenditures of federal, state, or local funds on prekindergarten programs in addition to the number of placements supported.

For the purposes of this grant, no school district shall receive an award of more than ten percent (10%) of the total grant funds.

Awarded school districts must set aside no less than 10 percent (10%) of the total grant award to collaborate with high-quality eligible agencies / CBOs who demonstrate best practices for the provision of the prekindergarten instructional program and who meet the standards and requirements of this grant program and as set forth in Education Law §3602-ee. The Department will consider an awarded school district's variance request for the 10% minimum set-aside requirement to implement a collaborative prekindergarten program with an eligible agency / CBO. For the purposes of this grant, the applicant school district must provide documented evidence that, for reasons beyond its control, the school district has exhausted all resources and options to develop a collaborative arrangement in 2022-2023. Upon conclusion of the school district's competitive process to collaborate, if the school district is not able to contract with any eligible agency / CBO to deliver collaborative prekindergarten programming, the school district should initiate the collaboration variance request process by emailing [OEL@nysed.gov](mailto:OEL@nysed.gov).

A school district's collaboration variance request will accurately and comprehensively describe the school district's due diligence in its efforts to identify and recruit eligible agencies / CBOs, and the specific reasons for being unsuccessful in establishing a collaboration. Allowable reasons include:

- A lack of eligible CBOs located within the school district's boundaries;
- A lack of interest on behalf of existing identified agencies / CBOs to collaborate with the school district; or
- After vetting and visiting potential agency / CBO sites, there is good cause for not entering into a contract (e.g., health and safety concerns).

A Department-approved 2022-2023 collaboration variance request is valid for one year. Eligible collaborating agencies / CBOs include approved, licensed and/or registered prekindergarten program providers. For purposes of this grant, potential agency / CBO collaborators listed below are not eligible to directly apply to NYSED for this funding opportunity. They are encouraged to apply to contract with a school district via responding to a school district's Request for Proposals (RFP) to be considered for implementing a collaborative prekindergarten program:

- Child Care and Early Education;

- Early Childhood Centers;
- Family/ Group Family Child Care;
- Day Care Centers;
- Non-profit organizations;
- Head Start;
- 4410 Preschool Special Education Programs;
- BOCES;
- Nursery Schools;
- Charter Schools;
- Non-Public Schools;
- Libraries; and
- Museums.

2022-2023 Full-Day and Half-Day to Full-Day Prekindergarten Placements Four-year-old Prekindergarten Maximum Grant Award Request & Collaboration Calculator in Appendix C determines the maximum grant award request for the initial period of July 1, 2022 through June 30, 2023.

Awards under this grant program will be based on the NYSED-approved number of new full-day and Half-Day to Full-Day prekindergarten placements for four-year-old students served by NYS-certified and uncertified prekindergarten teachers in a 180-day school year. A minimum of 5 hours constitutes a full school day. A minimum of 25 hours constitutes a full school week. §3602-e(12)(f)

The calculation of each grant award will be dependent on valid New York State teacher certification pursuant to Education Law §3602-ee(8).

- Grant awards shall equal \$10,000 per student served by a teacher of record with New York State teacher certification valid for service in the early childhood grades, including those with a teaching license or certificate for students with disabilities valid for service in the early childhood grades.
- Grant awards shall equal \$7,000 per student served by a teacher of record without valid New York State teacher certification valid for service in the early grades.
- Half-Day to Full Day **Certified** Conversion Placements for four year old students taught by teacher(s) of record with New York State teacher certification valid for service in the early childhood grades or a teaching license or certificate for students with disabilities valid for service in the early childhood grades.
  - Per Student: \$10,000 - existing half-day UPK funding = full day certified conversion funding
- Half-Day to Full Day **Uncertified** Conversions Placements for four year old students not taught by teacher(s) without valid New York State teacher certification in early childhood grades.
  - Per Student: \$7,000 - existing half-day UPK funding = full day uncertified conversion funding

## **§3602-ee(8) Teacher Certification Requirements**

All teachers in the universal full-day prekindergarten program shall meet the same teacher certification standards applicable to public schools. Prekindergarten teachers providing instruction through this section shall possess:

- a teaching license or certificate valid for service in the early childhood grades; or
  - Grant awards shall equal \$10,000 per student served by a teacher of record with New York State teacher certification valid for service in the early childhood grades.
- a teaching license or certificate for students with disabilities valid for service in early childhood grades; or
  - Grant awards shall equal \$10,000 per student served by a teacher of record with New York State teacher certification valid for serving students with disabilities in the early childhood grades.
- for teachers employed by eligible collaborating agencies / CBOs partnering with school districts, a Bachelor's degree in early childhood education or qualifications prescribed by the licensing or registering agency.
  - Grant awards shall equal \$7,000 per student served by a teacher of record without valid New York State teacher certification valid for service in the early grades

As per §3602-ee(8)(c), beginning with the 2022-23 school year, a school district may annually apply to the commissioner by August 1st of the current school year for a waiver that would allow personnel employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency. See Appendix F for Prekindergarten Teacher Certification Waiver.

## **Days of Operation**

For the purposes of this grant and pursuant to 8 NYCRR 151-1, during the 2022-2023 school year, awarded school districts will have the option to operate a full-day four-year-old prekindergarten program for a minimum of 90 days. Otherwise, awarded school districts will be able to operate a 180-day program during the 2023-2024 school year.

Prekindergarten programs that operate fewer than 180 school days in the 2022-2023 school year and thereafter will be subject to §3602-e(16) which outlines the proportionate reduction of the total grant payable by 1/180<sup>th</sup> for each day the prekindergarten program did not operate:

Subject to an available appropriation in the State budget for this purpose and provided all requirements of this grant and §3602-ee quality standards have been met, all awarded school districts will retain their 180-day maximum grant award in the 2023-2024 school year and thereafter.

Grant funds and associated expenditures must be separately accounted for and not commingled with other funds. School district funds must be maintained in, and expenditures made from, a special revenue (special aid) fund account.



At the end of the 2022-2023 school year and each school year thereafter, when calculating the maximum grant payable, school district awardees may not receive final payment that exceeds total actual expenditures.

### **Evaluation of Proposals**

Due to the highly competitive nature of this grant, in addition to proposal quality, eligible school district applicants' proposals will be evaluated on several factors, including, but not limited to the:

- Level of existing prekindergarten services in the school district,
- Extent to which the school district would prioritize funds to maximize the total number of eligible four-year-old children served in its full-day prekindergarten programs, and
- School district's plan to comply with the provisions in this RFP, and applicable rules and requirements as set forth in Education Law §3602-ee.

Preference will be given to programs serving high levels of four-year-old students that are economically disadvantaged.

### **Program Requirements, Components, and Quality**

Chapter 53 of the Laws of 2022 establishes several requirements that school districts must meet or assure to meet to be eligible to apply for this 2022-2023 Universal Prekindergarten Expansion Grant for New Full-Day and Half-Day to Full-Day prekindergarten placements for Four-Year-Old Students in School Year 2022-2023. Except as otherwise provided in this Request for Proposals (RFP), school districts and their collaborating agencies / CBOs serving four-year-old students in full-day prekindergarten programs funded by this grant must comply with all applicable rules and requirements as set forth in Education Law Section 3602-ee governing Statewide Universal Full Day Prekindergarten ([§3602-ee](#)).

All laws, regulations, guidance and resources for implementing this prekindergarten program can be found on the Department's [Office of Early Learning Website for State-Administered Prekindergarten Programs](#). Web links for these resources are provided below.

Proposed half-day to full-day conversion programs and full-day prekindergarten programs will receive a competitive advantage in the application process by demonstrating the provision of high quality instruction for a minimum of five hours per school day, enhancing child development and implementing creative direct and collaborative approaches to improve early childhood education for four-year-old students in the following program quality areas:

1. Program Oversight and Fiscal Management;
2. Facility Quality;
3. Teaching Staff Patterns, Qualifications, Performance, and Professional Learning;
4. Child Eligibility, Screening, Progress Monitoring, and Outcomes;
5. Nutrition, Health, and Well-being;

6. Learning Environment and Curriculum;
7. Family Engagement and Support;
8. Partnerships with Non-profit, Community, and Educational Institutions.

Detailed requirements of the above program quality areas can be found in Appendix D: [New York State-Administered Universal Prekindergarten Quality Assurance Protocol for Grant Programs Initially Awarded in School Years 2014-2015, 2021-2022, and 2022-2023.](#)

### *Collaborative Prekindergarten Program Implementation:*

As part of the competitive procurement process by which eligible agency / CBO applicants submit proposals to contract with school districts to implement collaborative prekindergarten programming, for this grant program, Education Law §3602-ee(9) requires that, prior to entering into a contract, school districts must vet and visit each eligible agency / CBO applicant's proposed prekindergarten site. School districts must take into account any record of violations of health and safety codes, licensure, and/or registration requirements

Once under contract, Education Law §3602-ee(10) requires the school district or the Department to inspect collaborating agency / CBO prekindergarten program sites at least once per year. One additional inspection is required by each collaborating agency's / CBO's respective licensing, permitting, regulatory, oversight, registration or enrolling agency or entity. To assist school districts with inspections, the Department's Office of Early Learning created the [Prekindergarten Health and Safety Checklist](#).

During contracted collaborative prekindergarten programming, the school district must continue to monitor agency / CBO collaborators for violations. A violation classified as an "imminent danger" by the NYS Office of Children and Family Services (OCFS) or as a "public health hazard" by the New York City Department of Health and Mental Hygiene (DOHMH) must be immediately corrected. If not, the collaborating agency / CBO shall be suspended from this grant program and, upon final determination of such violation by the regulating agency, suspended or terminated from participating in this grant program based on the severity of the violation. Based on statewide standards established by OCFS, eligible agencies / CBOs with a record of other serious or critical and/or repeated violations that pose a risk to health or safety will be suspended or terminated from participating in the program.

For more information on implementing collaborative prekindergarten programs, see NYSED's Office of Early Learning's online resources:

- [Collaborating with Community-Based Organizations](#)
- [School District and CBO Collaborative Prekindergarten - 6/8/21 Webinar](#)
- [School District and CBO Collaborative Prekindergarten - Tip Sheet](#)
- [Blending & Braiding Funds to Support Early Childhood Education Programs: Your "How to" Guide](#)

### *Eligible Four-Year-Old Students*

For the purposes of this grant, an eligible prekindergarten student resides in the school district and will be four years of age on or before December 1, 2022, or is first eligible to attend public school kindergarten in the 2023-2024 school year. Children who are eligible for kindergarten enrollment in 2022-2023 are not eligible for prekindergarten in 2022-2023.

In the event that there are more eligible children than new full-day prekindergarten program placements provided by this grant, the school district must establish a random method of selection (lottery system) to determine which eligible students the prekindergarten program can immediately serve, and which students will be placed on a waiting list.

The school district must ensure that any measurement of student outcomes in prekindergarten will not be used to make high-stakes, educational decisions for individual children. For example, such data must not be used to preclude or discourage a child's enrollment in kindergarten.

#### **Maximum Class Sizes for Four-Year-Old Students**

Pursuant to §151-1.3(d)(1), the maximum class size for a prekindergarten class is 20 four-year-old students. For classes of up to 18 students, there must be one teacher and one paraprofessional assigned to each class. For classes of 19 or 20 students, there must be one teacher and two paraprofessionals assigned to each class. Note: Licensed programs collaborating with a school district must adhere to a staff to student ratio that is compliant with the licensing agency of the provider.

#### **Allowable Expenditures**

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

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

For the purposes of this grant and pursuant to 8 NYCRR 151-1, during the 2022-2023 school year, awarded school districts will have the option to operate a full-day four-year-old prekindergarten program for a minimum of 90 days. Otherwise, awarded school districts will be able to operate a 180-day program during the 2023-2024 school year.

Prekindergarten programs that operate fewer than 180 school days in the 2022-2023 school year and thereafter will be subject to §3602-e(16) that outlines the proportionate reduction of the total grant payable by 1/180th for each day the prekindergarten program did not operate.

Subject to an available appropriation in the State budget for this purpose and provided all requirements of this grant and §3602-ee quality standards have been met, all awarded school districts will retain their 180-day maximum grant award in the 2023-2024 school year and thereafter.

School district applicants must submit an FS-10 Proposed Budget with this application for a 12-month project period of July 1 – June 30 for new full-day and Half-Day to Full-Day prekindergarten placements for four-year-old students beginning either in the 2022-2023 school year for at least 90 days, or at the start of the 2023-2024 school year for at least 180 days.

- If opting to begin at a point during the 2022-2023 school year for less than 180 full school days, but for a minimum of 90 full school days, the maximum grant award must be prorated on the FS-10 Budget Proposed Budget to account for days in operation during the 7/1/2022-6/30/2023 project period.
- If opting to begin upon the start of the 2022-2023 school year for 180 days, the FS-10 Proposed Budget must reflect the maximum grant award for operating 180 full school days during the 7/1/2022-6/30/2023

The total budget may not exceed the maximum grant request calculated using the 2022-2023 Prekindergarten Expansion Grant for New Full-Day Placements and Half-day to Full Day Conversion Placements for Four-Year-Old Students Calculator in Appendix C. The proposed budget will be reviewed and scored.

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

Information about the categories of expenditures and general information on allowable costs, applicable cost principles and administrative regulations are available in the [Fiscal Guidelines for Federal and State Aided Grants](#).

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

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

### **Payment Schedule**

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

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

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

### **Application Submission Instructions**

<b>August 16, 2022:</b>	Questions due to the Department
<b>August 23, 2022:</b>	Questions & Answers are posted to the Department's website
<b>September 16, 2022:</b>	<b>Application Received by 5pm</b>

### **Method of Award**

Grant awards will be based upon the full annualized value of each awarded school district's approved application. However, in the 2022-2023 school year, payment will be prorated based upon the actual number of students served by certified and uncertified teachers, and the number of full school days out of 180 that the program is in operation. Pursuant to 8 NYCRR 151-1, during the 2022-2023 school year, awarded school districts will have the option to operate a full-day four-year-old prekindergarten program for a minimum of 90 days. Otherwise, awarded school districts will be able to operate a 180-day program during the 2023-2024 school year.

Prekindergarten programs that operate fewer than 180 school days in the 2022-2023 school year and in each school year thereafter will be subject to §3602-e(16) that outlines the proportionate reduction of the total grant payable by 1/180th for each school day the prekindergarten program did not operate.

Grant funding must supplement and not supplant current local expenditures of federal, state, or local funds on prekindergarten programs and the number of placements in such directly or collaboratively implemented prekindergarten programs from such sources.

Proposals received after **5pm September 16, 2022** will not be reviewed.

Each eligible proposal will be reviewed by at least two reviewers. Each reviewer will score the proposal according to the indicated point criteria in the Proposal Narrative and the Budget Narrative using the Proposal Evaluation Rubric in Appendix E. Scores from each reviewer will be averaged to compute the final score. If there is a difference of more than 15 points between the two reviewers' scores, a third reviewer will review the application and the two closest scores will be averaged to compute the final score. In those instances where the third review falls equally between the initial two scores, the score of the third review will be used as the final score. A third review will not be required when it is mathematically impossible for an applicant to achieve an average score of 60 or higher with a third review.

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

Proposals that receive a final average score of 60 or more will be considered for funding.

Awards will be made starting with the highest scoring proposal in rank order for all other districts.

For purposes of this grant, no school district shall receive an award of more than ten percent (10%) of the total grant funds.

In the event of tie scores, proposals with the highest combined score on Section 2 Need Narrative will be ranked higher. If a tie remains, the proposal with the highest combined score on Section 4 Program Quality Narrative will be ranked higher.

### **NYSED Consortium Policy for State and Federal Discretionary Grant Programs**

Participants can form a consortium to apply for the grant. In order to do so, the consortium must meet the following requirements:

1. The consortium must designate one of the members to serve as the applicant and fiscal agent for the grant. The applicant agency must be an eligible grant recipient. All other consortium members must be eligible grant participants, as defined by the program statute or regulation.
2. In the event a grant is awarded to a consortium, the grant or grant contract will be prepared in the name of the applicant agency/fiscal agent, not the consortium, since the group is not a legal entity.
3. The applicant agency/fiscal agent must meet the following requirements:
  - Must be an eligible grant recipient as defined by statute;
  - Must receive and administer the grant funds and submit the required reports to account for the use of grant funds;

- Must require consortium partners to sign an agreement with the fiscal agent that specifically outlines all services each partner agrees to provide.
- Must be an active member of the partnership/consortium.
- Cannot act as a flow-through for grant funds to pass to other recipients. NYSED has established a minimum level of direct service of 20% to be provided by the fiscal agent.
- Is PROHIBITED from sub-granting funds to other recipients. The fiscal agent is permitted to contract for services with other consortium partners or consultants to provide services that the fiscal agent cannot provide itself.
- Must be responsible for the performance of any services provided by the partners, consultants, or other organizations and must coordinate how each intends to participate.

### **Entities' Responsibility**

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

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

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

### **Reporting**

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

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

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

served, and/or number of New York State-certified teachers are lower than originally submitted on the 2022-2023 Prekindergarten Expansion Grant for New Full-Day Placements and Half-day to Full Day Conversion Placements for Four-Year-Old Students in Appendix C. Also, as part of the end of grant period reporting, grant recipients will be required to certify that grant funds were used to supplement and not supplant current local expenditures or sources. Current local expenditures shall include any local expenditure of federal, state, or local funds used to supplement or extend services provided directly or via contract to eligible children enrolled in a prekindergarten program pursuant to section §3602-e and/or section §3602-ee of the Education Law. Any district who currently uses local dollars to fund prekindergarten seats cannot supplant current expenditures with this funding.

### **Monitoring**

Awarded school districts will be subject to monitoring by the State Education Department on an annual basis per the program quality requirements outlined in Appendix D: New York State-Administered Universal Prekindergarten Quality Assurance Protocol for Grant Programs Initially Awarded in School Years 2014-2015, 2021-2022, and 2022-2023.

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

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

### **Debriefing Procedures**

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

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

### **Contract Award Protest Procedures**

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

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



3. The NYSED Contract Administration Unit (CAU) will convene a review team that will include at least one staff member from each of NYSED's Office of Counsel, CAU, and the Program Office. The review team will review and consider the merits of the protest and will decide whether the protest is approved or denied. Counsel's Office will provide the bidder with written notification of the review team's decision within ten (10) business days of the receipt of the protest. The original protest and decision will be filed with OSC when the contract procurement record is submitted for approval and CAU will advise OSC that a protest was filed.
4. The NYSED Contract Administration Unit (CAU) may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest only raises issues of law that have already been decided by the courts.

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

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

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

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

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

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

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

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

All requested information and documentation should be provided at the time of submission. If this cannot be done, the applicant will have thirty days from the date of notice of award to submit the necessary documents and respond satisfactorily to any follow-up questions from the Department. Failure to do so may result in loss of funding.

### **METHODS TO COMPLY**

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

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

COMPLETE FORMS:

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

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

COMPLETE FORMS:

- M/WBE Goal Calculation Worksheet
- M/WBE Cover Letter
- M/WBE 100 Utilization Plan

M/WBE 101 Request for Waiver  
M/WBE 102 Notice of Intent to Participate  
M/WBE 105 Contractor's Good Faith Efforts  
M/WBE 100 EEO Staffing Plan

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

COMPLETE FORMS:

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

## GOOD FAITH EFFORTS

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

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

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

## REQUEST FOR WAIVER

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

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

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

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

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

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

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

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

**Application Cover Page**

**School Year 2022-2023**

**Universal Prekindergarten Expansion Grant for New Full-Day and Half-Day to Full-Day  
Prekindergarten Placements  
for Four-Year-Old Students**

**Agency Code:**

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Name of LEA:		Name and Title of Contact Person:	
Address:		Telephone:	
City:	Zip Code:	Fax:	
		E-Mail:	
<b>Funding Request</b>			
2022-2023: \$		Annualized: \$ (Must match amount from APPENDIX C – 2022-2023 Full-Day and Half-Day to Full-Day Four-year-old Prekindergarten Maximum Grant Award Request & Collaboration Calculator)	
I hereby certify that I am the applicant's chief school/administrative officer and that the information contained in this application is, to the best of my knowledge, complete and accurate. I further certify, to the best of my knowledge, that any ensuing program and activity will be conducted in accordance with all applicable Federal and State laws and regulations, application guidelines and instructions, Assurances, Certifications, APPENDIX A, APPENDIX A-1G and that the requested budget amounts are necessary for the implementation of this project. It is understood by the applicant that this application constitutes an offer and, if accepted by the NYS Education Department or renegotiated to acceptance, will form a binding agreement. It is also understood by the applicant that immediate written notice will be provided to the grant program office if at any time the applicant learns that its certification was erroneous when submitted or has become erroneous due to changed circumstances.			
Original Signature of Chief Administrative Officer (in blue ink)		Chief Administrative Officer Contact Information	
		Telephone:	
Typed Name:		Fax:	
Date:		E-mail:	

**Required paper (1 original and 3 copies) and digital submissions of the completed application must be received by 5:00pm September 16 2022, to:**

New York State Education Department  
Attn: 2022-2023 Universal Prekindergarten Expansion Grant RFP GC 22-010  
Office of Early Learning, EB 319  
89 Washington Avenue  
Albany, NY 12234

Applications are also **required** to be submitted via email attachments to [PREKRFP@nysed.gov](mailto:PREKRFP@nysed.gov). The file format must be in Microsoft Word. The subject line of the email must read as follows: **2022-23 UPK Expansion Grant RFP GC 22-010 and the legal name of applicant school district**

## Application Checklist

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

REQUIRED DOCUMENTS	CHECKED – APPLICANT	CHECKED – SED
Application Cover Page	<input type="checkbox"/>	Initials (3):  Date:
Application Checklist	<input type="checkbox"/>	Initials (3):  Date:
Appendix C: 2022-2023 Full-Day and Half-Day to Full-Day Four-year-old Prekindergarten Maximum Grant Award Request & Collaboration Calculator	<input type="checkbox"/>	Initials (3):  Date:
Section 1: Abstract	<input type="checkbox"/>	Initials (3):  Date:
Section 2: Need Narrative	<input type="checkbox"/>	Initials (3):  Date:
Section 3: Program Design Narrative	<input type="checkbox"/>	Initials (3):  Date:
Section 4: Program Quality Narrative	<input type="checkbox"/>	Initials (3):  Date:
Section 5A: Budget Narrative	<input type="checkbox"/>	Initials (3):  Date:
Section 5B: FS-10 Proposed Budget	<input type="checkbox"/>	Initials (3):  Date:
Appendix B: Statement of Assurances	<input type="checkbox"/>	Initials (3):  Date:
M/WBE Documents Package (Component documents on next page.)	<input type="checkbox"/>	Initials (3):  Date:

Application Checklist Cont'd – M/WBE Documents Package

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

SED Comments:

Has the applicant complied with the application instructions?  YES     NO

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

**Proposal Submission**

Each applicant must provide a comprehensive and clear description of the school district’s proposed new full-day and half-day to full-day prekindergarten placements for four-year-old students. Review and scoring will be in accordance with Proposal Evaluation Rubric in Appendix E.

Proposals must be complete while adhering to the following formatting and submission standards, or they will not be read by reviewers:

- File Format: Microsoft Word
- Paper size: 8.5” x 11”
- Orientation: Portrait
- Margins: 1.0 inch
- Line spacing: Multiple @ 1.50 lines
- Font: Arial 12 point (10 point font size is permissible in charts and tables)
- The five required proposal sections, their associated page limits and assigned points are outlined below:

#	Section	Page Limit (16 Pages Maximum)	Evaluation Rubric (100 Points Total)
<i>Proposal content exceeding each section’s page limits will not be read or scored by reviewers.</i>			
<b>Section 1</b>	Abstract	1 / 16 pages	0 / 100 Points (Abstract is Required)
<b>Section 2</b>	Need Narrative	4 / 16 pages	25 / 100 Points
<b>Section 3</b>	Innovative and Creative Program Design Narrative	Program Design, Program Quality, and Budget Narratives have a combined limit of 11 / 16 pages	10 / 100 Points
<b>Section 4</b>	Program Quality Narrative		45 / 100 Points
<b>Section 5</b>	<b>5A)</b> Budget Narrative		The FS-10 Proposed Budget is required, but its pages are not included in the limit of 16 proposal pages.
	<b>5B)</b> FS-10 Proposed Budget		
<i>Do not include any attachments, appendices, or addenda.</i>			
If the narrative sections exceed the page limit, the excess pages will not be read by the reviewers.			



**Section 1 - Abstract**

#	Section	Page Limit	Evaluation Rubric Points
If the narrative sections exceed the page limit, the excess pages will not be read by the reviewers			
<b>Section 1</b>	Abstract	1 page	0 Points (Abstract is Required)

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

**Section 2 – Need Narrative**

#	Section	Page Limit	Evaluation Rubric Points
If the narrative sections exceed the page limit, the excess pages will not be read by the reviewers.			
<b>Section 2</b>	Need Narrative	4 pages	25 Points

A quality application will use a variety of data sources as evidence to support the overall need for the school district’s new directly-operated and collaboratively-operated full-day prekindergarten program for four-year-old students by addressing the following:

- The school district’s current level of and plan to expand the existing directly-operated and collaboratively-operated prekindergarten program and services;

Provide data and citations designating the school district in which the program will be located as high need as measured by Economic Disadvantage, Emergent Multilingual Learner numbers as a percent of school enrollment, and Need Resource Index;

Provide specific indicators of community need, in the area(s) of the school district that will be served by the grant, including the proportion of eligible four-year-old children currently not served by UPK or other publicly-funded high-quality prekindergarten programs; the number of four-year-old children on waiting lists for prekindergarten services, if applicable; the proportion of four-year-old prekindergarten students currently enrolled in half-day programs; the proportion of four-year-old prekindergarten students currently enrolled in full-day programs. Applicants with existing prekindergarten programs should include performance data to support the need for the project;

+++++

- Needs of the school district’s four-year-old students, families, and community to be served, and the current gaps in community resources to meet those needs;

Describe specific gaps or needs in the community’s early learning services, critical issues and problems of the community, and the method for determining these. Include the availability or lack of other resources and programs to serve the community’s four-year old children. Cite the specific source(s) of any demographic, socioeconomic or educational data used in the description of needs.

Describe the specific needs of students to be served by the school district, including the criteria that identify the school district’s unserved and/or underserved children, such as needs of the parents of eligible children and the number of children who need full-day programs due to their parents’/guardians’ work schedules. Applicants may prioritize placement for students who otherwise would not have access to high-quality full-day prekindergarten due to financial constraints and/or who require additional supports. Applicants should describe any such prioritization strategy, including how it will achieve broad representation of the student populations that are unserved and/or underserved.

Describe the need for instruction and services to support Emergent Multilingual Learners, integrated settings for preschool children with disabilities, including those who are also Emergent Multilingual Learners; and the availability or lack of other resources and programs that serve the community’s economically disadvantaged, and ability- and language-diverse children.

Extent to which the school district would prioritize awarded grant funds to identify and maximize the number of economically disadvantaged eligible four-year-old students; Describe the school district applicant’s recruitment plan, including how the school district will publicize its full-day prekindergarten program to a broad cross-section of prospective students. Include a description of the school district’s specific plan to recruit students with disabilities, Emergent Multilingual Learners, and students who are economically disadvantaged.

Describe how the school district will maximize the enrollment and inclusion of preschool children with disabilities in the full-day four-year-old prekindergarten program, including; the processes and procedures the applicant has, or will have, in place to ensure that, to the maximum extent possible and as appropriate, preschool students with disabilities are served in the prekindergarten classroom; how the grant funds will be used to address the need for integrated settings; and the placement of typically developing students to integrate settings to ensure that students of all learning and physical abilities are educated together.

- Explicitly describe how the school district’s proposed new full-day and Half-Day to Full-Day prekindergarten placements for four-year-old prekindergarten programming will not supplant any existing local, state, or federal funds. Grant funding will be awarded to school districts to create new full-day placements for four-year-old students that will supplement and not supplant current local expenditures of federal, state, or local funds

on prekindergarten programs and the number of placements in such directly or collaboratively implemented prekindergarten programs from such sources.

- In Appendix C 2022-23 [Insert Grant Calculator Name], complete the first tab, “District PreK Funding.” Provide the number of four-year-old children the school district enrolled, served, and waitlisted for its district-operated and collaborating agency / CBO-operated prekindergarten program(s) and their associated local, state, and federal funding streams since school year 2018-2019.
- Describe the school district’s need to plan for equitable integration and supports for ability- and language-diverse diverse four-year-old students, including how the school district proposes to use grant funds to support Special Education, Bilingual Education, Dual Language, and/or English as a New Language programming to support home language and English language development of Emergent Multilingual Learners.

**Section 3 – Innovative and Creative Program Design Narrative**

#	Section	Page Limit	Evaluation Rubric Points
If the narrative sections exceed the page limit, the excess pages will not be read by the reviewers			
<b>Section 3</b>	Innovative and Creative Program Design Narrative	Program Design, Program Quality, and Budget Narratives have a combined limit of 11 pages	10 Points

The priority of this application is to create collaborative, innovative, quality full-day prekindergarten programs for four-year-old students with instruction aligned with [New York State Prekindergarten Learning Standards](#) in school district and CBO settings. These funds should allow school districts and their agency / CBO collaborators the opportunity to create a program that is not only longer and more convenient for working parents, but creatively and innovatively structured and organized, driven by evidence, and responsive to the needs of the children attending. Innovation and creativity may be implemented in the daily schedule, transitions throughout the day, staffing patterns used to support such a creative program, and proposed curricula and materials. Program design must be in compliance with the applicable rules and requirements pursuant to §3602-ee.

In this program design narrative, applicants should thoroughly, clearly, and concisely describe how the collaborative prekindergarten program supported by this grant will be longer and more convenient for working parents, while creatively and innovatively structured and organized. Applicants currently operating prekindergarten programs should describe the interface between their existing program and the expansion services that would be provided through this grant.

A quality application will describe:

How the program's structure and schedule will meet the needs of the school district's four-year-old children, their families (including longer hours and more accessibility/convenience for working parents), and communities.

The innovation and creativity in its proposed school district-operated and agency / CBO operated prekindergarten program's organization, including, but not limited to learning environment and curriculum that uniquely meets the specific needs of program's four-year-old students.

**Section 4 – Program Quality Narrative**

#	Section	Page Limit	Evaluation Rubric Points
If the narrative sections exceed the page limit, the excess pages will not be read by the reviewers			
<b>Section 4</b>	Program Quality Narrative	Program Design, Program Quality, and Budget Narratives have a combined limit of 11 pages	45 Points

In compliance with applicable rules and requirements pursuant to §3602-ee and this grant, the applicant’s program quality narrative will describe the policies, processes, and action steps that the school district has in place or will implement across indicated prekindergarten program component areas. School districts and potential agency / CBO collaborators must currently meet or be willing to adapt their programs to meet the high quality requirements of this grant.

The applicant must ensure that the school district’s proposed directly-operated and collaboratively-operated new full-day prekindergarten program for four-year-old students will continue to provide high quality instruction and services while appropriately supporting its most underserved four-year-old students, their families, and community.

Beyond providing assurances, a quality application will describe the school district’s documented protocols for ensuring that school district-operated and agency / CBO-operated full-day prekindergarten programs for four-year-old students adhere to the requirements in the following areas of program quality:

The applicant describes how the school district will meet the requirements for the program quality areas below. Beyond providing assurances, the description provides complete, detailed and clearly articulated information as to the policies, processes, procedures and action steps the school district has implemented or will implement per the requirements as detailed in the New York State-Administered Universal Prekindergarten Quality Assurance Protocol for Grant Programs Initially Awarded in School Years 2014-2015, 2021-2022, and 2022-2023 (Appendix D) in the following program quality areas:

- 1. Programmatic Oversight and Fiscal Management

In the case of a prekindergarten program collaboratively operated by a charter school, all monitoring, programmatic review and operational requirements required by Education Law §3602-ee are the responsibility of the charter entity for the charter school, consistent with the requirements under Article 56 of the Education Law.

School district grant funds and associated expenditures are separately accounted for and not commingled with other funds. School district funds must be maintained in, and expenditures made from, a special revenue (special aid) funds.

To safeguard against supplanting funds, and implement checks and balance controls mitigating fraud risks, the school district’s fiscal systems have the mechanisms, processes, and adequate staffing to regularly review school district and collaborating agency / CBO records, including, but not limited to hours and days of operation, budgets, expenditure reports, receipts, invoices, and payroll records.

- 2. Facility Quality;
- 3. Teaching Staff Patterns, Qualifications, Performance, and Professional Learning;
- 4. Child Eligibility, Screening, Progress Monitoring and Outcomes;
- 5. Nutrition, Health, and Well-being;
- 6. Learning Environment and Curriculum;
- 7. Family Engagement and Support;
- 8. Partnerships with Non-profit, Community, and Educational Institutions.

**Section 5 – Budget Narrative and FS-10 Proposed Budget**

#	Section	Page Limit	Evaluation Rubric Points
If the narrative sections exceed the page limit, the excess pages will not be read by the reviewers.			
<b>Section 5</b>	<b>5A)</b> Budget Narrative	Program Design, Program Quality, and Budget Narratives have a combined limit of 11 pages	20 Points
	<b>5B)</b> FS-10 Proposed Budget	The FS-10 Proposed Budget is required, but its pages are not included in the page count	

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

A quality application will describe:

- For each category of the FS-10, why program expenditures are appropriate and necessary to support the project and are primarily targeted to the provision of direct services to students (i.e., how will funds be used to provide a developmentally appropriate learning experience for the prekindergarten students).
- Why programs expenditures are reasonable in relation to the number of children to be served, the services to be provided, and the anticipated results and benefits of the program.
- The fiscal system the district will use to track costs that are allocated specifically for 2022-2023 Universal Prekindergarten Expansion Grant for New Full-Day Placements and Half-Day to Full-Day prekindergarten placements for Four-Year-Old Students grant program.

**M/WBE Documents**

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

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

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

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

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

\*If not included in #5

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

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

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

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

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

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

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



### M/WBE UTILIZATION PLAN

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

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

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

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

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

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

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

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

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

DATE \_\_\_\_\_

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

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

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

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

**M/WBE 100**

**M/WBE SUBCONTRACTORS AND SUPPLIERS**

**NOTICE OF INTENT TO PARTICIPATE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_  
Date

**M/WBE 105**

## M/WBE CONTRACTOR UNAVAILABLE CERTIFICATION

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

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

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

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

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

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

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

\_\_\_\_\_  
**Authorized Representative Signature**                      **Date**                      **Print Name**  
**M/WBE 105A**

### REQUEST FOR WAIVER FORM

**BIDDER/APPLICANT NAME:** \_\_\_\_\_                      **TELEPHONE:** \_\_\_\_\_  
**EMAIL:** \_\_\_\_\_

ADDRESS:

FEDERAL ID NO.:

CITY, STATE, ZIPCODE:

RFP#/PROJECT NO.:

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

<b>BIDDER/APPLICANT IS REQUESTING (check all that apply):</b>	
<input type="checkbox"/> <b>MBE Waiver</b> - A waiver of the MBE goal for this procurement is requested. <div style="text-align: right; margin-top: 10px;"> <input type="checkbox"/> <b>Total</b>      <input type="checkbox"/> <b>Partial</b> _____%         </div>	<input type="checkbox"/> <b>WBE Waiver</b> - A waiver of the WBE goal for this procurement is requested. <div style="text-align: right; margin-top: 10px;"> <input type="checkbox"/> <b>Total</b>      <input type="checkbox"/> <b>Partial</b> _____%         </div>
<input type="checkbox"/> <b>Waiver Pending ESD Certification</b> (check here if subcontractor or supplier is not certified M/WBE, but an application for certification has been filed with Empire State Development)	
Subcontractor/Supplier Name: _____ Date of application filing: _____	

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

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

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

NAME OF PREPARER:  TITLE OF PREPARER:  TELEPHONE:  EMAIL:	<b>FOR AUTHORIZED USE ONLY</b>  REVIEWED BY: _____  DATE: _____  <b>WAIVER GRANTED <input type="checkbox"/> YES <input type="checkbox"/> NO</b> <input type="checkbox"/> TOTAL WAIVER <input type="checkbox"/> PARTIAL WAIVER <input type="checkbox"/> ESD CERTIFICATION WAIVER <input type="checkbox"/> NOTICE OF DEFICIENCY <input type="checkbox"/> CONDITIONAL WAIVER COMMENTS:
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**M/WBE 101**

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

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

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

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

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

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

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

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

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

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

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

Report includes:

Work force to be utilized on this contract OR

Applicant's total work force

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

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

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

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

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

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

**EEO 100**

(Print or type)

## STAFFING PLAN INSTRUCTIONS

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

### Instructions for Completing:

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

### RACE/ETHNIC IDENTIFICATION

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

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

EEO 100



## **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, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this 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](mailto:opa@esd.ny.gov)

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

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

### General

- A. In the event that the Contractor shall receive from any source whatsoever, sums the payment of which is in consideration for the same costs and services provided to the State, the monetary obligation of the State hereunder shall be reduced by an equivalent amount provided, however, that nothing contained herein shall require such reimbursement where additional similar services are provided, and no duplicative payments are received.
- B. This agreement is subject to applicable Federal and State Laws and regulations and the policies and procedures stipulated in the NYS Education Department Fiscal Guidelines found at <http://www.nysed.gov/cafe/>.
- C. For each individual for whom costs are claimed under this agreement, the contractor warrants that the individual has been classified as an employee or as an independent contractor in accordance with 2 NYCRR 315 and all applicable laws including, but not limited to, the Internal Revenue Code, the New York Retirement and Social Security Law, the New York Education Law, the New York Labor Law, and the New York Tax Law. Furthermore, the contractor warrants that all project funds allocated to the proposed budget for Employee Benefits, represent costs for employees of the contractor only and that such funds will not be expended on any individual classified as an independent contractor.
- D. Any modification to this Agreement that will result in a transfer of funds among program activities or budget cost categories, but does not affect the amount, consideration, scope or other terms of this Agreement must be approved by the Commissioner of Education and the Office of the State Comptroller when:
  - a. The amount of the modification is equal to or greater than ten percent of the total value of the contract for contracts of less than five million dollars; or
  - b. The amount of the modification is equal to or greater than five percent of the total value of the contract for contracts of more than five million dollars.
- E. Funds provided by this contract may not be used to pay any expenses of the State Education Department or any of its employees.

### Terminations

- A. The State may terminate this Agreement without cause by thirty (30) days prior written notice. In the event of such termination, the parties will adjust the accounts due and the Contractor will undertake no additional expenditures not already required. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder.

### Responsibility Provisions

#### A. General Responsibility Language

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

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

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

C. Termination (for Non-Responsibility)

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

Safeguards for Services and Confidentiality

- A. Any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department. The material prepared under the terms of this agreement by the Contractor shall be prepared by the Contractor in a form so that it will be ready for copyright in the name of the New York State Education Department. Should the Contractor use the services of consultants or other organizations or individuals who are not regular employees of the Contractor, the Contractor and such organization or individual shall, prior to the performance of any work pursuant to this agreement, enter into a written agreement, duly executed, which shall set forth the services to be provided by such organization or individual and the consideration therefor. Such agreement shall provide that any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department and that such work shall be prepared in a form ready for copyright by the New York State Education Department. A copy of such agreement shall be provided to the State.
- B. All reports of research, studies, publications, workshops, announcements, and other activities funded as a result of this proposal will acknowledge the support provided by the State of New York.
- C. This agreement cannot be modified, amended, or otherwise changed except by a written agreement signed by all parties to this contract.
- D. No failure to assert any rights or remedies available to the State under this agreement shall be considered a waiver of such right or remedy or any other right or remedy unless such waiver is contained in a writing signed by the party alleged to have waived its right or remedy.
- E. Expenses for travel, lodging, and subsistence shall be reimbursed in accordance with the policies stipulated in the aforementioned Fiscal guidelines.
- F. No fees shall be charged by the Contractor for training provided under this agreement.
- G. Nothing herein shall require the State to adopt the curriculum developed pursuant to this agreement.
- H. All inquiries, requests, and notifications regarding this agreement shall be directed to the Program Contact or Fiscal Contact shown on the Grant Award included as part of this agreement.

- I. This agreement, including all appendices, is, upon signature of the parties and the approval of the Attorney General and the State Comptroller, a legally enforceable contract. Therefore, a signature on behalf of the Contractor will bind the Contractor to all the terms and conditions stated therein.
- J. The parties to this agreement intend the foregoing writing to be the final, complete, and exclusive expression of all the terms of their agreement.

Rev. 5/12/14



## **APPENDIX B – Statement of Assurances**

As Chief School Officer, I have signed the cover page assuring that all *school district-operated and collaborating agency- / CBO-operate prekindergarten programs* adhere to Sections 3602-ee and 3602-e of Education Law, and Subpart 151-1 of the Commissioners Regulations. Specifically, I assure the District will:

1. Ensure no family member, parent and/or guardian of a child participating in the prekindergarten program will be subjected to a fee or charge, pursuant to §§ 1712, 2514, and 2555 of the Education Law;
2. Adopt and implement developmentally, linguistically, and culturally appropriate, responsive, and sustaining curriculum, activities, and practices that are learner-centered and aligned with the *New York State Prekindergarten Learning Standards*;
3. Screen all enrolled prekindergarten students in all prekindergarten sites in accordance to Commissioner's Regulations Part 117;
4. Provide for an age appropriate assessment of the development of language, cognitive, and social-emotional development of all enrolled prekindergarten students;
5. Ensure that people with disabilities can access the program site as required by the Americans with Disabilities Act of 1990;
6. Ensure that the measures of student outcomes will not be used to prohibit or discourage a child's enrollment in kindergarten;
7. Ensure continuity between all prekindergarten classrooms and instruction in kindergarten and the early elementary grades;
8. Encourage students to be self-assured and independent;
9. Recognize preschool special education providers in the community as eligible entities to receive funds to establish collaborative integrated prekindergarten programs;
10. Encourage the participation, inclusion, and integration of preschool students with disabilities and provide all required supports, as well as those necessary to ensure that preschool students with disabilities equitably and successfully access, participate, and progress in the curriculum;
11. Provide supports and implement policies to severely limit expulsion and suspension practices, with the goal of eliminating these practices. School districts and their collaborating agencies / CBOs are urged to review their policies and practices to take steps that will ensure that high-quality behavioral and social- emotional supports are in place to prevent suspensions and expulsions of preschool children. Additional guidance on the suspension and expulsion of preschool children can be found in this [July 2015 NYSED field memo](#).
12. Encourage the participation, inclusion, and integration of language-diverse Emergent Multilingual Learners, provide English language and home language supports, as well as required culturally and linguistically responsive and sustaining practices necessary to ensure that Emergent Multilingual Learners equitably and successfully access, participate, and progress in the curriculum;

13. Provide equal access for families, parents, and/or guardians of all children to actively participate in all phases of the program, such as volunteering in classes, serving as chaperones for field trips, and if applicable, serving on a prekindergarten program's Advisory Board;
14. Utilize staff who meet the qualifications set forth in Section 3602-ee of Education Law and 8NYCRR, Section 151-1.3(e);
15. Provide for strong parent and/or guardian partnerships and family engagement in prekindergarten program participation, planning, decision-making, implementation, evaluation, quality, and program improvement;
16. Provide early childhood professional learning opportunities aligned with the school district's Kindergarten-Third Grade curriculum and based upon the instructional needs of students;
17. Establish a method for selection of eligible students to receive prekindergarten program services on a random basis when there are more eligible students than can be served in each school year, except as provided in a plan for prioritizing or targeting enrollment that is specified in the district's application for this grant;
18. Provide supervision for all classrooms regardless of school district or collaborating agency / CBO setting.
19. Adopt and use proper methods of administering each program, including (a) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients for carrying out each program; and (b) the correction of deficiencies in program operations that are identified through audits, monitoring or evaluation;
20. Use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, funds under each program;
21. Maintain on file a detailed accounting of grant expenditures including other sources of funding used to support the school district's prekindergarten program including local tax levy;
22. Participate in any independent evaluation conducted by the State of the effectiveness of the prekindergarten program, which shall include providing information requested by the Department including but not limited to a summary of student progress, determined in a manner approved by the Department; identification of best practices; and other program quality indicators as determined by the Commissioner;
23. Only use 2022-2023 Universal Prekindergarten Expansion Grant for New Full-Day and Half-Day to Full-Day prekindergarten placements for Four-Year-Old Students Program funds to supplement and not supplant current local expenditures of state, or local funds on prekindergarten programs and the number of placements in prekindergarten programs from such sources. Current local expenditures shall include any local expenditures of federal, state, or local funds used to supplement or extend services provided directly or via contract to eligible children enrolled in State-administered prekindergarten programs pursuant to Sections 3602-e of the Education Law;
24. Make reports to NYSED as may be necessary to enable the Department to perform its duties under the program;

25. Ensure that each school district and collaborating agency / CBO facility providing prekindergarten meets all applicable fire and safety and building codes and any applicable facility requirements of a state or local licensing or registering agency; and at all times maintain building and classroom space in a manner that ensures and protects the health and safety of students in the program;
26. Ensure that the program is administered in full compliance with Education Law §§ 305(44), 3602(15), and 8 N.Y.C.R.R. Sections 100.3(a)(5), 151-1.2(e), and 151-1.3(b)(4), which prohibit the administration of traditional standardized tests in prekindergarten programs;
27. The school district will maintain on file and provide to NYSED as requested, including, but not limited to, the following:
  - a. A description of the school district's competitive selection process for prekindergarten program collaboration;
  - b. A copy of any contracts or agreements between the collaborative agencies and the school district to implement a collaborative prekindergarten program;
  - c. A list of all prekindergarten providers within the school district community;
    - The number of prekindergarten students;
    - The number of preschool students with disabilities with individualized education programs (IEPs);
    - The number of students who speak a language other than English at home and which language(s);
    - The number of NYS-certified and uncertified prekindergarten teachers;
    - The number of uncertified prekindergarten teachers, in collaborating agencies / CBOs and the current qualifications of each uncertified teacher;
    - A description of the process used to randomly select eligible students for enrollment when there are more applicants than available placements; and
    - Documentation to support any applicable variances requested by the school district.