NEW YORK STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR PROPOSALS (2nd Round)
APPRAISAL SERVICES TERM AGREEMENTS FOR NYSDOT
May 2014
Contract #C031204

May 1, 2014

To All Interested Parties:

Enclosed is a copy of the Non-Engineering Request for Proposals (RFP) referenced above. All information necessary for the submission of your proposal is contained in the Best Value solicitation.

Any questions regarding this project or proposal should be directed to Mr. Al Hasenkopf, the designated NYSDOT contact person for this solicitation, of NYSDOT Contract Management Bureau by e-mail to: alfred.hasenkopf@dot.ny.gov.

Please note the following dates and deadlines:

- **To Be Scheduled**: Pre-proposal webinar (will be scheduled based on demand)
- **May 20, 2014**: Deadline for questions about the RFP is 5:00 PM (Eastern Time)
- **June 2, 2014**: Deadline for the submission of proposals on 2:00 PM (Eastern Time)

To assist firms in preparing any proposals in response to this solicitation, a **pre-proposal webinar** may be held (to be scheduled based upon demand). A general review of the solicitation will occur, where specific questions regarding the solicitation can be asked and may be answered.

If you are interested in developing a proposal in response to this solicitation, please complete the attached RFP Response Form. This RFP may make multiple contract awards.

RFP Section 4 includes a “Checklist for Proposal Submission” to guide submission of required complete proposals. **It also contains instructions for complying with the Procurement Lobbying Law so that your proposal may be considered for contract award.** NOTE: Failure to submit the required PLL forms with your proposal will result in elimination from consideration for contract award.

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including disadvantaged, minority and women-owned business enterprises. The New York State Department of Transportation (NYSDOT) encourages the participation of certified DMWBEs in this solicitation. A directory of certified Minority Business Enterprises (MBEs) and certified Women-Owned Business Enterprises (WBEs) is available from the following searchable database website: [http://www.esd.ny.gov/MWBE.html](http://www.esd.ny.gov/MWBE.html).

Information on the availability of New York State subcontractors and suppliers is available from Empire State Development, Division for Small Business (518) 292-5224 or 1-800-STATE NY (1-800-782-8369).

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), Section165-a, effective April 12, 2012. This act may be viewed in its entirety at http://www.ogs.ny.gov/about/regs/docs/ida2012.pdf. Pursuant to SFL Section 165-a(3)(b), the Commissioner of the Office of General Services (OGS) has developed and maintains a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). The list may be found on the OGS website at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf. By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that, it will not utilize, on such Contract, any subcontractor that is identified on the prohibited entities list. Additionally, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list. During the term of the Contract, should the New York State Department of Transportation (NYSDOT) receive information that a Bidder/Contractor (or any assignee) is in violation of the above-referenced certification, NYSDOT will offer the Bidder/Contractor (or any assignee) an opportunity to respond. If the Bidder/Contractor (or any assignee) fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then NYSDOT shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default. NYSDOT reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award 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.

We look forward to the receipt of your proposal.

Sincerely,

original signed by: Alfred P. Hasenkopf, for
WILLIAM A. HOWE
Director,
NYSDOT Contract Management Bureau

Enclosure
RFP RESPONSE FORM

APPRAISAL SERVICES TERM AGREEMENTS FOR NYSDOT May 2014

Please review this RFP. Please complete the following information and mail, e-mail or fax to the NYSDOT address shown below, by the earliest practical date. This RFP Response form must be submitted along with the two required Procurement Lobbying Law forms (see Attachment 3) before questions or other communications with the Department regarding this solicitation can be initiated.

_________________  WE DO INTEND TO SUBMIT A PROPOSAL

_________________  WE DO NOT INTEND TO SUBMIT A PROPOSAL FOR THE FOLLOWING REASONS:

Name and Address of Organization (Include Zip Code):

________________________________________________________

________________________________________________________

Signature: ___________________________ Date: __________________

Typed or Printed Name and Title: _____________________________

Telephone: ___________________________ Fax: __________________

E-Mail Address: ___________________________

Please send to:

* E-Mail: alfred.hasenkopf@dot.ny.gov
* Regular Mail:
  New York State Department of Transportation
  Contract Management Bureau 6th Floor
  50 Wolf Road
  Albany, New York 12232
  ATTN: Al Hasenkopf Contract #C031204
* Fax: 518-457-8475
NEW YORK STATE DEPARTMENT OF TRANSPORTATION

REQUEST FOR PROPOSALS

APPRAISAL SERVICES TERM AGREEMENTS FOR NYSDOT

May 1, 2014

Proposal Due Date: June 2, 2014

Proposal Delivery Location and Additional Information:

William Howe, Director, Contract Management Bureau
NYS Department of Transportation
50 Wolf Road, 6th Floor
Albany, NY 12232
Attention: Al Hasenkopf C031204
# REQUEST FOR PROPOSALS

NEW YORK STATE DEPARTMENT OF TRANSPORTATION
APPRAISAL SERVICES TERM AGREEMENTS FOR NYSDOT May 2014

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1.0 Introduction

1.1 Purpose of this RFP

The New York State Department of Transportation (NYSDOT) is releasing this Request for Proposals (RFP) to seek proposals from multiple responsible and responsive Appraisal Consultants to provide appraisal services on an as-needed, task assignment basis for a five (5) year period commencing in January 1, 2014 and ending December 31, 2018 (with an option to renew for one additional year) within designated divisions of New York State. These services will include a range of appraisal activities designed to provide sufficient information for the NYSDOT Office of Right of Way to acquire property needed for various highway improvements.

1.2 Project Background

1.2.1 Mission of New York State Department of Transportation

It is the mission of NYSDOT to ensure that our customers — those who live, work and travel in New York State — have a safe, efficient, balanced, and environmentally sound transportation system.

To attain its mission, the responsibilities, functions, and duties of NYSDOT include:

1. Coordinating and developing comprehensive transportation policy for the State; coordinating and assisting in the development and operation of transportation facilities and services for highways, railroads, mass transit systems, ports, waterways and aviation facilities; and formulating and keeping current a long-range, comprehensive statewide master plan for the balanced development of public and private commuter and general transportation facilities; and

2. Administering a public safety program for railroads and motor carriers engaged in intrastate commerce; directing state regulation of such carriers in matters of rates and service; and providing oversight in matters relative to the safe operation of bus lines, commuter railroads, and subway systems that are publicly subsidized through the Public Transportation Safety Board.

Today, the New York State transportation network includes (among other attributes) a state and local highway system that annually handles over 100 billion vehicle miles, encompassing over 110,000 highway miles, 17,000 highway bridges, and numerous other assets such as large culverts, retaining walls, tunnels, and sign structures. Appraisal services provided by pre-qualified Appraisers from selected, responsible Appraisal Service Consultants supports the Department’s delivery of road and bridge projects and other capital projects. These acquisitions are required for highway construction projects, but may also include other projects sponsored by NYSDOT such as development of maintenance sites, traffic flow improvements, airport expansions, etc.
1.2.2 Project Background

The Department has an extensive property acquisition program and is requesting consultant services to assist with the delivery of this program. The Department anticipates acquisition activity will occur in most, if not all, NYSDOT Regions and counties of the state (see Attachment 7 NYSDOT Regional Map). The Department expects an increasing need to supplement its Office of Right of Way appraisal staff with professional Consultant staff in accomplishing a significant portion of the required appraisals and will seek assistance from a pool of qualified Appraisers from selected Appraisal Consultants.

The Department is authorized to appropriate lands needed for planned improvements to the State’s transportation systems by the Highway Law. Such appropriations must be made in accordance with the Eminent Domain Procedure Law and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. These laws specifically require the payment of just compensation. Market value, as defined, is best established through the appraisal process and is intended to measure the value which an owner would receive if the property being acquired were transferred on the open market allowing all interested parties to inspect the parcel, consider its future utility, and negotiate its selling price.

The Department’s appraisal process is intended to establish this price (or value) by requesting researching the market, investigating the property to be conveyed and applying current valuation (or appraisal) techniques to establish market value.

The appraisal of real estate usually includes land, structures and land improvements, but may also include fixtures or other attachments that traditionally are conveyed as part of real estate transactions. NYSDOT acquisitions may also involve acquiring fee title or easement interest in the property to be used for the proposed improvement.

At the time of Task Assignment request, NYSDOT will provide detailed instructions, scope of services and schedule information about what real estate and ownership interests should be appraised for each property. NYSDOT’s Appraiser certification examination process results in a list of pre-qualified Appraisers from selected Appraisal Consulting firms. Each Appraiser must be employed or retained by a selected Appraisal firm, which will hold the NYSDOT contract. An eligible Appraiser is defined by having passed the NYSDOT appraisal test as well as meeting the RFP’s other qualification requirements. NYSDOT intends on changing the method it used to give this test to an open enrollment basis (versus given only once every four years or so). NYSDOT also may seek to develop an on-line testing method in the future.

Firms with NYSDOT’s Appraiser Services contracts shall be sorted by Region. Task assignments will be released to only those pre-qualified Appraisal firms for projects on NYSDOT’s Region by Region basis. Only those interested Appraisal firms who express interest in providing services within that NYSDOT Region may competitively bid for Task Assignment work, which is to be selected on a lowest cost basis, plus past performance considerations plus firm workload and project schedule considerations.
2. PROJECT AND CONTRACT OBJECTIVES

2.1 Project Objectives

2.1.1 For selected Appraisal Consultants to provide State-certified Appraisers, who shall respond to competitively bid Task Assignments on an as-needed Regional basis in a timely fashion, and work in a cooperative manner with NYSDOT’s staff. The scope and description of the work to be performed by selected Appraisal firms will be defined and authorized on a project-by-project basis. Selected Consultants and their associated qualified Appraisers shall help NYSDOT to ensure compliance with applicable requirements of the Eminent Domain Procedure Law and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

2.1.3 To administer and manage the resulting Agreements and Task Assignments by the Director of NYSDOT Office of Right of Way (or his/her designee).

2.1.4 NYSDOT is under no obligation to make any task assignments to an Appraisal Consultant and will only be liable for services rendered in accordance with the terms and conditions of the approved Agreement and specific project-related requirements per any requested Task Assignment.

2.2 Mandatory Project Requirements

Proposers must demonstrate compliance with all applicable, mandatory project requirements listed below in order for its proposal to be considered for contract award. Inability to demonstrate compliance with the mandatory project requirements may result in the rejection of a proposal as unacceptable. The determination of satisfaction of project requirements will be at the sole discretion of NYSDOT. NYSDOT may request clarifications of a firm’s mandatory responses.

1. Verification that each Appraiser firm possesses a current license/certificate or DBA to conduct business in New York State.

2. Verification that at least one member of the firm is currently duly Certified to transact business as a Real Estate General Appraiser by the NYS Department of State. This applies to each Prime Consultant and to each proposed Subconsultant.

3. Each Prime Consultant shall be accredited by the NYS Department of Transportation to perform eminent domain appraisals (passed the NYSDOT-conducted examination accrediting that person to perform eminent domain appraisals for the Department). Each Subconsultant shall be accredited by the NYS Department of Transportation to perform eminent domain appraisals (ie, successful completion of NYSDOT-administered certification exam).

4. For firms who have not had a NYSDOT Appraisal contract before or have no prior NYSDOT experience submit an acceptable work sample (ie, a full narrative appraisal; a representative sample is available upon request).
2.3 **Contract Objectives**

2.3.1 **Minimum RFP Responsiveness Requirements**

To receive complete and responsive proposals. Any firm that does not provide a complete proposal (per the RFP’s checklists) by the RFP deadline may be determined to be non-responsive. Complete instructions on the preparation of the proposal can be found in RFP Section 4.

2.3.2 **Multiple Contract Awards:** To award multiple term agreements from this RFP. Contract C031204 is being used to record this procurement and has already been assigned to an awardee. Additional individual contract numbers shall be assigned to each additional contract awarded under this periodic recruitment.

2.3.3 To select responsive and responsible Appraisal firms to competitively compete for Task Assignments within the NYSDOT Region in which the firm has indicated it will provide Appraisal Services in. After all resulting term agreements resulting from this RFP have been approved, NYSDOT will allow additional firms to receive an NYSDOT Appraisal Service term agreement provided that the firm meets all of this RFP’s requirements, is responsible, is capable of providing qualified, available Appraisers with good past performance, and can offer a competitive job price.

2.3.4 **Payment Method:** The primary contract method of payment shall be on an accepted lowest price bid per job method. Payment shall only be rendered for successful and acceptable completion of Task Assignment work per its schedule.

2.3.5 **Consultant Arrangements:** One Prime Consultant shall be selected for contract award. Subconsulting is greatly encouraged and allowed. Joint ventures are not allowed. DBE, MBE and WBE Consultant participation is encouraged. The Department expects that all proposing Consultant shall meet all of the RFP’s requirements and all Appraisers shall meet all of NYSDOT pre-qualification requirements.

2.3.6 **Term of the Agreement**

The base term of the resultant agreement from this solicitation will be five (5) years with one optional one-year term extension (January 1, 2014 to December 31, 2018). **Attachment 1**, contains the RFP’s Draft Contract’s Terms and Conditions for all contracts awarded under this RFP. The optional one-year extension shall be exercised at NYSDOT’s discretion.

2.3.7 **Other Contract Objectives**

a. Selection of qualified, responsive and responsible Prime Consultants.

b. Participation and selection of qualified, responsive and responsible Subconsultants.

c. Fair and equitable treatment of all firms expressing interest in and competing for contract award.
2.3.8 Title VI Assurance:

The New York State Department of Transportation (NYSDOT), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, as amended, issued pursuant to such Act, hereby notifies all who respond to a written NYSDOT solicitation, request for proposal or invitation for bid that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and income status in consideration for an award.

3. SCOPE OF SERVICES

3.1 Pre-Qualification Process

Consultants selected as a result of the RFP will provide qualified Appraisers which must successfully pass through NYSDOT’s pre-qualification process. Appraisers who pass NYSDOT’s pre-qualification process shall be added to a statewide/Regional list and this list shall be posted onto NYSDOT’s public website. Firms with pre-qualified Appraisers are then eligible to respond to and compete for as-needed, location-specific Task Assignment work requests issued by the Region in which an Appraisal firm has specified it will provide Appraisal Services in over a term of the contract. It is anticipated that services will be provided primarily through the Department’s eleven Regional Offices (see Attachment 7) located throughout the State. Some Regions may have a greater need for appraisal services than others.

Qualification of each offered Appraiser shall be per successful completion of the Department of State’s General Appraisal process and NYSDOT-administered Appraiser certification exam. Any person may schedule an appointment for NYSDOT’s Appraiser Examination by contacting a Region’s Right of Way office (Attachment 7) to take the exam at the Region’s office. A statewide list of certified Appraisers (from firms holding contracts with NYSDOT) shall be generated and posted to NYSDOT’s website. NYSDOT’s list shall be maintained over time. NYSDOT may initiate the process of setting up computerized access to its appraiser certification application and exam in the future.

All Appraisers who make NYSDOT list of qualified appraisers shall either be an employee of a responsible Appraisal firm or sole proprietor or partner of their own responsible firm. After execution of the resulting contracts from this RFP, NYSDOT may later on allow additional qualified, responsible appraiser firms to enter into a NYSDOT Appraisal Service term agreement provided that they are responsible, can meet all of the RFP’s requirements, are capable of providing qualified Appraisers and can offer a competitive job price (per RFP Attachment 10). Such additional firms may get a NYSDOT contract any time during these contracts’ five-year term.

Per this RFP, an initial statewide list of qualified Appraisers shall be established and kept reasonably up to date by NYSDOT (posted to NYSDOT website). Firms with qualified
Appraisers on NYSDOT’s list shall remain eligible to compete for Task Assignment work as long as their Appraisers remain qualified, are available and have good past performance. Any Appraiser who fails to remain qualified may be removed from NYSDOT’s list. Any Appraiser who is not on NYSDOT’s statewide list and wishes to do so must contact NYSDOT to schedule a certification exam.

Qualified appraisers on NYSDOT’s qualification list must either be an employee of a responsible firm or be the sole proprietor or partner of their own responsible firm.

3.2 General

Consultants selected and awarded contracts as a result of the RFP will provide qualified Appraisers and competitively provide appraisal services on an as-needed, task assignment basis over the Agreement’s five-year term. Task Assignments shall only be offered within the Region in which an Appraisal firm has specified it will provide Appraisal Services in (Attachment 7). If a firm does not indicate it can provide services in a NYSDOT Region, it will not receive Task Assignment requests within that Region. It is anticipated that services will be provided primarily through the Department’s eleven Regional Offices (see Attachment 7) throughout the State. Some Regions may have a greater need for consultant appraisal services than others.

NYSDOT’s appraisal requests could include the following services:

- Appraisal of real estate
- Appraisal of structures
- Appraisal of land improvements
- Appraisal of fixtures or other attachments that traditionally are conveyed as part of real estate transactions
- Acquisitions of fee title or easement interest in the property to be used for the proposed improvement
- Expert court testimony

Task assignment requests shall include the following:

a. Scope of Work, including the number and type of appraisals required
b. Special requirements (if any)
c. Project schedule, including proposed duration of assignment and expected completion date

Agreements for services as well as requested Task Assignment work with selected Appraisal firms will be administered and managed by the Director of NYSDOT’s Office of Right of Way or his/her designee.

Selected Appraisal Consultants will be required to provide State-certified General Appraisers and competitively respond to Project-specific Task Assignments on an as-needed, Region-specific basis in a timely fashion, and work in a cooperative manner with NYSDOT’s staff. The scope, schedule and description of the work to be performed by the selected Appraisal firm will be completely defined and authorized on a project-by-project basis (Task Assignment request).

NYSDOT is under no obligation to make any Task Assignments to any selected Consultant, and will only be liable for services rendered in accordance with the terms and conditions of the approved contract and specific Task Assignment requests.
3.3 **Primary Consultant Responsibilities**

The State agrees to and hereby does retain and employ the Consultant as Appraiser and the Consultant agrees to act as such Appraiser and to perform professional Appraiser services required under this Agreement by using Appraisers either employed or retained by the Consultant. The office location of each selected Appraisal firm shall be made known via NYSDOT’s published list of qualified Appraisers. All Task Assignment appraisal work will be prepared and signed by one current Department of State Certified General Appraiser. The Certificate of Appraiser must be signed by only the individual who has the responsibility of the contents of the entire Appraisal Report. Any contribution by others in the preparation of the Report must be specifically acknowledged as a footnote to the Certificate, not in the Certificate itself.

The Consultant during the term of this Agreement shall be responsible for the following:

1. The Consultant shall prepare and furnish one electronic file and three hard copies each (unless otherwise specified) of each Appraisal Report, and three copies of a Sales Brochure and an Economic Land Analysis Study, where applicable. (TEN copies of the Appraisal Reports are required for appraisals prepared for Court of Claims purposes.)

2. The reports listed in Tasks 1 and 2 below, when required, shall be submitted for review before preparation of the appraisal reports. Tasks 1 and 2 shall not be required when the appraisal reports contracted for do not exceed 10 in number. In that event, the data required in Tasks 1 and 2 shall be included in the individual appraisal reports.

3. Priority of Work: The schedule for letting the construction contract and subsequent award by the Department requires a specific sequence of operations for making properties available for construction purposes and accordingly the Consultant shall prepare and furnish, at the earliest possible dates, the sales brochure, economic land analysis study and appraisal reports relating to the properties. The completion of all appraisal assignments, are “date specific” and it is of the utmost importance that appraisal reports be completed and submitted timely. The sales brochure and the economic land analysis study are to be prepared and furnished in advance of preparation of the appraisal reports.

4. Consultant Personnel Changes: The Department shall keep its list of NYSDOT certified Appraisers reasonable up to date via the addition and/or deletion of all Appraisers via its Appraiser pre-qualification process. All replacement Appraisers and additional Appraisal Consultant firms are subject to NYSDOT review and approval.

5. Consultant Changes: The Department has the right to add new Appraisal Consultants to its list of Appraisal Consultant Firms with NYSDOT Appraisal Service contracts. New firms have to meet all of this RFP’s requirements (pre-qualified Appraisers, acceptable work sample, acceptable hypothetical scenario job price, responsible vendor) to be added to the list.

6. Changes in Regions: A firm may request to provide Appraisal Services in a Region it presently is not providing Appraisal Services for by ensuring that: 1) Appraisers are properly certified (DOS, DOT); and 2) satisfactorily providing Appraisal Service in existing Regions. Once a selected Appraisal firm has entered into a NYSDOT contract to perform services, it is contractually obligated to provide services. An Appraisal firm shall notify NYSDOT should that firm no longer be in a position to respond to a task assignment requests. Both actions are subject to NYSDOT review and action.
7. Additional Work: If it is determined that additional work is necessary to revise or update completed appraisal reports (not to correct errors), the Consultant and NYSDOT shall agree to the cost of the additional work. However, if there is a significant change in a task assignment’s scope of service (such as an increase in the budget of 25% or more, or a significant change in scope), then there may be a re-bidding of the additional task work.

8. The Department must pre-approve any and all assignments which are to be paid under the resulting Agreements.

9. Should the Task Assignment request involve court testimony, the Trial Attorney must verify the number of hours that are actually worked during the trial preparation and court testimony.

10. Following NYSDOT's policy direction, the selected firm will act as an independent consultant on behalf of NYSDOT and will be responsible for performing and delivering requested appraisal services per NYSDOT-issued Task Assignments.

11. Each Task Assignment work shall be for a specific need located at a specific geographical area of the State. Each Appraisal firm responding to a Task Assignment request must offer competitively priced bids, and state from which office location the work shall be performed from. The price offered in each bid must include all expenses required to deliver the requested services via NYSDOT’s defined schedule. If accepted, the selected Appraisal firm shall deliver the requested services for the accepted price with no changes in cost allowed (unless NYSDOT agrees to an additional work situation).

3.4 Task Assignment Process

1. Each selected Consultant under contract shall be required to provide one or more NYS Department of State-certified and NYSDOT pre-qualified Appraisers.

2. NYSDOT will e-mail all pre-qualified Appraisal firms (by its Region-specific Certified Appraiser list) that a specific Task Assignment request has been released within the NYSDOT Region in which an Appraisal firm has specified it will provide Appraisal Services (Attachment 7). The Task Assignment request shall be sent to firms on NYSDOT’s Region list via Outlook MFT notification e-mail. Recipient then needs to download files to their computer, with e-mail reply requested (interested/not interested) and e-mail reply acknowledging receipt and/or expressing interest. NYSDOT may automate this function during the future. The Task Assignment request shall include a complete description of the services requested with schedule as well as provide project-related information. Each Task Assignment shall be on an as-needed, by-Region basis. The scope and description of the work to be performed by selected Consultants will be defined and authorized on a project-by-project Task Assignment basis.

3. Each Task Assignment request will include a question and answer period and schedule prior to bid submittal. Interested Appraisal firms will have a limited time to submit written questions (via e-mail to the designated NYSDOT person). NYSDOT will compile answers to any questions and e-mail reply the Q&A to all who posed questions.

4. Each interested Appraisal firm shall submit one bid per the included instructions. The proposed responsible certified Appraiser (the one who shall sign the report) assigned to the job shall be identified; the resources assigned to the job need to be identified (identifying additional resources is optional). Each task assignment-specific bid shall be
a firm offer which includes one not-to exceed price which includes all Consultant expenses associated with delivering the requested Task Assignment services. There is no opportunity to change a bid or price after NYSDOT has received an Appraisal firm’s bid (an Appraisal firm may withdraw a bid; bid withdrawals must be in writing, shall be final and shall be subject to NYSDOT acceptance). NYSDOT reserves the right to pose questions regarding submitted bids.

5. In accordance with Office of Right of Way instructions (Task Assignment request), NYSDOT will select the lowest priced bid (unless past performance, and/or schedule and capacity considerations preclude per NYSDOT’s discretion) and contact the selected Appraisal firm. NYSDOT will also notify the designated Appraisal Contract contact person that its bid has been selected to provide the requested Task Assignment work for a particular Region for a particular project.

6. Non-selected (participating) Appraisal firms shall be notified via e-mail as to which Appraisal firm won the Task Assignment request and the accepted job price. NYSDOT sees no benefit of offering non-selected Appraisal firms a debriefing.

7. NYSDOT will issue an official Notice to Proceed authorizing the selected Appraisal firm to commence work on the specific Task Assignment. If the schedule for the Task Assignment requires the work to start as soon as possible, the Consultant must be capable of starting within ten business days of receipt of NYSDOT’s notification.

8. The selected Appraisal firm shall carry out all of the work described in the Task Assignment request per the agreed-upon schedule.

9. In a timely manner, the Appraisal firm shall notify the Supervisor of NYSDOT’s Regional Appraisal Unit of any problems that may arise while under the Task Assignment and offer corrective plans to address.

10. The Appraisal firm shall prepare and submit reports and billings per the Task Assignment requirements (partials are allowed at NYSDOT discretion) and per their contract with NYSDOT. A progress report, including dates, times and number of appraisals completed, is to be submitted with each billing unless more frequent reports, i.e. weekly or monthly, are stipulated in the Task Assignment.

11. Upon completion of each specific Task Assignment, the Appraisal firm shall send all data, including NYSDOT’s checklist of task verifications, to NYSDOT’s Regional Office unless directed otherwise. The Office of Right of Way will certify satisfactory completion of each Task Assignment.

12. NYSDOT will issue payment to the Appraisal firm per acceptance of the Task Assignment’s associated deliverable(s).

3.5 Scope of Services (Tasks)

The selected Consultants (along with applicable Subconsultants) shall provide the following services to NYSDOT on a task assignment request basis. NYSDOT requires Appraisal firms to accept the RFP’s scope of services as is. All responding firms shall be required to perform and deliver all of the tasks listed below.

Task 1. Sales Brochure (Covering the Market; if required)
A. Map location of all comparable sales or rentals.

B. Each comparable sale sheet should include sale date, sale price, identification of the parties to the transaction, liber and page of conveyance, verification of price and date and terms of financing, conditions of sale, location, total area, sketch showing dimensions of and setback of building improvements, and site dimensions, zoning, utilities, photographs, highest and best use of property. An allocation of the sale price into land and improvements must also be furnished. All sales must be verified with knowledgeable party (preferably the grantor, grantee or a legal representative).

**Task 2. Economic Land Analysis Study**

The Economic Land Analysis Study of the project environment should include (but not be limited to) a study and analysis of sales and relationships of any trends, patterns, or other economic factors which may affect real property values, with an explanation of the extent and how they reflect changes in value, if any, throughout the project limits.

**Task 3. Appraisal Report**

All Appraisal Reports are required to be compliant with current USPAP guidelines. The website for the Appraisal Foundation’s USPAP most current edition, which is posted/updated every two years, is [http://www.uspap.org/](http://www.uspap.org/). All appraisal work has to comply with these guidelines to be considered acceptable by NYSDOT. If you are a licensed or certified appraiser in the State of New York, all of your reports have to be USPAP compliant.

Each Appraisal Report (hereinafter referred to as “appraisal” in this part of the Agreement) shall comply with current USPAP and contain, among other matters, the following elements

**A. Caption:**

1. Project designation, map and parcel numbers.
2. Owner’s name.
3. Location of property being affected by the acquisition.
4. Total area of property, in acres, square meters, or square feet.
5. Area to be acquired, in acres, square meters, or square feet.

**B. Purpose of Appraisal:**

1. Statement of value to be estimated.
2. Type of title on which value is estimated, such as “fee simple”, “leased fee and/or leasehold”, “life and/or remainder interest”, etc.
3. What is to be appraised, such as “entirety”, “partial taking”, “control of access”, “easement interest”, etc.
4. Identify all occupants and leases affecting the subject property, and include a copy of the lease(s) when obtainable.

**C. Narrative Description of Property:**

1. Briefly state, in simple terse wording: General location, zoning restrictions, assessments, total area, land usage, type of improvements and any special features that add to or detract from the value of the property.
2. In the event of a partial taking, describe the remaining land and the remaining improvements.
D. **Delineation of Title:**

1. Use the following reporting format:

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Date</th>
<th>Book</th>
<th>Page</th>
<th>Consideration</th>
<th>Manner of Verification</th>
</tr>
</thead>
</table>

All transactions within last five years and last deed of record (regardless of date).

E. **Methods of Appraising:**

1. State highest and best use on which the appraisal is based. For improved properties, the highest and best use “as though vacant” and “as improved” should be established. Where present land usage, as set forth in the narrative description of the property both before and after the taking, is not the premise on which the estimate is based, it should be explained and supported.

2. For improved properties, regardless of whether the highest and best “as vacant” is the same or different than the highest and best use “as improved”, a separate evaluation of the land only is required.

3. State the approaches to the value used; up to three can be used. If less than three approaches are used, the appraiser should explain why the omitted approaches are not appropriate.

4. By using the “before and after” appraisal methodology, the difference between the two value estimates will ordinarily establish the value of the property being acquired, and the damage to the remainder property.

5. While Value Finding Reports (used when compensation is $50,000 or less) generally do not require both a before and an after value recitation, the before and after methodology should be implicit within the appraiser’s valuation process.

6. Before and after appraisals are subject to an important qualification, and that is that the after valuation must eliminate any consideration of damages that are not allowable under the law, even though they may, in fact, be reflected in the ultimate value of the remaining property on the market.

   Also that benefits accruing to the property from the public improvements are clearly offset in the consequential or severance damage to the remainder property. Further information regarding compensable and non-compensable damages can be provided by contacting NYSDOT’s Regional Right of Way offices.

The after value estimates, both as to land and improvements, should be supported by one or more of the following methods:

a. Sales of properties comparable to the remainder.
b. Sales of comparable properties from which there have been takings for like usage.
c. Studies of previously acquired partial takings can be made and included to support financial impacts resulting from similar takings and projects. If this type of support is believed appropriate, the extra time and cost should be included in the estimate of appraisal services.
d. The economic loss or gain brought about by the change in land usage, changes in units of production, cost of operations, changes in rentals, etc.

7. In both full and partial takings the value of the land to be acquired and the damages to the remainder property shall be analyzed and tabulated showing the allocation of each
allowance. This breakdown will include an evaluation of all interests: fee, leasehold, right of way, or usage easements, etc. All interests will be separated and clearly shown.

F. Documentation:

1. Calculations. Show the calculations used in developing various approaches to value.

   In order for the Department to quickly and easily determine the relative comparability of the sales chosen by an appraiser, all sales comparison grids are required to include entries showing the total gross and net adjustments to each sale expressed as a percentage of the unadjusted unit price. The sales chosen should have the same or reasonably similar highest and best uses and be able to stand affirmatively against the following question: Would any reasonable buyer of the sales used have considered the subject property as a substitute or stated in our words, do the subject and sales compete for the same potential buyers?


   a. The appraisal report shall contain comparable sales or rental sheets which include:
      1. Sale date
      2. Sale price
      3. Type of financing
      4. Parties to the transaction
      5. Liber and page at which the instrument of conveyance is filed
      6. Conditions of sale
      7. Location
      8. Sketch, showing total area and dimensions of building improvements, and property dimensions
      9. Zoning
      10. Utilities
      11. Photographs
      12. Highest and best use of property
      13. Building setback distances

       A monetary breakdown of sale into land and improvements must be furnished. The degree of comparability with the subject property being appraised expressed in dollar amounts plus/minus, and an explanation of the degree of comparability shall be embodied in the report. A location map showing a relationship between the subject property and the properties used as the criteria of value shall be included in the addendum to each report.

       NOTE: ALL MARKET DATA MUST BE VERIFIED WITH A KNOWLEDGEABLE PARTY (PREFERABLY THE GRANTOR, GRANTEE OR A LEGAL REPRESENTATIVE).

   b. With the exception of appraisals for court, all appraisals must establish economic rent for acquired structures by comparison to market rental comparables.

   c. Income projections shall be supported by showing comparable properties as the source of economic income and itemize the expenses relative to that income. The source for the capitalization rate shall be shown, outlining the justification for such value.
d. Reproduction or replacement cost estimates of structure shall be supported by indicating the source of the unit values used in the estimate and related depreciation schedules shall be explained.

3. Photographs
   a. Include a sufficient number, properly identified and taken at various angles to show significant features of the property being appraised, especially the improvements (Interior photographs when buildings are taken or severely damaged).
   b. Each such photograph should carry either on itself or by reference unalterable identification showing such information as the date, by whom and position from which taken, owner of the property, street or lot number, and any other information which would establish the parcels or property involved and the authenticity of the photograph. Reproduced or digital photographs will be allowed if they clearly depict the property.

4. Property Sketches.
   Furnish sketches of all buildings, including floor plans of structures taken, a sketch of the entire property showing boundary dimensions, location and setback of improvements and other significant features of the property. For a partial taking, the sketch also should show the area to be acquired, all significant land improvements taken, a delineation of affected parking spaces, relation of improvements to the taking area, and the area of the remainder. Photocopies of the tax map should not be substituted for property sketches unless the above items can be adequately illustrated.

G. Conclusion and Justification.
   Set forth the indicated value and outline the justification for such value. Where two or more approaches to value are used, a clearly developed correlation should be explained.

H. Certificate of Appraise.
   A certificate by the Consultant worded as shown in Attachment 8-B.

I. Appraisal Signature
   All Appraisals shall be signed by one responsible person per the Task Assignment request instructions (ie, there can only be one signature on a court of claims report).

Task 4. Project Plans and Effects of Construction.
The Consultant shall schedule meetings and/or conferences (including but not limited to field review of appraisals) with representatives of the Department during the preparation of appraisal reports to clearly establish the effects of the proposed construction on remaining properties.

Task 5. Appraisal Revisions and/or Updates.
Upon the request of the Department, the Consultant shall make reappraisals of properties which may be required:
A. Due to change of physical conditions not indicated at the time of the original appraisal.
B. Due to map revisions subsequent to the original appraisal.
C. Due to a marked change of value which may have occurred.
D. Because of a lapse of time; or due to an up-dating required for Court of Claims purposes as set forth in Task 8 of the Scope of Services.


On project portions, for which maps have been furnished, where buildings or improvements are to be acquired or where buildings or improvements are severed without access, priority shall be given to furnishing the appraisals at the earliest possible date, pursuant to the directions of representatives of the Department.

The Consultant will be instructed to proceed with the property inspections and appraisal work required under this Agreement and at that time the Consultant will be furnished with project plans, or portions thereof, of the project and also a copy of each of the individual appropriation maps pertaining to the properties shown on the project plans or portions thereof. In the event only a portion of the project plans, with associated individual appropriation maps, is initially furnished and the remaining portions of the project plans, with associated individual appropriation maps, is initially associated appropriation maps, for the project are furnished in succeeding stages, the Consultant shall accomplish the appraisal work for the portions of the project in the order established by the availability of the maps.

The project plans will indicate the outlines of properties to be acquired, in whole or in part, but will have neither detailed dimensions nor metes and bounds descriptions thereon. Detailed dimensions and descriptions of the property to be acquired will be shown on the individual appropriation maps.

Task 7. Submission of an Appraisal Check Sheet.

To insure that the appraisal reports are mathematically correct, reflective and consistent with the appropriation maps, and in compliance with the instructions provided by the Department, the Consultant will have a compliance check performed and submit a completed appraisal check sheet to the Department for and with each and every appraisal submitted to the Department. To assist in this regard you will be provided with a sample appraisal check sheet to be used with each report. The check sheet must be signed by the individual who performed the compliance check and also the individual who signed the Certificate of Appraiser. The compliance check should be performed by someone other than the individual who signed the Certificate of Appraiser.

Task 8. Court of Claim Cases.

A. Further, the Consultant shall make an analysis of appraisals submitted in behalf of property owners and shall, if requested, make recommendations as to settlements in connection therewith, which recommendations will, in each case, include a written opinion of the Consultant relating thereto.

B. In the event a claim is filed by one or more of the affected property owners for which the Consultant has submitted appraisal reports, the Consultant agrees that all information and data collected or developed by the Consultant in the preparation of such reports shall be available to the Department in defending such claims, and also shall be used by the
Consultant and/or the Consultant’s employees who may serve as witnesses in the Court of Claims in defending such actions.

C. In the event that the Consultant and/or the Consultant’s employees are not required to testify on behalf of the Department at the trial of any such claim in the Court of Claims, the Consultant agrees that he/she and his/her employees will not represent or testify on behalf of an owner of any property or owner of any right, title or interest in any property acquired or to be acquired by the Department, on any portion of the same project for which appraisals were prepared by the Department.

4. PROPOSAL FORMAT AND CONTENT REQUIREMENTS

4.1 General

Consultants must submit one complete proposal in response to this RFP, using the format and forms provided in this section and the relevant attachments. Proposing consultants are required to accept the RFP’s Scope of Service requirements and tasks as is; Consultants are also required to accept the draft Contract’s terms and conditions as is too (Attachment 2). Consultants shall describe their approach toward meeting the RFP’s project and contract objectives, meeting the RFP’s minimum requirements, and ensuring and managing making available to NYSDOT qualified Appraisers (to perform requested Task Assignment work).

In addition to Attachment 2’s certifications, submission of the consultant’s proposal shall be construed by NYSDOT as the consultant’s acceptance of the procedures, evaluation criteria, and other administrative instructions in this RFP. Acceptance of the RFP’s draft contract also means a firm is able to comply with all responsibilities of the contract, including insurance.

For the purposes of evaluation, each proposal must be submitted in two separate parts in order that the evaluation of both parts can be accomplished independently and concurrently. A responsive proposal shall consist of a complete Technical and Management Proposal, and a complete Cost and Contract Proposal. Technical proposals shall be evaluated strictly on the basis of its technical merits and Cost proposals shall be evaluated, in part, on the basis of competitive proposed costs. Cost information is not to be included in the Technical proposal, and Technical and Management information is not to be included in Cost proposal.

NYSDOT may deem a proposal non-responsive and remove that consultant and its proposal from further consideration for failure to provide the information required or for failure to submit a proposal in the required format. Consultants must deliver proposals to the NYSDOT Contract Management’s office no later than 2:00 PM ET on the specified proposal due date. Consultants mailing proposals should allow sufficient mail delivery time to ensure timely receipt of their proposal. NYSDOT will not accept faxed or e-mailed proposals. The consultant’s proposal must meet the response requirements listed in this Section.

Consultants must submit complete proposal in separate, sealed labeled packages. A Table of Contents shall be presented for both Technical and Cost proposals bound in separate 3-ring binders or spiral binding with sections divided by labeled tabs. Clearly identify any attachment with the consultant’s and the RFP’s name on a cover sheet that is firmly attached to the document. Clearly identify any unattached documents with the consultant’s and the RFP’s name on each page of the document.
In order to promote uniformity of preparation and to facilitate review, proposals should be printed on standard 8½ by 11-inch white paper and be organized in accordance with the format set forth in this RFP. Proposal text should be 11 point font or larger, except where necessitated for readability of tables, figures, schedules, or special graphics. 12 point fonts are preferred. Please avoid printing schedules using fonts smaller that 8 point. Illustrations that support the text must be simple and direct and be either sized to fit on 8 ½ by 11-inch paper or printed on 11 inch by 17 inch paper as long as the pages are folded to the 8 ½ by 11-inch size. Illustrations and photographs must be reproducible in black and white without obscuring their distinctive information. Double sided printing is allowed. Color printing is allowed.

NOTE: NYSDOT may protect confidential and proprietary information from disclosure to the extent permitted by the Freedom of Information Law (“FOIL”), Article 6 of the Public Officers Law, provided that NYSDOT agrees beforehand to shield the release of proposed information. If an offeror believes information included in their proposal is confidential and proprietary, they should identify those page(s) of their proposal which contain such information as “confidential and proprietary”. Labeling all pages as “confidential and proprietary” is unacceptable – such proposals will not be accepted unless the proposer relabels their proposal to only indentify what specific material to shield from public scrutiny. All offerors shall explain the material and substantive reason(s) why this information should be considered exempt from public disclosure under FOIL. The identification of pages and the reasons for exemption should be included in the Executive Summary of your proposal. NYSDOT reserves the right to only consider those FOIL exemption requests for which public release of such information would truly be injurious to a firm.

4.2 Technical and Management Proposal Submittal

The Technical proposal response requirements are listed below. Please be sure that these instructions are followed to ensure that your proposal is considered responsive to be eligible for contract award.

<table>
<thead>
<tr>
<th>Technical and Management Proposal Submittal Checklist</th>
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<tbody>
<tr>
<td>☐ Three (3) printed and bound hard copies plus a ‘soft’ copy on CD or Thumbdrive in MS Word compatible format (softcopies of technical and cost proposals can be on one device).</td>
</tr>
<tr>
<td>☐ Securely sealed and clearly labeled with the consultant’s name, address, and telephone number and the words “Appraisal Services May 2014: Technical Proposal”</td>
</tr>
<tr>
<td>☐ Date of Proposal</td>
</tr>
<tr>
<td>☐ Name of person(s) who prepared proposal</td>
</tr>
<tr>
<td>☐ Contact person(s), email addresses and telephone numbers</td>
</tr>
<tr>
<td>☐ Signed Cover Letter on official business letterhead</td>
</tr>
<tr>
<td>☐ Table of Contents identifying each major section and initial-page numbers</td>
</tr>
<tr>
<td>☐ Executive Summary of proposed approach, focusing on delivery and management of services</td>
</tr>
<tr>
<td>☐ Technical and management approach to ensure and manage delivery of services</td>
</tr>
<tr>
<td>☐ Complete and submit Attachment 6 Company Experience and References (one for each firm)</td>
</tr>
<tr>
<td>☐ Complete and submit Resumes (projects, work experience, qualifications, curriculum vitae, etc.), Project Experience and References for Proposed Appraisers</td>
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<td></td>
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**Note:** Cost information is **not** to be included in the Technical proposal submittal, and Technical and Management information is **not** to be included in your Cost proposal.

### 4.2.1 Cover Letter

The consultant must submit a signed Cover Letter on official business letterhead. The Cover Letter must accompany each volume and include the following:

1. The signature of an official authorized to bind the consultant to all of its provisions.
2. A statement that, if awarded the contract, the consultant will comply with all the requirements set forth in the RFP.
3. A statement that the offered named key personnel will be provided once NYSDOT issues a notice to proceed. The NYSDOT does not allow unapproved substitutes.
4. Any claims of confidential and proprietary information should also be identified and addressed in this section. NYSDOT may protect confidential and proprietary information from disclosure to the extent permitted by the Freedom of Information Law (“FOIL”), Article 6 of the Public Officers Law, provided that NYSDOT agrees beforehand to shield the release of proposed information. If a proposer believes information included in their proposal is confidential and proprietary, they should identify those page(s) of their proposal which contain such information as “confidential and proprietary”. **Labeling all pages as “confidential” or “proprietary” is unacceptable – such proposals will not be accepted** unless the proposer re-labels their proposal to only identify what specific material to shield from public scrutiny. All proposers shall explain the material and substantive reason(s) why this information should be considered exempt from public disclosure under FOIL. The identification of pages and the reasons for exemption should be included in the Executive Summary of your proposal. NYSDOT reserves the right to only consider those FOIL exemption requests for which public release of such information would truly be injurious to a firm. The State will only consider those items confidential and proprietary which it agrees are confidential and proprietary based on the proof provided by the consultant and responses to the State’s questions regarding any such claims.
5. The following information regarding the consultant’s official representative for its proposal:
   a. Name of consultant’s official representative
   b. Title
   c. Name of company
   d. Address
   e. Telephone number
   f. FAX number
   g. E-mail address of the consultant’s representative

(If there are multiple offices of the consultant, indicate which one will be primarily responsible for the contract. Indicate which other offices are also involved.)
6. The full, legal names of all Subconsultants and Independent Consultants involved in the consultant’s response.

7. Provide the location of main office and any branch offices.

4.2.2 Table of Contents
The Table of Contents should identify each major section of the consultant’s proposal, along with its initial-page number. Any offered attachments or addendums shall be cited here.

4.2.3 Narrative Description
Briefly outline the substance of your proposal. Provide a brief and concise description of the proposed approach and management and administrative efforts. Highlight the strengths and capabilities of your firm and its’ associated Appraisers and how they can be used to respond to and deliver requested real estate appraisal services for NYSDOT projects. Include enough substantive discussion to demonstrate an understanding of NYSDOT’s project objectives and familiarity with applicable laws, rules, practices, procedural requirements, risks, etc. Explain in sufficient detail how your proposal will help NYSDOT to ensure compliance with applicable requirements of the Eminent Domain Procedure Law and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

4.2.4 Organization and Staffing
Include the following information:

1. An organizational chart which lists all proposed staff by firm (prime Consultant and all Subconsultants including DMWBE status and any independent Consultants). Provide a list all certified Appraisers associated with or employed by your firm. All proposed Appraisers must either have gone through or need to successfully go through NYSDOT’s pre-qualification process to be eligible to be included on the statewide list. The chart must clearly name specific persons by identified job titles, presenting requested and desirable credentials in summary format.

2. A description of the proposed Consultant Management and Administrative team, including corporate personnel who will provide management and oversight to ensure proper delivery of requested appraisal Task Assignments as well as maintain eligible Appraisers and handle billings, insurance and other administrative matters. Identify the specific personnel and their roles as part of your Consultant team, including the individual who will be responsible for communicating with NYSDOT on all contract matters. Indicate the office location of all Consultant team members as well as the office location of all offered Appraisers (i.e., whether or not they will be located at the prime Consultant’s home office). Include resumes for all Consultant Managers.

3. A Management Plan which identifies and describes how the selected prime Consultant shall ensure a supply of qualified Appraisers and manage all required contractual and administrative duties. Describe the responsibilities of each person for your proposed management team, and how overall internal and external coordination will be achieved.

4.2.5 Conflict of Interest
Include an explanation of how your firm can effectively deliver appraisal services while avoiding a possible conflict of interest or the appearance of a conflict of interest regarding NYSDOT Task
Assignment requests. Any conflicts of interest during a selected task assignment must be disclosed immediately.

4.2.6 Scope of Services

Please indicate either your acceptance of the scope of services as is (outlined in RFP Section 3). The resulting contracts’ scope of services shall be based verbatim from RFP’s Section 3’s Scope of Services.

**NYSDOT reserves the right to make minor clarifications to the Scope of Services to be performed under this Agreement, via Attachment 1, Draft Contract, Schedule A: Scope of Service.**

4.2.7 Experience and References

The qualifications and prior experience of selected Appraisal Consultants and associated Appraisers are of great importance to NYSDOT. Direct, prior and relevant appraisal experience and contract management experience is highly desirable. NYSDOT requires substantial relevant experience and expertise, and consultants must demonstrate that experience through past and current project attestations and must provide reachable, verifiable references. Company experience information should be provided for all proposed firms (Attachment 6) and for all proposed consultant staff (qualifications pages; include resumes and curriculum vita).

Provide at least two reachable current/prior references for your proposed Consultant Manager and for each proposed Appraiser. References are required to verify proposed relevant experience. Include names, titles, mailing addresses, e-mail addresses, and telephone numbers of client references using the form provided in Attachment 6.

For all proposed Subconsultants and independent Consultants, it is critical that the prime Consultant demonstrate relevant experience, and the prime Consultant must demonstrate a sound management plan to ensure subconsultant’s compliance with all contract provisions (Attachment 1). NYSDOT reserves the right to request information from any source so named, and further reserves the right to contact additional references (including appropriate references not specifically named by consultants) to completely verify all offered experience as well as to request additional references. Failure to provide reachable and responsive references will lead to the downgrading of a consultant’s experience score.

4.2.8 Work Samples

For those firms who have yet to provide Appraisal Services to NYSDOT, submit one previously completed work sample. Each work sample shall be evaluated for acceptableness.

4.3 Cost and Contract Proposal Submittal

*The Cost proposal response requirements are listed below. Please be sure that these instructions are followed to ensure that your proposal is considered responsive to be eligible for contract award:*

<table>
<thead>
<tr>
<th>Cost and Contract Proposal Submittal Checklist</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐   Two (2) Printed and bound hard copies plus copy on CD or Thumbdrive in MS Word compatible format (softcopies of technical and cost proposals can be on one device)</td>
</tr>
<tr>
<td>☐   Securely sealed and clearly labeled with the words “Appraisal Services May 2014: Cost Proposal”</td>
</tr>
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</tbody>
</table>
| ☐ | Complete and submit the **Attachment 3** Procurement Lobbying Law Compliance Forms (Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b) and Offeror Disclosure of Prior Non-Responsibility Determinations).  
  - These two forms are required with a firm’s RFP Response.  
  - Contract number C031204 has already been entered on each form  
  - **Note:** Failure to submit the completed PLL forms with your proposal will result in elimination from consideration for contract award |
| ☐ | Complete and submit all future **RFP Modification Acknowledgement Forms** as instructed |

Your Cost proposal shall consist of two sections: (1) a Cost Section, which sets forth the proposed fully loaded job type rates for performing the work in the scope of services while under NYSDOT contract; and (2) the Contract Section, which provides the required State certification and RFP administrative information and forms. At least one copy must contain original signatures. Cost information is **not** to be included in your Technical proposal, and Technical and Management information is **not** to be included in Cost proposal.

The Consultant must submit two (2) paper copies of your Cost proposal and one soft copy on a CD or thumbdrive (in Microsoft Office 2007 compatible format) — each clearly identified on the cover or label with the consultant’s name and the words “Appraisal Services May 2014 Cost Proposal.” Proposals shall be securely sealed and clearly labeled.

**4.3.1 Cost Section**

Complete and submit one all-inclusive total price for each **hypothetical scenario task assignment** with a detailed breakdown deriving each total job cost using **Attachment 10**, which seeks hypothetical job bids for three hypothetical appraisal task assignments. Propose your all-inclusive price for each hypothetical job using the space provided. Please note that your quoted price must be all inclusive and cover all anticipated expenses per each job request. Provide a detailed breakdown regarding how each job price was arrived at.

All Consultant and Appraiser expenses (labor, overhead, fee, direct non-salary expenses [reproduction, travel, meals, lodging], etc.) must be included in the proposed job price quotes. This must include all anticipated, applicable, costs for travel, meals and lodging. Please note that expenses travel, meals and lodging shall be limited to the prevailing maximum rates established by the State Comptroller. The latest state and nationwide rates are available via [http://www.gsa.gov/](http://www.gsa.gov/).

Payments are dependent upon NYSDOT acceptance of each Task Assignment-related deliverable. Payment will become due and payable within thirty (30) days after NYSDOT acceptance of deliverable(s) and a standard NYS voucher. Requests for progress and final payments shall be made by the designated Consultant on standard NYS vouchers.
4.3.2 Contract Section
The Consultant shall specifically state its acceptance of all Draft Contract’s Terms and Conditions (RFP Attachment 1) by completing and submitting the Consultant Information and Certifications Form (Attachment 2). Altering this form without the prior expressed written approval of the New York State Department of Transportation is prohibited and will lead to the proposal being deemed non-responsive and subsequently dismissed. This draft contract shall be used in all resulting contracts awarded under this RFP.

4.4 Other Proposal Considerations

4.4.1 Document Preparation
In order to promote uniformity of preparation and to facilitate review, Proposals must adhere to the following criteria:

Proposals must be printed on standard 8½ by 11-inch white paper. Pages can be printed double-sided.

Proposals must be organized in accordance with the format set forth in the RFP document.

Proposals must be self-contained and should not reference web-links. Should weblinks be unavoidable, you must identify what specific information is being reference via the link and must detail the location/path instructions required to locate this specific information. Non-specific link information shall not be considered.

Proposals should strive to consistently use 12 point font size. Smaller font sizes are allowed in footnotes or table headers but not the text itself.

Illustrations that support the text must be simple and direct and be either sized to fit on 8 ½ by 11-inch paper or printed on 11 inch by 17 inch paper as long as the pages are folded to the 8 ½ by 11-inch size, and fold out from the non-bound edge. Illustrations must be reproducible in black and white without obscuring their distinctive information; photographs must be black and white.

Proposals that make extensive use of color photographs or illustrations, or that include separate brochures and overly elaborate embellishments, are discouraged. NYSDOT may need to reproduce proposals for evaluation purposes and the benefit of color would be lost.

A request for protecting confidential information must be on case-by-case basis (ie, specific information contained in your proposal). Labeling an entire proposal or sections ‘Confidential’ and/or ‘copyright protected’ is not allowed and may lead to early proposal dismissal.

Consultants must submit a Technical and Cost proposals in separate, sealed packages. Consultants must deliver hardcopy proposals to the NYS Department of Transportation’s Contract Management Bureau no later than 2:00 PM ET on the specified RFP proposal due date. Consultants mailing proposals should allow sufficient mail delivery time to ensure timely receipt of their proposals. NYSDOT will not accept faxed or e-mailed complete proposals. NYSDOT may automatically disqualify any offering that is not in compliance with the submission criteria.
4.4.2 Consultant Identification Number & SFS Vendor ID Number

Each consultant must reference its Consultant Identification Number (CIN) in the Contract section of its Cost proposal. If a consultant does not have a CIN and is selected for contract award, it will be required to obtain one through the following NYSDOT web site prior to negotiation of the contract:


Each consultant must reference its SFS Vendor Identification Number in its Cost proposal. If a consultant does not have an SFS number and is selected for contract award, it will be required to obtain one through NYSDOT sponsorship.

5. PROPOSAL EVALUATION PROCESS

5.1 Overview of the Evaluation of Proposals

Consistent with the level of peculiarity set forth in this RFP, proposal evaluation process rules, scales, definitions and instruments shall be internally defined and approved by NYSDOT prior to the receipt of proposals. All steps and details governing the proposal evaluation process shall be set forth in this approved proposal evaluation process document. The proposal evaluation process document will become part of the State’s official procurement record.

Proposals received on or before the RFP’s published proposal due date shall be opened, logged-in, and examined for completeness and adherence to the RFP’s response requirements. Logged in proposals shall be certified as being received. Proposals received late shall not be opened and disposed of.

Once logged in, proposals shall be pre-screened to determine if they meet the minimum RFP responsiveness requirements as well as mandatory project requirements. Proposals which meet minimum RFP responsiveness requirements shall be considered further; proposals which do not meet minimum RFP responsiveness requirements may be deemed non-responsive. Proposals deemed to be non-responsive shall be removed from further consideration, and the applicable firm(s) notified. Proposing firms may receive clarification/confirming questions about their meeting minimum RFP responsiveness requirements.

Proposals passing pre-screening shall then be further evaluated by NYSDOT using a Best Value Method evaluation process based on separate technical and cost evaluation criteria described below. Technical considerations are of greater importance than cost considerations; however, the competitiveness of proposed costs is a significant factor in NYSDOT’s evaluation of proposals.

NYSDOT shall establish a Technical Evaluation Committee (TEC), which will evaluate the Technical and Management proposal. Cost proposals shall be evaluated by NYSDOT Contract Management. Relevant NYSDOT subject matter experts (technical, program, and management) will staff the Technical Evaluation Committee. Technical and cost proposals will be evaluated separately. Issues which cross technical and cost separation lines or which may arise during these evaluations will be handled by NYSDOT Contract Management, with assistance from NYSDOT Executive Management as required. Technical Evaluation Committee members will be given technical proposals with instructions and scoring instruments. TEC members, working
by them selves, shall compare each proposal against the RFP, measuring the degree of responsiveness against the RFP’s specifications and requirements. TEC members will document their findings, and assign a numerical score for each of the RFP’s evaluation criteria. TEC members may identify clarification questions along the way.

Technical scores shall account for up to 80 percent of the final Best value score. Cost proposal scores shall account for up to 20 percent of the final Best value score. There will be no interviews in this solicitation. Proposals will be shortlisted based on technical considerations only. After initial technical proposal evaluation, all proposals with an initial average technical proposal score of 50 points or greater shall make the shortlist and be considered eligible for contract award. Proposals with lower initial average technical proposal score shall be removed from further consideration.

Once independent evaluation of proposals is complete, the TEC shall meet as a group to collectively discuss their findings with possible score changes. Reason(s) for score changes shall be documented. Offered experience may be verified by contacting references provided by proposers. Evaluators may revise findings and scores based on consideration of reference checks.

Contract Management shall evaluate cost proposals via the method specified below. Firms may be requested in writing to clarify and/or confirm aspects of their cost proposal. Firms are required to respond to these requests in writing. Any changes or adjustments to a firm’s cost proposal shall be brought to that firm’s attention, in writing.

Proposers responding to this RFP are not allowed to change their technical proposal. However, proposers may be requested to clarify issues or to provide additional insights into their proposal through written clarifications questions. If written clarifications are required to complete the technical evaluation of proposals, evaluators will be allowed to revise their technical scores based on this additional information. Scores after initial technical proposal review shall remain open and are subject to change as a result of considering responses to additional clarification question (including any possible best and final offer request).

After initial technical proposal evaluation, initial cost scores shall be combined to generate an initial best value score, to determine which proposals are susceptible to contract award. Final written proposal and cost proposal scores will be generated at the conclusion of all possible proposal review.

Task assignments shall be competed for on a Regional basis, and shall be awarded on the basis of lowest cost plus past performance considerations plus firm workload, capacity and project schedule considerations. Cost of travel and associated expenses shall be included in the competitive task assignment process.

NYSDOT reserves the right to ask clarifying questions regarding each cost proposal. Furthermore, NYSDOT reserves the right to request best and final offers from firms that are determined to be susceptible for contract award. NYSDOT also reserves the right to re-score technical and cost proposals should a firm either withdraw from this solicitation or be deemed non-responsive after initial evaluation and scoring. The appropriate NYSDOT executive will approve the results of the proposal evaluation process and designate the applicable consultants selected for tentative contract award (by Regional division of the State).

A team of NYSDOT subject matter experts led by NYSDOT Contract Management and Project Manager will negotiate the resulting contracts with the selected consultants (with possible
NYSDOT Legal involvement). NYSDOT, the Attorney General, and the State Comptroller must approve any final contract.

At the conclusion of the proposal evaluation process, an announcement of NYSDOT’s designation will be posted on the NYSDOT Web site (https://www.dot.ny.gov/business select ‘Consulting Service Opportunities’). All firms shall be notified in writing regarding the results from the solicitation. All non-selected firms will be offered an opportunity to hold a debriefing.

It is expressly understood that this Request for Proposals does not commit NYSDOT to award a contract, pay any costs incurred in the preparation of a proposal to this request, or to procure or contract services or supplies. Further, NYSDOT shall have no obligation or liability whatsoever to the vendor selected as a result of this solicitation unless and until a contract satisfactory to NYSDOT is approved and executed by the vendor and all necessary State officials.

5.2 Proposal Evaluation Process Steps

5.2.1 Pre-Screening of Proposals

All proposals submitted in response to this RFP must be received in NYSDOT Contract Management Bureau’s office by 2:00 PM ET on the RFP’s proposal due date. It is the sole responsibility of the consultant to assure that its proposal is received on time. NYSDOT Contract Management will pre-screen all proposals received on time. Late submissions shall be dismissed. Proposals must contain all the information requested in this RFP to be considered complete. All proposals must follow the format outlined in RFP Section 4, Proposal Format and Contents. The pre-screening will ensure that the consultant has submitted all required Technical and Management proposal and Cost proposal components. Failure to provide the proposal in this format may result in it being deemed non-responsive. NYSDOT may remove from consideration and not evaluate any proposal deemed non-responsive. Consultants whose proposals are deemed non-responsive will be notified, in writing, of their elimination.

Review of Mandatory Project Requirements. All proposals submitted on time will be reviewed to ensure that all mandatory project requirements (RFP Section 2.2) have been met. NYSDOT will consider proposals that do not meet all mandatory project requirements to be non-responsive and will eliminate such proposals from further consideration. Consultants whose proposals are deemed non-responsive will be notified, in writing, of their elimination. NYSDOT reserves the right to ask clarification questions on a firm’s mandatory responses.

Mandatory proposal response requirements:
1. Does your firm possess a current license/certificate or DBA to conduct business in NYS?
2. Does at least one member of your firm hold a current certificate as a NYS Department of State (DOS) Certified General Real Estate Appraiser? Yes, provide your number in your response.
3. Is that member of your firm accredited to perform eminent domain appraisals by the New York State Department of Transportation?

5.2.2 Proposal Evaluations

Each proposal which clears Pre-Screening will have its Technical proposal evaluated further, and will have its Cost proposal evaluated. NYSDOT reserves the right to ask for clarifications of either proposal. Other than responses made to requests by NYSDOT for clarification of such contents, no consultant will be permitted to alter its proposal after the final filing date and time. When the Technical proposal and Cost proposal evaluations are complete, the two scores will be added together to develop a composite Best Value score (initial and final).
5.2.2.1 Technical Proposal Evaluation

The Technical and Management proposal will be evaluated and point scored, and, when perfected, will represent 80 percent of the total available Best Value score (100 points).

The Technical Evaluation Committee (TEC) will evaluate and point score each section of the Technical and Management proposal on the scale determined by NYSDOT prior to submission of proposals, using the following technical evaluation criteria or factors:

1. Experience of Firm and Proposed Management Team (40 Points)
   1A: Ability to Respond to NYSDOT Review of Submitted Appraisal Reports (20 Points)
   1B: Reasonableness of Hypothetical Task Assignment Responses (20 Points)

2. Quality of Past Work by Firm or Quality of Work Sample for New Firms (20 Points)

3. Experience of Proposed Appraisers (20 Points)

Each TEC member will first independently evaluate the degree of responsiveness of each proposal against the requirements and specifications contained in the RFP. Each evaluator shall document their independent findings then determine the appropriate score for each RFP factor using the predefined scale and definitions. Once all independent evaluations are complete, the TEC shall meet and discuss each proposal as a group. Scores may change as a result of group discussions and all reasons for score changes shall be documented. Clarification questions may be requested either during the initial technical proposal evaluation stage or as part of the technical interviews (or both). Scores and findings may be changed as the result of the consideration of clarified material. Firms shall be given a reasonable amount of time to respond to clarification question requests.

5.2.2.2 Shortlisting

Proposals will be shortlisted based on technical considerations only. After initial technical proposal evaluation, all proposals with an initial average technical proposal score of 50 points or greater shall make the shortlist and be considered eligible for contract award. Proposals with lower initial average technical proposal score shall be removed from further consideration.

5.2.2.3 Cost Proposal Evaluation

Cost Proposal (20 Points)

Cost shall be evaluated by Region in which home office is located. The cost portion of the Cost and Contract Proposal will be point scored, with a representative value of 20% of the total Best Value score (or 20 points). Cost proposal will present two prices for the specified hypothetical appraisal work assignments within the Region in which the firm’s home office is located. These two prices shall be summed up. The score for each cost proposal will be determined by which firm offers with the lowest total hypothetical price. This cost proposal will receive a perfect price score of 20 points. Other cost proposals with higher total hypothetical prices will receive proportionally lower cost scores.

5.2.2.4 Best and Final Offer (Optional) and Proposal Withdrawal/Dismissal

NYSDOT reserves the right to request best and final offers from firms that are determined to be susceptible for contract award. Best and final offers may be requested after Best Value scores are calculated for firms susceptible for contract award. Should NYSDOT opt to request best and final offers, it reserves the right to re-score technical and cost proposals while considering any
best and final offer information. Further, NYSDOT reserves the right to re-score technical and cost proposals should a firm either withdraw from this solicitation or be deemed non-responsive after initial evaluation and scoring.

5.2.2.5 Total Technical Score Perfection

Upon conclusion of optional Best and Final Offer consideration, the final technical score will be separately perfected, with the highest scoring technical proposal receiving a perfect 80 points and all others receiving proportionately lower technical scores.

5.2.2.6 Consultant Selection Recommendation

Each consultant’s final Best Value score will be calculated by adding its final perfected technical score and its perfected cost score. NYSDOT will then rank consultants in descending order of final Best Value score to determine which firm becomes eligible for tentative contract award per Division/Region of the State.

The results of the proposal evaluation process shall be documented by NYSDOT Contract Management. This report along with a consultant selection recommendation shall be forwarded to NYSDOT Executive Management for approval. The designation will be publicly announced on NYSDOT’s website.

A tentative contract award shall be made to the Consultant whose proposal receives the highest total final Best Value score after considering all technical and cost evaluation factors for the Division of the State competed for. Note: In the event two or more proposals are found to be “substantially equivalent”, NYSDOT reserves the right to award the contract under the terms of State Finance Law Section 163 (10)(a). Any ‘ties’ shall be decided by the substantially equivalent rule contained in the approved evaluation process document.

A team of NYSDOT subject matter experts will negotiate the resulting contract with the selected consultant, with NYSDOT Contract Management and Legal facilitation. The final contract is subject to approval by the Attorney General and the Office of the State Comptroller and is not binding until such approval is received.

At the conclusion of the evaluation period, an announcement of NYSDOT’s designation(s) will be posted the ‘Consulting Services’ listing on the NYSDOT’s Web site via: https://www.dot.ny.gov/business. All consultants will be notified in writing regarding the results from the solicitation, pending completion of the evaluation process. All non-designated firms will be offered an opportunity to attend a debriefing.

It is expressly understood that this Request for Proposals does not commit NYSDOT to award a contract, pay any costs incurred in the preparation of a proposal to this request, or to procure or contract services or supplies. Further, NYSDOT shall have no obligation or liability whatsoever to the vendor selected as a result of this solicitation unless and until a contract satisfactory to NYSDOT is approved and executed by the vendor and all necessary State officials

5.3 Protest Procedure

The New York State Department of Transportation (NYSDOT) has established a protest procedure to be utilized when an interested party challenges a Non-Engineering consultant designation by NYSDOT. The complete procedure can be accessed via: https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/misrep_protest.pdf.
6. **ADMINISTRATIVE SPECIFICATIONS**

6.1 **Tentative Schedule of Key Events**

NYSDOT will attempt to adhere to the following schedule with regard to this solicitation:

<table>
<thead>
<tr>
<th>Event</th>
<th>Timeline</th>
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<tbody>
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<tr>
<td>RFP Release Date</td>
<td>May 1, 2014</td>
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<tr>
<td>Pre-Proposal Webinar</td>
<td>To Be Scheduled</td>
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<td>Question Submittal Deadline</td>
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<td>Question Response Deadline</td>
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<td>Proposals Due</td>
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<tr>
<td>Consultant Selections</td>
<td>June 2014</td>
</tr>
<tr>
<td>Approved Contracts</td>
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</tr>
</tbody>
</table>

6.2 **Pre-Proposal Webinar**

To assist firms in preparing proposals in response to this solicitation, a pre-proposal webinar may be held on day and time to be announced. This event shall only be held should there be demand for it. To request that the webinar be held, interested parties need to register in advance (send an e-mail to: alfred.hasenkopf@dot.ny.gov). An overview of the RFP shall be given, with opportunities for vendors to pose questions. Questions submitted in advance of this event may be answered during the webinar. NYSDOT will either respond to questions or document questions for later response. It is optional but recommended that all interested prime and subconsultants attend.

To register, firms intending in participating remotely in the pre-proposal webinar must preregister by submitting an e-mail to alfred.hasenkopf@dot.ny.gov with your firm’s name and the name, title, telephone number and e-mail address of all representative(s) who will be attending. All expressing interest shall receive an e-mail containing webinar invitation instructions.

At any time prior to proposal submission, please direct any questions regarding this RFP and its response requirements in writing to: alfred.hasenkopf@dot.ny.gov, who may either e-mail reply, reply with a phone call or release the answer for all to see (depending upon the nature of the question).

6.3 **Proposal Submission**

The proposal must be submitted and shipped to:
- Al Hasenkopf, Contract Management
- New York State Department of Transportation
- 50 Wolf Road, 6th Floor
- Albany, New York 12232
- Attention: Appraisal RFP
6.4 State’s Rights to Proposals

All proposals, upon submission to NYSDOT, shall become its property for use as deemed appropriate. By submitting a proposal, the consultant covenants not to make any claim for or have any right to damages because of any misinterpretation or misunderstanding of the specification, or because of any misinformation or lack of information. With regard to proposal submitted, NYSDOT asserts the prerogative with regard to proposals submitted:

1. To accept or reject any or all proposals;
2. To correct any arithmetic errors in any or all proposals;
3. To change the proposal’s due date upon appropriate notification to interested firms;
4. To eliminate any mandatory RFP specification unmet by all offerors in the evaluation of received proposals;
5. To adopt any or all of a successful offeror’s proposal;
6. To negotiate modifications to the scope, milestone payment schedule and total cost, and contract terms and conditions with the selected offeror prior to contract award only if it is in the best interest of the state to do so;
7. To disqualify an offeror from receiving the award if such offeror, or anyone in the offeror’s employ, has previously failed to perform satisfactorily in connection with public bidding or contracts;
8. To revise/amend any provision of this RFP by written notification to offerors, prior to proposal submission;
9. To eliminate any requirement that is found to be unmet by all offerors;
10. To make inquiries, by means it may choose, into the offeror’s background or statements made in the proposal to determine the truth and accuracy of all statements made therein;
11. To select and award the contract to the offeror whose proposal represents the best value to NYSDOT;
12. Should NYSDOT determine that the negotiations with the selected offeror will not result in a contract, to begin contract negotiations with the next-best-value offeror(s) responsive to this RFP — without again requesting proposals;
13. If NYSDOT terminates the contract — without again requesting proposals, to begin contract negotiations with the next-best-value offeror; and
14. Any contract entered into pursuant to an award of this solicitation shall contain a provision which grants the option to extend the terms and conditions of such contract to any other New York state agency. However, any response to this solicitation shall be based solely on the purpose of this solicitation and shall not factor in the possibility that this contract may, in the future, be applicable to other state agencies. Please be advised that any award made pursuant to this solicitation shall be based on the specific requirements of this solicitation only.

6.5 Affirmative Action Goals

NYSDOT desires to foster and promote the participation of disadvantaged, minority and women-owned business enterprises in its contracting program. Accordingly, such enterprises are
encouraged to consider submitting proposals in response to this solicitation and should be encouraged by other consultants to submit subcontract proposals for those portions which may be performed by subcontract (see Attachment 1, Draft Contract).

6.6 Inquiries and Information

All questions concerning this solicitation must be directed only to Mr. Al Hasenkopf. The last date to submit questions for this solicitation is indicated in Section 6.1, Schedule of Key Events (below). All inquiries should be addressed to:

Al Hasenkopf, Contract Management Bureau
New York State Department of Transportation
50 Wolf Road, 6th Floor
Albany, New York 12232
E-Mail: alfred.hasenkopf@dot.ny.gov  Subject: C031204
Fax: 518-457-8475

Responses to all questions of a substantive nature, as well as copies of the questions, will be posted to NYSDOT’s website under this solicitation.

6.7 Information Items for Selected Consultant

The following items are presented for consultant information; to make interested parties aware of contract-related items which selected consultant(s) need to pay attention to.

Vendor Responsibility

- The selected consultant will need to go to the following NYSDOT Web site (https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions) to review the vendor responsibility questionnaire. The selected consultant will be required to submit a completed questionnaire within 10 days of being notified of selection for contract award. If you are a successful consultant, NYSDOT will not be able to begin negotiations with your firm if this questionnaire is not completed and electronically submitted as required.

Contractor Tax Certification

- All vendors selected for contracts in excess of $100,000 for the sale of goods or services must complete and submit two NYS Tax Department forms: Form ST-220-TD (Contractor Certification) and Form ST-220-CA (Contractor Certification to Covered Agency) during negotiation of a contract with State agencies. You should make yourself familiar with these forms by visiting the following Web sites:
  
  http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf (Form ST-220-CA)
  http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf (Form ST-220-TD)

Insurance Requirements of this Project

- Please carefully read the terms and conditions of the draft Contract appended as Attachment 1 of this RFP. Your attention is drawn to the insurance requirements for this Project that are contained in draft Contract C031204. These insurances are mandatory for the firm(s) selected as a result of this solicitation and will not be waived.

Consultant Employment Disclosure Requirements of this Project
The Consultant selected for this solicitation shall be required to complete ‘State Consultant Services – Contractor’s Planned Employment’ (Attachment 4, Consultant Disclosure Legislation Form A) and submit when the contract is signed. For each contract year thereafter, the Consultant shall complete the “State Consultant Services Contractor’s Annual Employment Report” (Attachment 4, Consultant Disclosure Legislation Form B) and submit copies to the Office of the State Comptroller, NYSDOT of Civil Service, and NYSDOT of Transportation on or before May 15th of each year the contract is in effect.

Consultant Responsibility When Proposing to Use a Former NYSDOT Employee

- It is the Consultant’s responsibility to ensure they propose staff that is eligible to work on the subject project. Under the attached procedures, before the consultant proposes a former NYSDOT employee, the individual must obtain an opinion from the New York State Ethics Commission that approves their participation in the subject project. For an outline of the procedure that applies to this situation, see Attachment 5.

Registration with NYSDOT

- All consultant firms entering into contracts with the New York State Department of Transportation (NYSDOT) whether as prime consultants, joint venture partners or subconsultants, are required to electronically register their firm using NYSDOT’s Consultant Selection System web application (CSSWeb). All consultant firms entering into NYSDOT agreements are required to create and register an account to: 1) Create and assign Consultant Identification Numbers (CINs) for each office registered by the firm; and 2) Provide general firm information including, but not limited to: legal firm name; Federal Identification Number (FEIN); ownership type; DBE, MBE and/or WBE status; firm principals; and office(s) address information. All consultant firms participating in a potential agreement (negotiations) must be registered electronically with NYSDOT prior to that agreement being forwarded to the Office of the State Comptroller for approval. Registered firms are responsible for verifying and updating their registration information for the duration of the agreement.

Consultant Firm Registration instructions are available at:
or via:


Questions regarding the CSSWeb application and firm registration should be directed to the CSSWeb Administrator by email at css@dot.state.ny.us or by telephone at 518-457-2600.

Consultant Billing/Reimbursement Request Information

- NYSDOT use a two-step consultant reimbursement/billing procedure (pursuant to the payment method in the resulting contract). Submit draft electronic billings to the NYSDOT Project Manager via: https://www.nysdot.gov/main/business-
The spreadsheet contains all of the proper, required billing forms, as well as a sample billing information. The Project Manager will respond via e-mail either with comments/corrections or with an approval to submit the final billing via signed hardcopy.

**Registration with Statewide Financial System (SFS)**

- Should this solicitation lead to a designation, the Contractor will be required to register electronically with New York State’s SFS. If a firm is not already registered, NYSDOT will initiate the registration process in the SFS application and then contact the Contractor to provide them with further direction for completion of the registration process. The result of this process is an established SFS vendor number assigned to the Contractor, usable for all NYS-related transactions. If a firm has already registered in SFS in connection with another procurement effort, it will likely not need to re-register for this opportunity but is instructed to enter its SFS number in Attachment 2. However, an SFS vendor number is specific to the legal name of a firm. Since many firms have different variations of their business identities, firms will be required to register in the name of the business entity with which NYSDOT is doing business.

**7. ATTACHMENTS**

1. Draft Contract, including Appendix A 32
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NEW YORK STATE DEPARTMENT OF TRANSPORTATION

ATTACHMENT 1
Draft Contract

F. A. NO.: P.I.N.:

COMPTROLLER'S CONTRACT NO. C031204 (to change)

PROJECT: APPRAISAL SERVICES TERM AGREEMENT FOR NYSDOT

This Agreement made this _____ day of ______________, 201__ pursuant to Section 14 of the Transportation Law, by and between THE PEOPLE OF THE STATE OF NEW YORK (hereinafter referred to as the "STATE") acting by and through the Department of Transportation (hereinafter referred to as "STATE") whose Main Office is located at 50 Wolf Road in the County of Albany, State of New York 12232, and the firm of:

_________FIRM NAME_________
( ) a corporation organized and existing under the laws of the State of New York; the principal location is: ________________________________
( ) a partnership, consisting of______________________
( ) an individual conducting business as_______________________________________
   the location of whose principal office is___________________________
   ___________________________________________________________________
(hereinafter referred to as "CONSULTANT").

WITNESSETH:

WHEREAS, the STATE desires the CONSULTANT because of its ability and reputation, to perform the services hereinafter mentioned upon the PROJECT which is fully described in SCHEDULE A and the CONSULTANT agrees to provide these services for the remaining balance of the base four year term for NYSDOT Appraisal Service agreements (January 1, 2014 to December 31, 2018, with one possible one-year extension).

NOW, THEREFORE, the parties hereto, that in consideration of the terms and provisions of this AGREEMENT, hereby mutually agreed, by and between the parties hereto, the following:

ARTICLE 1. PERFORMANCE OF WORK.
Subject to the provision of ARTICLES 15 and 16 hereof, the CONSULTANT shall perform all of the work described in SCHEDULE A generally in accordance with the CONSULTANT'S PROPOSAL (dated _______) and cause such work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this AGREEMENT. The CONSULTANT shall perform the work in accordance with professional
standards and with the diligence and skill expected of a company with extensive experience in the performance of work of the type described in SCHEDULE A for Regions ___, ___& ___. The CONSULTANT shall provide Appraisal Services for NYSDOT per Task Assignments competitively bid on a Regional basis. The CONSULTANT shall furnish such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the work in accordance with this AGREEMENT. It is understood and agreed that __________ shall serve as the CONSULTANT’s Project Manager and as such shall have the responsibility for the overall supervision and conduct of the work on behalf of the CONSULTANT and that the persons described in SCHEDULE A shall serve in the capacities described therein. Any change of key project personnel by the CONSULTANT shall be subject to the prior written approval of the STATE. The STATE reserves the option to extend the terms and conditions of this CONTRACT to any other state agency in New York subject to the approval, of all necessary state officials.

The CONSULTANT will commence work no later than ten (10) days after receiving notice to proceed from the STATE.

**ARTICLE 2. TERM AND TOTAL AMOUNT OF AGREEMENT.**

The base term of this AGREEMENT shall be for a Five Year period commencing on January 1, 2014 and ending on December 31, 2018. In addition the AGREEMENT may be extended for a one (1) one-year period as may be agreed upon by the parties to the AGREEMENT and as approved by the Office of the State Comptroller. An extension of time may be reason for renegotiation of the Specific Hourly Rates. The DEPARTMENT shall be the sole judge as to the need for such renegotiation.

It is understood between the parties that the schedule for letting and awarding construction contracts requires the complete performance of the property inspection and appraisal work for the entire project at the earliest possible date. It is therefore further agreed between the parties that the DEPARTMENT reserves the right to make additional agreements with others, or assign the personnel of the Department of Transportation, for property inspection and appraisal work on any or all projects.

The CONSULTANT’s work shall be done by a real estate appraiser, duly certified to transact business as a Real Estate Department of State Certified General Appraiser pursuant to the provisions of Article 6E of the Executive Law and has passed the NYSDOT-conducted examination accreditating that person to perform eminent domain appraisals for the Department. The work shall be done in accordance with the law and rules applicable to State Certified and Licensed Real Estate Appraisers as set forth in Article 6-e on the Executive Law and New York Code of Rules and Regulations, Title 19 NYCRR, Part 1101 et seq. (See Rule 1106 attached.) The Consultant should be familiar with the requirements of the Eminent Domain Procedure Law and the case law interpreting it.

The services required to be performed in connection with this AGREEMENT are set forth herein and in the CONSULTANT’s proposal in response to NYSDOT’s ‘Appraisal Services Term Agreements for NYSDOT’ RFP dated May 1, 2014, which is included herein by reference and made a part of this AGREEMENT.
The CONSULTANT will commence work no later than ten (10) days after receiving notice to proceed with an assignment from the DEPARTMENT.

**ARTICLE 3. MAXIMUM AMOUNT PAYABLE.**

Item I The maximum amount payable by the DEPARTMENT to the CONSULTANT hereunder for the performance and completion of the work is **$100,000** unless increased by a supplemental agreement. It is understood and agreed that the DEPARTMENT is under no obligation to make a minimum number of work assignments and will only reimburse the CONSULTANT for approved costs incurred in the performance of authorized project assignments.

Item II The CONSULTANT specifically agrees that the AGREEMENT shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the STATE beyond the monies available for the purpose.

**ARTICLE 4. DOCUMENTS FORMING THE CONTRACT.**

The contract documents shall be deemed to include: this AGREEMENT (including EXHIBITS); the provisions required by state and federal law to be inserted in the AGREEMENT as set forth in APPENDIX A, APPENDIX A-1, APPENDIX B and APPENDIX C; SCHEDULE A (including EXHIBITS); the STATE’s Request for Proposals (RFP; dated __________) incorporated by reference; and the CONSULTANT’s Proposal (dated __________) incorporated by reference.

**ARTICLE 5. INSPECTION.**

The duly authorized representatives of the DEPARTMENT, and on Federally aided projects, representatives of the Federal Highway Administration, shall have the right at all times to inspect the work of the CONSULTANT.

**ARTICLE 6. PROVISION FOR PAYMENT.**

The State shall pay to the CONSULTANT and the CONSULTANT agrees to accept as full compensation for its services under each task order assignment authorized by the State:

A. The total accepted price for appraisal task assignments awarded on a competitive Regional basis. Payments or partial payments will be made on an assignment basis for appraisals which have been completed or partially completed (on a pro-rated basis) and accepted by the State.

B. Total compensation shall be limited to those task order assignments authorized by the Director of the NYSDOT Office of Right Of Way (formerly know as Office of Real Estate).

D. The State is under no obligation to make a minimum number of task assignments to any Consultant.

The CONSULTANT specifically agrees that the AGREEMENT shall be deemed executory only to the extent of the monies available for the purpose.

**ARTICLE 7. PARTIAL PAYMENTS.**

The CONSULTANT shall be paid for appraisals that have been completed and accepted
by the State in accordance with this AGREEMENT. Bills are subject to the approval of the State's Project Director, or their successor as identified by the State. Payments shall not be withheld unreasonably.

The CONSULTANT shall inform the State and all Subcontractors and Subconsultants of the CONSULTANT's schedule for submitting vouchers to the State, said schedule shall be strictly adhered to by the CONSULTANT.

All Subcontractor and Subconsultant vouchers received by the CONSULTANT at least ten (10) calendar days prior to a scheduled billing, shall be included in that billing, even if the CONSULTANT does not have other costs to be billed for that period. The CONSULTANT shall inform the Subcontractor or Subconsultant of the date the voucher was submitted to the State and the amount included for the Subcontractor or Subconsultant.

The CONSULTANT is required to make payments to all Subcontractors and Subconsultants within ten (10) calendar days of payment from the State covering that Subcontractor or Subconsultants' work.

Accounts of the CONSULTANT shall clearly identify the costs of the work performed under this AGREEMENT and shall be subject to periodic and final audit by the State and, on Federally aided Projects, by the Federal Highway Administration. Such audit shall not be a condition of partial payment.

ARTICLE 8. FINAL PAYMENT.
A. Section 179f of the State Finance Law requires the State to make final payment within thirty (30) calendar days after receipt of an invoice which is properly prepared and submitted. The State in accordance with the provisions of the State Finance Law has determined that the State will require a 60 calendar day audit period for final payments at which time the 30 calendar day interest-free period will commence. The CONSULTANT is required to make final payment to all Subcontractors and Subconsultants within ten (10) calendar days of receipt of final payment from the State.

The CONSULTANT is required, if it is an "out of State" corporation or entity, to obtain and submit the required "Tax Clearance" certificate to the State to enable the processing of the final payment. It should be noted that any time taken to satisfy or furnish this Tax Clearance certificate shall extend the required payment date by an equal period of time.

The acceptance by the CONSULTANT of the final payment shall operate as and shall be a release to the State from all claims and liability to the CONSULTANT, its representatives and assigns for any and all things done, furnished for or relating to the services rendered by the CONSULTANT under or in connection with this AGREEMENT or for any part thereof.

B. The CONSULTANT shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred and make such materials available at its office at all reasonable times during the period of this AGREEMENT and for the period of time specified in Clause No. 10, "Records" of APPENDIX A for inspection by the State, Federal Highway Administration, or any authorized representatives of the Federal Government and copies thereof shall be furnished if requested.
ARTICLE 9. EXTRA WORK.

a) If the CONSULTANT believes that any work is or may be beyond the scope of the Agreement (extra work), or that additional work is necessary, the CONSULTANT shall notify the DEPARTMENT, in writing, of this fact prior to beginning any of the work. The notification shall include all information required by the DEPARTMENT. The DEPARTMENT shall be the sole judge as to whether or not such work is in fact beyond the scope of this Agreement and constitutes extra work. No extra or additional work shall be started prior to written authorization from the DEPARTMENT. The DEPARTMENT shall be under no obligation to reimburse the CONSULTANT for any extra or additional work performed without the prescribed notification and authorization. The DEPARTMENT will not allow fixed fee for any extra work undertaken without prescribed notification and authorization. In the event that the DEPARTMENT determines that such work does constitute extra work, the DEPARTMENT shall provide extra compensation to the CONSULTANT in a fair and equitable manner. If necessary, a Supplemental Agreement providing the compensation and describing the work authorized shall be issued by the DEPARTMENT to the CONSULTANT for execution after approvals have been obtained from necessary STATE officials and if required, from the Federal Highway Administration.

b) In the event of any claims being made or any actions being brought in connection with the PROJECT, the CONSULTANT agrees to render to the DEPARTMENT all assistance required by the DEPARTMENT. Compensation for work performed and costs incurred in connection with this requirement shall be made in a fair and equitable manner. In all cases provided for in this AGREEMENT for the additional services above described, the DEPARTMENT’s directions shall be exercised by the issuance of a separate Agreement, if necessary.

ARTICLE 10. RELATIONSHIP BETWEEN PARTIES.

The relationship of the CONSULTANT to the State and the Commissioner arising out of this AGREEMENT shall be that of an independent contractor. It is understood between the parties that this AGREEMENT is intended to secure the personal services of the CONSULTANT and the Real Property Appraisers on the staff of the CONSULTANT because of their ability and reputation. The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this AGREEMENT, and that they have not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warranty, the State shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

ARTICLE 11. INDEPENDENT CONTRACTOR.

The CONSULTANT, its employees, Subconsultants, and Subcontractors, in accordance with their status as an independent contractor, covenants and agrees that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the DEPARTMENT by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable
to an officer or employee of the DEPARTMENT, including but not limited to Worker's Compensation coverage, Unemployment Insurance benefits, Social Security coverage or Retirement membership or credit.

**ARTICLE 12. CONSULTANT LIABILITY.**

The CONSULTANT shall be responsible for all damage to life and property due to negligent acts, errors or omissions of the CONSULTANT, its subcontractors, agents or employees, in the performance of its service under this AGREEMENT. Further, it is expressly understood that the CONSULTANT shall indemnify and save harmless the DEPARTMENT from claims, suits, actions, damages and costs of every name and description, resulting from the negligent performance of the services of the CONSULTANT under this AGREEMENT, and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein provided. Negligent performance of service, within the meaning of this Article, shall include, in addition to negligence founded upon tort, negligence based upon the CONSULTANT's failure to meet professional standards and resulting in obvious or patent errors in the progression of his work. Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against the CONSULTANT or the DEPARTMENT beyond such as may legally exist irrespective of this Article or this AGREEMENT.

**ARTICLE 13. WORKER'S COMPENSATION AND LIABILITY INSURANCE.**

The CONSULTANT agrees to procure and maintain without direct cost to the STATE except as noted, until final acceptance by the STATE, of the services covered by this AGREEMENT, insurance of the kinds and in amounts hereinafter provided in insurance companies authorized to do business in the State of New York, covering all operations under this AGREEMENT whether performed by the CONSULTANT or its subcontractors. Before commencing the work, the CONSULTANT shall furnish to the STATE a certificate or certificates, in form satisfactory to the STATE, showing that they has complied with this Article, which certificate or certificates, shall provide that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the STATE. The kinds and amounts of insurance required are as follows:

(a) policy covering the obligations of the CONSULTANT in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Worker's Compensation Law, and also by the provisions of ARTICLE 9 of the Worker's Compensation Law known as the Disability Benefits Law, and this AGREEMENT shall be void and of no effect unless the CONSULTANT procures such policy and maintains it until acceptance of the work;

(b) either:

1. A policy of comprehensive general liability covering bodily injury liability with limits of liability of not less than $1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom, sustained by one person in any one accident and, subject to that limit for each person, not less than $2,000,000 for all damage arising out of bodily injury, including death at any time resulting therefrom, sustained by two or more persons in any one accident, and not less than $1,000,000 damages arising out of injury to or destruction of property in any one accident and, subject to that limit per accident, not less than $2,000,000 for all damages arising out of injury to or destruction of property during the policy period; or

2. A business owner’s policy (BOP) with a limit of insurance of at least $500,000.
(c) either:

1. Professional liability insurance in the amount of $1,000,000 issued to and covering the liability of any professionally licensed CONSULTANT with respect to all work performed by him under this AGREEMENT (and Professional liability insurance in the amount of $1,000,000 issued to and covering the liability of any professionally licensed CONSULTANT’S subcontractors with respect to all work performed by any subcontractors under this AGREEMENT if applicable); or

2. Errors and Omissions insurance in the amount of $1,000,000 issued to and covering the liability of any non-professional CONSULTANT with respect to all work performed by him under this AGREEMENT (and Errors and Omissions insurance in the amount of $1,000,000 issued to and covering CONSULTANT’S non-professional subcontractors (if any) with respect to all work performed by said subcontractors under this AGREEMENT, as applicable).

The New York State Department of Transportation requires all policies to be occurrence policies except those fulfilling the requirements of subparagraphs c through f. These policies may be claims-made policies but only if they contain extended Discovery Clause coverage after the completion of the work for three (3) years in the case of professional liability policies and six (6) years in the case of errors and omissions policies. All policies must contain an endorsement that NYSĐT will be notified at least 30 days prior to cancellation.

Certificates of Insurance/Notices. CONSULTANT shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Commissioner, before commencing any work under this contract. Certificates or transmittal correspondence shall reference NYSĐT Contract #C031204. Certificates shall be mailed to the:

New York State Department of Transportation
Contract Management, 6th Floor
50 Wolf Rd.
Albany, NY 12232

Unless otherwise agreed, policies shall be written so as to require that the policy will not be (i) canceled, (ii) materially changed or (iii) permitted to expire or lapse for any reason except upon thirty (30) days’ prior written notice to the Department by Certified Mail, return receipt requested at the stated address. In addition, if required by the Department, the CONSULTANT shall deliver to the Department within Forty-Five (45) days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete. Certificates of Insurance shall:

a. Be in the form provided by the Department (C218 or successor) unless the Department specifically approves a different form. The ACORD forms of Certificate of Insurance are not acceptable.
b. Be signed by an authorized representative of the insurance carrier or producer and be acknowledged before a notary public.
c. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the contract.
d. Specify the Additional Insureds and Named Insureds as required herein.
e. Refer to this Contract by number on the face of the certificate, and
f. Expressly reference the inclusion of all required endorsements.
g. If at any time during the term of this contract, it shall come to the attention of the Department that required insurance is not in effect or that adequate proof of insurance has not been provided, the Department may, at its option:

(1) Direct the CONSULTANT to suspend work and not re-enter the premises with no additional payment or extension of time due on account thereof, or

(2) May withhold further contract payments in accordance with Article 7, or

(3) Treat such failure as a breach or default of the contract.

ARTICLE 14. INTERCHANGE OF DATA.

All technical data in regard to the property to be appraised by the CONSULTANT, such as the property appropriation maps, construction drawings, aerial photographs and title data, where available, existing in the office of or under the control of the Commissioner, may be furnished to the CONSULTANT for use in connection with the work under this AGREEMENT and a statement of items generally non-compensable under established State law is set forth in Article 28. All technical data in regard to the properties to be inspected and appraised by the CONSULTANT existing in the office of the CONSULTANT shall be made available to the State without additional expense.

ARTICLE 15. DISPOSITION OF PLANS, ESTIMATES AND OTHER DATA.

At the time of completion of individually ordered or groups of appraisals, the CONSULTANT shall then promptly furnish to the Commissioner the required number of fully completed and certified copies of each Appraisal Report and including a Certificate of Appraiser. The original copies of the Report of Value and Certificate of Appraiser, and the Sales Brochure and Economic Land Analysis Study, where applicable, shall become the property of the State. Computations, maps, notes and all other documents and data developed by the CONSULTANT under this AGREEMENT shall remain the property of the CONSULTANT, except as otherwise noted in Article 15 hereof, and if requested by the State, the CONSULTANT shall make such data available to the State at any and all reasonable times. The CONSULTANT shall keep as confidential all reports, information, data and other material produced for and in connection with this AGREEMENT, and shall not disclose or release the same to anyone not a party, hereto, except only upon written consent of the Commissioner for such disclosure or release.

ARTICLE 16. ADDITIONAL PROVISIONS AND DELIVERY OF RECORDS.

The CONSULTANT agrees to the following applicable provisions:

A. Individual - In the event of the termination of this AGREEMENT, as provided for in Article 28, hereof, or in case of the death or disability of the CONSULTANT, all data and records pertaining to the project shall be delivered within twenty (20) days to the Commissioner or his/her duly authorized representative. In case of failure of the CONSULTANT's successors or personal representatives to make such delivery on demand, then and in that event, the CONSULTANT's representatives shall be liable to the State for any damages it may sustain by reason thereof. Upon the delivery of all such data to the State, the State will pay to the representatives of the CONSULTANT all amounts due hereunder to the CONSULTANT.

B. Partnership - In the case of the death or disability of one but not all the persons herein referred to as CONSULTANT, the rights and duties of the CONSULTANT shall devolve upon the survivors of them, if any, who shall be obligated to perform the services
required under this AGREEMENT and the State shall make all payments due under this AGREEMENT to such remaining partners.

In the event of the termination of this AGREEMENT, as provided for in Article 28, hereof, or in case of the death or disability of all the persons herein referred to as CONSULTANT, all data and records pertaining to the project shall be delivered within twenty (20) days to the Commissioner or his/her duly authorized representative. In case of the failure of the CONSULTANT's successors or personal representatives to make such delivery on demand, then and in that event, the CONSULTANT's representatives shall be liable to the State for any damages it may sustain by reason thereof. Upon the delivery of all such data to the State, the State will pay to the representatives of the CONSULTANT all amounts due hereunder to the CONSULTANT.

C. Corporation - In the event of the termination of this AGREEMENT, as provided for in Article 28, hereof, all data and records pertaining to the project shall be delivered within twenty (20) days to the Commissioner or his/her duly authorized representative. In case of failure of the CONSULTANT to make such delivery on demand, then and in that event, the CONSULTANT shall be liable to the State for any damages it may sustain by reason thereof. Upon the delivery of all such data to the State, the State will pay to the CONSULTANT all amounts due hereunder to the CONSULTANT.

In the event of dissolution of the CONSULTANT as a corporation during the existence of this AGREEMENT, the CONSULTANT shall give thirty (30) days notice in writing to the Commissioner in advance of such dissolution.

ARTICLE 17. DAMAGES AND DELAYS.
The CONSULTANT agrees that no charges or claim for damages shall be made by them for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this AGREEMENT. Such delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the DEPARTMENT may decide, it being understood however, that the permitting of the CONSULTANT to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the STATE of any of its rights herein. Nothing in this ARTICLE will prevent the CONSULTANT from exercising its rights under ARTICLE 8 of this AGREEMENT.

ARTICLE 18. CODE OF ETHICS.
The CONSULTANT specifically agrees that this AGREEMENT may be canceled or terminated by the State if any work under this AGREEMENT is in conflict with the Ethics Provisions of the Uniform Standards of Professional Appraisal Practice (USPAP) or the provisions of Section 74 of the Public Officers Law, as amended, establishing a Code of Ethics for State Officers and employees. The work performed shall be in conformance with “UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE” set forth in 19 NYCRR, Part 1106; the work performed shall also be in conformance with “UNIFORM APPRAISAL STANDARDS FOR FEDERAL LAND ACQUISITIONS” set forth in the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, P.L. 91-646, as amended, 42 U.S.C. Section 4601.
ARTICLE 19. NOTICE OF BANKRUPTCY, VENUE, AUDITS.

If, prior to final audit, CONSULTANT files for relief pursuant to Title 11 of the United States Code under the Bankruptcy Laws or a successor statute, this contract shall be treated as an executory contract under 11 USC §365 of the Bankruptcy Laws or successor statute, and subject to assumption or rejection by the debtor within the time permitted by law.

The CONSULTANT must immediately send written notice to the Contract Management Bureau of the New York State Department of Transportation at its main office in Albany and send all relevant pleading of the voluntary or involuntary filing of a Bankruptcy proceeding by the CONSULTANT, its subsidiary, its principals and officers or a related entity whether or not the CONSULTANT believes that any debt is owed to the DEPARTMENT by final audit or otherwise.

The determination of any rights under this contract shall be adjudicated in a State or Federal Court with jurisdiction over the matter, and venue for the determination of such rights shall be in Albany, New York.

The CONSULTANT agrees that the automatic stay under 11 USC Section 362 or a successor statute shall be deemed inapplicable or that this AGREEMENT shall constitute consent to the lifting of the stay with respect to the State's performance of or completion of any audit pursuant to the terms of this contract.

ARTICLE 20. COVENANT AGAINST CONTINGENT FEES.

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this AGREEMENT, and that they have not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warranty, the DEPARTMENT shall have the right to annul this AGREEMENT without liability, or, in its discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 21. TRANSFER OF AGREEMENT.

The CONSULTANT specifically agrees, as required by the State Finance Law, Section 138, that they are prohibited by law from assigning, transferring, conveying, subletting or otherwise disposing of the AGREEMENT or of their right, title or interest therein, or their power to execute such AGREEMENT, to any other person, company or corporation, without the previous consent in writing of the STATE.

If this provision of the law be violated, the STATE shall revoke and annul the AGREEMENT and the STATE shall be relieved from any and all liability and obligations thereunder to the person, company or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet or otherwise dispose of the AGREEMENT, and such transferee shall forfeit and lose all moneys therefore assigned under said AGREEMENT, except so much as may be required to pay his employees.

ARTICLE 22. PROPRIETARY RIGHTS.
The CONSULTANT agrees that if copyrights, patentable discoveries or inventions or rights in data should result from work described herein, all rights accruing from such discoveries or inventions shall be the sole property of the CONSULTANT. However, the CONSULTANT agrees to and does hereby grant to the United States Government and the State of New York an irrevocable, nonexclusive, nontransferable, paid-up license to reproduce, publish, make, use, and sell each subject invention throughout the world by and on behalf of the Government of the United States and States and domestic municipal governments, all in accordance with the provisions of 48 CFR 1-27, and other applicable Federal laws, rules and regulations.

ARTICLE 23. SUBCONTRACTORS/SUBCONSULTANTS.
All subcontractors and subconsultants performing work on this project shall be bound by the same required contract provisions as the prime consultant. All agreements between the prime consultant and a subcontractor or subconsultant shall include all standard required contract provisions, and such agreements shall be subject to review by the State.

ARTICLE 24. DEATH OR DISABILITY OF THE CONSULTANT.
In case of the death or disability of one or more but not all the persons herein referred to as CONSULTANT, the rights and duties of the CONSULTANT shall devolve upon the survivors of them, who shall be obligated to perform the services required under this AGREEMENT, and the DEPARTMENT shall make all payments due to them.

In case of the death or disability of all the persons herein referred to as CONSULTANT, all data and records pertaining to the PROJECT shall be delivered within (60) days to the DEPARTMENT or their duly authorized representative. In case of the failure of the CONSULTANT’S successors or personal representatives to make such delivery on demand, then in that event the representatives of the CONSULTANT shall be liable to the DEPARTMENT for any damages it may sustain by reason thereof. Upon the delivery of all such data to the DEPARTMENT, the DEPARTMENT will pay to the representatives of the CONSULTANT all amounts due the CONSULTANT, including retained percentages to the date of the death of the last survivor.

ARTICLE 25. ORDER OF PRECEDENCE.
In the event of any inconsistency between or among the provisions of this AGREEMENT, the contents of Schedule A, and/or the Proposal, it is agreed that such inconsistency shall be resolved in the following descending order of precedence:

1. APPENDIX A,
2. APPENDIX A-1, APPENDIX B, and APPENDIX C;
3. This AGREEMENT, including Signature Page, Notary Page and Exhibits;
4. SCHEDULE A (including Exhibits);
5. The STATE’s Request for Proposals; and
6. The CONSULTANT’s Proposal.

The signator to this AGREEMENT, being duly sworn, certifies that, EXCEPT AS NOTED BELOW, its company and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (five percent or more ownership):
A. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

B. has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;

C. does not have a proposed debarment pending; and

D. has not been indicted, convicted, nor had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

ARTICLE 27. CERTIFICATION FOR FEDERAL-AID CONTRACTS.
The prospective participant certifies, by signing this AGREEMENT to the best of his or her knowledge and belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal contract, grant, loan, or cooperative Agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

ARTICLE 28. TERMINATION.
The DEPARTMENT shall have the absolute right to terminate this AGREEMENT, and such action shall in no event be deemed a breach of contract:

(a) If a termination is brought about for the convenience of the DEPARTMENT and not as a result of unsatisfactory performance on the part of the CONSULTANT, final payment shall be made based on the actual work performed by the CONSULTANT prior to termination including,
but not limited to, the number of hours and other authorized costs audited in accordance with the terms of the AGREEMENT.

(b) If the termination is brought about as a result of the unsatisfactory performance on the part of the CONSULTANT, the value of the work performed by the CONSULTANT prior to termination shall be established by the DEPARTMENT.

c) The STATE reserves the right to terminate this contract in the event it is found that the certification filed by the CONSULTANT in accordance with the requirements contained in State Finance Law Section 139-k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONSULTANT in accordance with the written notification terms of the contract.

d) Task Assignment Termination

If the Consultant fails, for any reason, the commencement, prosecution or timely completion of an awarded Task Assignment is rendered improbable, unsuccessful, infeasible, impossible or illegal, NYSDOT may, by written notice to the Contractor, suspend or terminate Consultant's performance of the selected Task Assignment. The NYSDOT Right of Way Project Manager, has the option to request a correction (at no additional cost) to the submitted deliverable(s) on a set schedule or terminate the Task Assignment and readvertise for the services within the Region list.

In the event of NYSDOT’s suspension or termination of a Task Assignment/Project under this Article of this Agreement, upon Consultant's receipt of NYSDOT written notice thereof, the Consultant shall proceed promptly to carry out the following actions:

1. Take any necessary action to terminate or suspend, as the case may be, all Task Assignment activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the payment is to be computed;

2. Furnish a statement of the status of the Project activities and of the Project Account as well as a proposed schedule, plan and budget for terminating or suspending the closing out of Project activities and contracts, and other undertakings the costs of which are otherwise includable as Eligible Project Costs;

3. Provide for the suspension or closing out of such activities, contracts, and other undertakings. The closing out shall be carried out in conformity with the latest schedule and Project budget approved by NYSDOT and in accordance with terms and conditions imposed by NYSDOT. The acceptance of a remittance by the State of any or all Project funds previously received by the Contractor or the closing out of State financial participation in a project shall not constitute a waiver of any claim which the State may otherwise have arising out of this Agreement.

However, should the Consultant believe the reason(s) for the issuance of NYSDOT’s termination order are correctable in a reasonable and timely manner, then the following process may be followed:

1. Consultant communicates to NYSDOT reason(s) for lack of acceptable Task Assignment performance with a corrective action plan and schedule.
2. NYSDOT reviews/comments on said corrective action plan and if acceptable, allows Consultant to implement corrective action plan on agreed-upon schedule.

3. Consultant re-submits corrected work for NYSDOT review and approval.

4. NYSDOT either accepts corrected deliverable(s) or takes final action to terminate the Task Assignment in question.

**ARTICLE 29. RESPONSIBILITY OF THE CONSULTANT.**

(a) The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all services furnished by the CONSULTANT under this contract. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its services. However, the DEPARTMENT may in certain circumstances, provide compensation for such work.

(b) Neither the DEPARTMENT’s review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the CONSULTANT shall be and remain liable to the DEPARTMENT in accordance with applicable law for all damages to the STATE caused by the CONSULTANT’S negligent performance or breach of contract of any of the services furnished under this contract.

(c) The rights and remedies of the DEPARTMENT provided for under this contract are in addition to any other rights and remedies provided by law.

(d) If the CONSULTANT is comprised of more than one legal entity or any group of partners or joint venturers associated for the purposes of undertaking this agreement, each such entity acknowledges and hereby affirmatively represents and agrees that each has the power to bind the CONSULTANT and each of the others hereunder; and as such, each acts both as principal and agent of the CONSULTANT and of each of the others hereunder. Each further acknowledges and agrees that all such entities, partners or joint venturers associated for the purposes of undertaking this agreement shall be jointly and severally liable to third parties, including but not limited to the STATE, for the acts or omissions of the CONSULTANT or any other entity, partner or joint venturer hereunder.

(e) If the CONSULTANT is comprised of more than one legal entity or any group of partners or joint venturers associated for the purposes of undertaking this agreement, each such entity acknowledges and hereby affirmatively represents and agrees that the respective rights, duties and liabilities of each hereunder shall be governed by the laws of the State of New York, including but not limited to the New York Partnership Law.

**ARTICLE 30. SECURITY AND CONFIDENTIALITY OF INFORMATION.**

Information received as part of this contract shall be considered “Confidential Information.” The CONSULTANT warrants that it will take the appropriate steps as to its personnel, agents, officers and any SUBCONTRACTORS/SUBCONSULTANTS regarding the obligations arising under this clause to insure such confidentiality. The CONSULTANT may disclose to other parties, as authorized by the NYSDOT Project Manager, or as described in the scope of services, only the information necessary to perform services under this contract. However, the CONSULTANT shall in no circumstance communicate with the public or news
media without prior authorization from the State’s designee. Neither shall the CONSULTANT disclose information deemed confidential by the State nor shall the CONSULTANT disclose any other information obtained or developed in the performance of services under this agreement without the written authorization of the State. This warranty shall survive termination of this Contract.

CONSULTANT shall comply with the provisions of the New York State Information Security Breach and Notification Act, including General Business Law Section 889-aa and State Technology Law Section 208 as enacted by such Act or subsequently amended. In the event of an information security breach resulting in the unauthorized disclosure of personal information, CONSULTANT shall be liable for the costs associated with such breach if caused by CONSULTANT’s negligent or willful acts or omissions, or the negligent or willful acts or omissions of the CONSULTANT’s agents, officers, employees or SUBCONSULTANTS.

ARTICLE 31. VENDOR RESPONSIBILITY.

The Department of Transportation has undertaken an affirmative review of the proposed consultant’s responsibility in accordance with the applicable standards outlined in Comptroller’s ‘Guide to Financial Operations’, and based upon such review, reasonable assurance that the proposed contractor is responsible has been determined.

a. General Responsibility. The Consultant shall, at all times during the Agreement, remain responsible. The Consultant agrees, if requested by the Commissioner of NYSDOT 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 or Work (for Non-Responsibility). The Commissioner of NYSDOT (or his or her designee), in his or her sole discretion, reserves the right to suspend any or all activities under this Agreement at any time when he or she discovers information that calls into question the responsibility of the Consultant. In the event of such suspension, the Consultant will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Consultant shall comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of NYSDOT (or his or her designee) issues a written notice authorizing the resumption of performance under the Agreement.

c. Termination (for Non-Responsibility). Upon written notice to the Consultant, and a reasonable opportunity to be heard with appropriate NYSDOT or staff, the Agreement may be terminated by Commissioner of NYSDOT (or his or her designee) at the Consultant’s expense where the Consultant is determined by the Commissioner of NYSDOT (or his or her designee) to be non-responsible. In such event, the Commissioner of NYSDOT (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.

ARTICLE 32. CONSULTANT DISCLOSURE LEGISLATION.

In accordance with Chapter 10 of the Laws of 2006, the CONSULTANT shall complete the “State Consultant Services Contractor’s Annual Employment Report” (Form B, RFP Attachment 4) and submit copies to the Office of the State Comptroller, the Department of Civil Service, and the Department of Transportation on or before May15th of each year the contract is
in effect. The CONSULTANT shall provide information regarding all employees providing service under this contract, whether employed by the CONSULTANT or any subconsultant or subcontractor. Annual employment reports should be submitted to the following addresses. It is recommended, however, that consultants check the agency websites annually to confirm the addresses.

By mail:

**NYS Office of the State Comptroller**
Bureau of Contracts
110 State Street, 11th Floor
Albany, N. Y. 12236
*Attn:* Consultant Reporting

**NYS Department of Civil Service**
Alfred E. Smith Building
Albany, N. Y. 12239
*Attn:* Chapter 10

**NYS Department of Transportation:**
Reports that are submitted to the NYS Department of Transportation must be submitted electronically, preferably as a Word, Excel or pdf file via email to: timothy.ameche@dot.ny.gov or his successor.”

**ARTICLE 33. NOTICES**
Item 1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
   (a) via certified or registered United States mail, return receipt requested;
   (b) by facsimile transmission;
   (c) by personal delivery;
   (d) by expedited delivery service; or
   (e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

New York State Department of Transportation:
**Contact Person’s Name:** Mr. William A. Howe (Contract #C031204)
**Title:** Director
**Address:** NYSDOT Contract Management Bureau, 50 Wolf Road, 6th Fl, Albany, NY 12232
**Telephone Number:** 518-457-2600
**Facsimile Number:** 518-457-2875
**E-Mail Address:** bill.howe@dot.ny.gov

Consultant’s Name:
Contact Person’s Name: __________
Title: ________________
Address: _______________________________________
Telephone Number: __________
Facsimile Number: __________
E-Mail Address: __________

Item 2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

Item 3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

ARTICLE 34. TITLE VI ASSURANCE.

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

(4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its
books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT’s Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
(a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
(b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 35. CONTRACT PAYMENT.

The CONSULTANT shall provide complete and accurate billing invoices to the STATE in order to receive payment. Billing invoices submitted to the STATE must contain all information and supporting documentation required by the Contract, the STATE and the State Comptroller. Payment for invoices submitted by the CONSULTANT shall only be rendered electronically unless payment by paper check is expressly authorized by the New York State Department of Transportation Commissioner (hereinafter referred to as “COMMISSIONER”), in the COMMISSIONER’S sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONSULTANT shall comply with the State Comptroller’s procedures to authorize electronic payments. Authorization forms are available at the State Comptroller’s website at www.osc.state.ny.us/epay/index.htm by email at epunit@osc.state.ny.us, or by telephone at 518-474-4032. CONSULTANT acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the State Comptroller’s electronic payment procedures, except where the COMMISSIONER has expressly authorized payment by paper check as set forth above.
IN WITNESS WHEREOF, this **Contract No. C031204** has been executed by the STATE, acting by and through the Commissioner of Transportation, and the CONSULTANT has duly executed this Agreement effective the day and year first above written.

In addition to the acceptance of this Agreement, the Department certifies that original copies of this signature page will be attached to all other exact copies of this Agreement.

RECOMMENDED BY: ________________________________ FOR THE PEOPLE OF THE STATE OF NEW YORK: ________________________________

__________________________________________________________
CONTRACT MANAGEMENT

DATE: ________________________________

__________________________________________________________
DEPARTMENT OF TRANSPORTATION

DATE: ________________________________

Consultant Certifications: I certify that all the information with respect to the “Vendor Responsibility Questionnaire” submitted by _________________________ on the ___ day of _________________ pursuant to the requirements set forth in OSC Bulletin’s ‘Guide to Financial Operations’ is complete true and accurate. I additionally certify nothing has occurred since the date of that submission that would result in requiring a change or alteration to any of the answers provided on the “Vendor Responsibility Questionnaire” submitted that date.

I certify that all information provided to the STATE with respect to the requirements contained in State Finance Law Sections 139j & 139k is complete, true and accurate.

__________________________________________
FIRM NAME

Date: ________________________________

--------- APPRAISAL SERVICES TERM AGREEMENT FOR NYSDOT -------

**APPROVALS**

ATTORNEY GENERAL

THOMAS P. DI NAPOLI

STATE COMPTROLLER

By

__________________________________________

Date

__________________________________________
Acknowledgement for Contract #C031204

For contracts signed in New York State

State of New York )

County of ) ss.:

On the________ day of _____________ in the year 20__, before me the undersigned, personally appeared ______________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

____________________________________
NOTARY PUBLIC

My Commission Expires: ____________________

For contracts signed outside New York State

State of )

County of ) ss.:

On the ________ day of _______________ in the year 20__ before me, the undersigned, personally appeared ______________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in ____________________________________________ (insert the city or other political subdivision and the state or country or other place the acknowledgement was taken).

____________________________________
NOTARY PUBLIC

(Signature and office of individual taking acknowledgement.)

My Commission Expires: ____________________
APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE 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, lessee, lessee or any other party):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp

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

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

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

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

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

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

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law Section 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: [http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf](http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf)

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

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law Section 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.

Updated February 2014
APPENDIX A-1

SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potiential subcontactor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

(4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT’s Office of Civil Rights and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
   (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
   (b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
APPENDIX B

REQUIREMENTS FOR FEDERALLY AIDED TRANSPORTATION PROJECTS

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, the New York State Department of Transportation (NYSDOT) is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally-aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration agrees to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT, in cooperation with FHWA, has assembled the body of Federal-aid requirements, procedures and practices in its “Procedures for Locally Administered Federal-Aid Projects” (available through NYSDOT’s web site at: www.dot.ny.gov/pflaap). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement for Federal-aid funding or project administration that enters into Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: www.fhwa.dot.gov/programadmin/contracts/1273.htm).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

NON DISCRIMINATION/EEO/DBE REQUIREMENTS
The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and United States Department of Transportation (USDOT) regulations (49 CFR Parts 21, 23, 25, 26 and 27) and the following:

1. NON DISCRIMINATION. No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.

2. EQUAL EMPLOYMENT OPPORTUNITY. In connection with the execution of this Agreement, the Municipality/Sponsor’s contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. DISADVANTAGED BUSINESS ENTERPRISES. In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBE projects will have opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Municipality/Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49 CFR Part 26.

As a sub-recipient under 49 CFR Part 26.13, the Municipality/Sponsor hereby makes the following assurance.

The Municipality/Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any United States Department of Transportation (USDOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR Part 26. The Municipality/Sponsor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of the United States Department of Transportation-assisted contracts. The New York State Department of Transportation’s DBE program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the
FEDERAL SINGLE AUDIT REQUIREMENTS
Non-Federal entities that expend $500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A-133, “Audits of States, Local Governments, and Non-Profit Organizations”. Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than $500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency1 the New York State Department of Transportation, the New York State Comptroller’s Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity’s fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation’s Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE
The Catalog of Federal Domestic Assistance (CFDA), is an on-line database of all Federally-aided programs available to State and local governments (including the District of Columbia); Federally recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

THE CFDA IDENTIFICATION NUMBER
OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/Sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

The most commonly used CFDA number for the Federal Aid Highway Planning and Construction program is 20.205. Additional CFDA numbers for other transportation and non-transportation related programs are:

<table>
<thead>
<tr>
<th>CFDA Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.215</td>
<td>Highway Training and Education</td>
</tr>
<tr>
<td>20.219</td>
<td>Recreational Trails Program</td>
</tr>
<tr>
<td>20.XXX</td>
<td>Highway Planning and Construction - Highways for LIFE;</td>
</tr>
<tr>
<td>20.XXX</td>
<td>Surface Transportation Research and Development;</td>
</tr>
<tr>
<td>20.500</td>
<td>Federal Transit-Capital Investment Grants</td>
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<tr>
<td>20.505</td>
<td>Federal Transit-Metropolitan Planning Grants</td>
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<tr>
<td>20.507</td>
<td>Federal Transit-Formula Grants</td>
</tr>
<tr>
<td>20.509</td>
<td>Formula Grants for Other Than Urbanized Areas</td>
</tr>
<tr>
<td>20.600</td>
<td>State and Community Highway Safety</td>
</tr>
<tr>
<td>23.003</td>
<td>Appalachian Development Highway System</td>
</tr>
<tr>
<td>23.008</td>
<td>Appalachian Local Access Roads</td>
</tr>
</tbody>
</table>

PROMPT PAYMENT MECHANISMS
In accordance with 49 CFR 26.29, and NY State Finance Law 139-f or NY General Municipal Law 106-b(2) as applicable:

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

1 The designated cognizant agency for audit shall be the federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.

2 www.cfda.gov/
(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

March 2013
APPENDIX C

SPECIAL EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

Specific Equal Employment Opportunity Responsibilities

1. GENERAL  (a) Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity, as required by Federal Executive Order 11246, Federal Executive Order 11375, and NYS Executive Order 45, are set forth in required Contract Provisions (Form PR-1273 or 1316, as appropriate) and those Special Provisions which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. Non-discrimination and affirmative action are also required by the State Labor Law, Section 220-c, as amended, and the Regulations of the NYS Department of Transportation relative to federally-assisted programs (Title 49, Code of Federal Regulations, Part 21 and Section 21.5), including employment practices when the agreement covers a program set forth in Appendix B of the Regulations. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for projects activities under this contract.

(b) The CONSULTANT will work with the STATE and the Federal Government in carrying out equal employment opportunity obligations and in their review of their activities under this contract.

(c) The CONSULTANT and all their sub-consultants and/or sub-contractors holding sub-contracts of $10,000 or more will comply with the following minimum specific requirements of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to contractors and sub-contractors.) The CONSULTANT will include these requirements in every sub-contract with such modification of language as is necessary to make them binding on the sub-contractor.

2. EQUAL EMPLOYMENT OPPORTUNITY POLICY  The CONSULTANT, their sub-consultant and/or sub-contractor or any person acting on behalf of the CONSULTANT or sub-consultant and/or sub-contractor will accept as their operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, national origin, age, disability or marital status, and to promote the full realization of equal employment opportunity through a positive continuing program. "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, or during consideration for employment, without regard to their race, religion, sex, or color, national origin, age, disability or marital status. Such non-discriminatory action shall include, but not be limited to: employment, job assignment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

3. EQUAL EMPLOYMENT OPPORTUNITY OFFICER  The CONSULTANT will designate and make known to the New York State Department of Transportation contracting officers an Equal Employment Opportunity Officer and a Minority Business Enterprise officer (hereinafter referred to as the EEO Officer and M.B.E. Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active equal employment opportunity program and who must be assigned adequate authority and responsibility to do so.

4. DISSEMINATION OF POLICY  (a) All members of the CONSULTANT's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the CONSULTANT's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To insure that the above agreement will be met, the following actions will be taken as a minimum:

(1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less than once every six months, at which time the CONSULTANT's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisory (first level of supervision and above) or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the CONSULTANT's equal employment opportunity obligations within thirty days following their reporting for duty with the CONSULTANT.

(3) All personnel who are engaged in direct recruitment for the project will be instructed in the CONSULTANT's procedures for locating and hiring minority group employees by the EEO Officer or appropriate company official.

(Minority group referred to herein shall mean Black, Hispanic, Asian/Pacific Islander, American Indian/Alaskan.)
(b) In order to make the CONSULTANT's equal employment opportunity policy known to all employees, prospective employees and potential sources or employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the CONSULTANT will take the following actions:

(1) Notices and posters setting forth the CONSULTANT's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

(2) The CONSULTANT's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

(c) In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a sub-contract, including procurements of materials or equipment, each potential sub-contractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this agreement and the Regulations relative to non-discrimination.

5. RECRUITMENT (a) When advertising for employees, the CONSULTANT will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived. These advertisements shall state that all qualified applicants will be afforded equal employment opportunity without regard to race, religion, sex, color, national origin, age, disability or marital status.

(b) The CONSULTANT will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the CONSULTANT's EEO Officer will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the CONSULTANT for employment consideration. In the event the CONSULTANT has a valid bargaining agreement providing for exclusive hiring hall referrals, the CONSULTANT is expected to observe the provisions of that agreement to the extent that the system permits the CONSULTANT's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the CONSULTANT to do the same, such implementation violates Executive Order 11246.

(c) The CONSULTANT will encourage present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. PERSONNEL ACTIONS 

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age, disability or marital status. The following procedures shall be followed:

(a) The CONSULTANT will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

(b) The CONSULTANT will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory practices.

(c) The CONSULTANT will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the CONSULTANT will promptly take corrective action. If the review indicated that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

(d) The CONSULTANT will promptly investigate all complaints of alleged discrimination made in connection with obligations under this agreement, will attempt to resolve such complaints, and will take appropriate corrective action within 15 days. All subsequent corrective actions or decisions will also be documented and forwarded to the NYS Department of Transportation Compliance Officer within 7 days after such action has taken place. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the CONSULTANT will inform every complainant of the results and all of their avenues of appeal should the complaint be denied.

7. TRAINING AND PROMOTION (a) The CONSULTANT will assist in locating, qualifying and increasing the skills of minority group and women employees, and applicants for employment.

(b) Consistent with the CONSULTANT's work force requirements and as permissible under the Federal and State regulations, the CONSULTANT shall make full use of training programs; i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance. In the event the Training Special Provision is provided under this contract, this subparagraph is superseded thereby.
c) The CONSULTANT will advise employees and applicants for employment of available training programs and entrance requirements for each.

(d) The CONSULTANT will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. UNIONS If the CONSULTANT relies in whole or in part upon unions as a source of employees, the CONSULTANT will use their best effort to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and, to effect referrals by such unions of minority and female employees. The CONSULTANT will send to each labor union or representative of workers with which he has or is bound by a collective bargaining or other agreement or understanding, a notice to be provided by the State Division of Human Rights, advising such labor union or representative of the CONSULTANT’s compliance and with the non-discrimination clauses. Actions by the CONSULTANT, either directly or through a CONSULTANT’s association acting as agent, will include the procedures set forth below:

(a) The CONSULTANT will use their best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

(b) The CONSULTANT will use their best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age, disability or marital status.

(c) The CONSULTANT is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union, and such labor union refuses to furnish such information to the CONSULTANT. The CONSULTANT shall so certify to the STATE and shall set forth what efforts have been made to obtain such information. Further, if the CONSULTANT was directed to do so by the contracting agency as part of the bid or negotiations of this contract, the CONSULTANT shall request such labor union or representative to furnish him with a written statement that such labor union or representative accepts the non-discrimination clauses and will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these non-discrimination clauses or that it consents and agrees that recruitment, employment and the terms and conditions of employment under this contract shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the CONSULTANT shall promptly notify the State Division of Human Rights and set forth what efforts have been made to obtain such information.

(d) In the event the union is unable to provide the CONSULTANT with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the CONSULTANT will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age, disability or marital status, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the CONSULTANT has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the CONSULTANT from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such CONSULTANT shall immediately notify the New York State Department of Transportation.

9. AFFIRMATIVE ACTION IN SUBCONTRACTING (a) The CONSULTANT will not discriminate on the grounds of race, religion, sex, color, national origin, age, disability or marital status in the selection of subcontractors, including procurements and leases of equipment.

(b) If the CONSULTANT determines to use a subcontractor as part of this agreement, affirmative action shall be taken to increase the participation of minority business firms in that work. As part of that affirmative action, the CONSULTANT will identify and contact minority business firms and solicit proposals for the work to be subcontracted. The STATE will provide a list of names of minority business firms to the CONSULTANT. Another source that should be contacted for a list of minority business firms is the Governor's Office of Minority & Women's Business Development (GOMWBD).

(c) The CONSULTANT will document the affirmative action steps taken to comply with paragraph 9b. Such documentation will be provided at the time or submittal of a formal proposal to the State's Contracts Bureau.

(d) By execution of this agreement, the CONSULTANT certifies that the affirmative action steps in 9a, 9b & 9c above were taken when soliciting proposals for the work in this agreement indicated to be subcontracted and that these steps will be taken should any work be subcontracted in the future.

(e) The CONSULTANT will insure binding subcontractor and vendor compliance with their EEO obligations. The CONSULTANT will take such actions in enforcing such provisions of such subcontract or purchase order as the contracting
agency may direct, including sanctions or remedies for non-compliance. If the CONSULTANT becomes involved in or is threatened with litigation with a subcontractor or a vendor as a result of such direction by the contracting agency, the CONSULTANT shall promptly so notify the Attorney General, requesting him to intervene and protect the interest of the State of New York.

10. RECORDS AND REPORTS (a) The CONSULTANT will keep such records as are necessary to determine compliance with the CONSULTANT’s equal employment opportunity obligations. The records kept by the CONSULTANT will be designed to indicate:

(1) The number of minority and non-minority group members and women employed in each work classification on the project, where required by the NYS D.O.T Compliance Officer.
(2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to CONSULTANTS who rely in whole or in part on unions as a source of their work force).
(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees.
(4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
(5) Compliance with all other requirements in these provisions such as meetings, instructions, employment efforts, etc.

(b) The CONSULTANT will comply with Sections 291-299 of the Executive Law and Civil Rights Law and will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts other sources of information, and its facilities as may be determined by State or Federal officials to be pertinent to ascertain compliance with such Regulations, orders and instructions. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State and the Federal Highway Administration.

(c) Failure to comply with these Special EEO Provisions may be considered unsatisfactory performance and may subject the agreement to termination under the termination article of this agreement. Non-compliance may result in the CONSULTANT's being declared ineligible for future agreements made by or on behalf of the STATE or a public authority or agency of the STATE, until he satisfies the State Commissioner of Human Rights that he has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commissioner of Human Rights after conciliation efforts by the State Division of Human Rights have failed to achieve compliance with these non-discrimination clauses and after a verified complaint has been filed with the State Division of Human Rights, notice thereof has been given to the CONSULTANT and an opportunity has been afforded them to be heard publicly before the State Commissioner of Human Rights or official designee. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided for by law. These may include, but are not limited to:

(1) withholding of payments to the CONSULTANT under the agreement until the CONSULTANT complies, and/or
(2) cancellation, termination or suspensions of the agreement in whole or in part.

11. TRAINING SPECIAL PROVISIONS This Training Special Provision supersedes paragraph 7.b above and is in implementation of 23 CFR Subpart A, Section 230.111 & Executive Order 11246.

As part of the CONSULTANT’s equal employment opportunity affirmative action program training shall be provided as follows:

The CONSULTANT shall provide on-the-job training aimed at developing full competence in the job classification involved.

The number of months of training to be provided under these special provisions is previously stated in this Agreement.

In the event that the CONSULTANT subcontracts a portion of the contract work, it shall be determined how many, if any, of the trainees are to be trained by the subcontractor, provided however, that the CONSULTANT shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The CONSULTANT shall also insure that this training special provision is made applicable to such subcontract.

The number of trainees shall be distributed among the work classifications on the basis of the CONSULTANT’s needs. Along with their proposal, the CONSULTANT shall submit to the New York State Department of Transportation for approval the proposed number of trainees to be trained in each selected classification, their estimated salaries and a training schedule. The salaries to be paid trainees shall not be less that 75 percent of the average hourly rate approved in the agreement for the classification to be trained. During the period from the beginning of the project to its completion, the trainee shall receive reasonable salary increases commensurate to the abilities and effort exerted by the trainee. The training schedule required should indicate the start of work and appropriate incremental salary steps in accord with the above.

Training and upgrading the proficiency of minorities and women is a primary objective of this Training Special Provision. Accordingly, the CONSULTANT shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The CONSULTANT will be responsible for demonstrating the
steps that have been taken in pursuance thereof, prior to a determination as to whether the CONSULTANT is in compliance with this Training Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

No employee shall be employed as a trainee in any classification in which they have successfully completed a training program or in a classification in which they have been employed. The CONSULTANT should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the CONSULTANT's records should document the findings in each case.

The minimum length and type of training for each classification will be as established in the training schedule developed by the CONSULTANT and approved by the State and Federal Highway Administration. The State and the Federal Highway Administration shall approve a program if it reasonably calculated to meet the equal employment opportunity obligations of the CONSULTANT and to assist in qualifying the average trainee toward proficiency in the classification concerned by the end of the training period. Approval of a training program shall be obtained from the State prior to commencing work on the classification covered by the program. Training is permissible in lower level management positions. Some offsite training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

The CONSULTANT will be reimbursed for the cost of any and all training under the payment terms of this agreement. This can include offsite training cost as discussed above. All offsite training must be defined in the training schedule. All costs claimed or calculated for training must be directly related to the work defined in the scope of this agreement and/or added by supplemental agreement.

The CONSULTANT must demonstrate their best efforts and evidence good faith in hiring trainees for positions in the classification in which they have completed training.

The CONSULTANT shall furnish the trainee a copy of the program they will follow in the training. The CONSULTANT shall provide each trainee with a certification showing the type and length of training satisfactorily completed.

The CONSULTANT will provide for the maintenance of records and furnish periodic reports documenting their performance under this Training Special Provision.

Updated December 2012
SCHEDULE A

APPRAISAL SERVICES FOR NYSDOT
Contract #C031204

SCOPE OF SERVICES

(To be inserted from RFP As Is)
EXHIBIT A
Consultant Disclosure Legislation Form B

FORM B

State Consultant Services
Contractor's Annual Employment Report


Contracting State Agency Name: DOT
Agency Code: 3900283

Contract Number: C031204
Contract Term: 01/01/2014 to 12/31/2016

Contractor Name:
Contractor Address:

Description of Services Being Provided: Appraisal Services Term Agreements for NYSDOT

Scope of Contract (Choose one that best fits):
- Analysis [ ] Evaluation [ ] Research [ ] Training [ ]
- Data Processing [ ] Computer Programming [ ] Other IT consulting [ ]
- Engineering [ ] Architect Services [ ] Surveying [ ] Environmental Services [ ]
- Health Services [ ] Mental Health Services [ ]
- Accounting [ ] Auditing [ ] Paralegal [ ] Legal [ ] Other Consulting [ ]

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Grand Total

Name of person who prepared this report:
Preparer's Signature:___________________________________________________
Title:__________________________________________
Phone #:________________________________________

Date Prepared:  /  /  

Use additional pages if necessary)
Attachment 2

CONSULTANT INFORMATION AND CERTIFICATIONS
(Please submit this with your Cost Proposal)

CONTRACT NUMBER: C031204
PROJECT TITLE: APPRAISAL SERVICES TERM AGREEMENT FOR NYSDOT

I. CONSULTANT INFORMATION

FIRM NAME: ______________________________________________________________

ADDRESS:________________________________________________________________

CITY:_________________________________________ STATE: __________

ZIP CODE: ___ ___ ___- ___ ___ ___

TELEPHONE : (____) _____- _________  FAX: (____) _____- _________

E-MAIL ADDRESS: _______________________________________________________

CONTACT PERSON: _______________________________________________________

Consultant’s Federal Identification Number (FIN):________________________
Consultant’s NYSDOT Consultant Identification Number (CIN):________________
Consultant’s New York State SFS Vendor Identification Number:_______________

Please indicate below the name, title, address, and telephone/fax numbers of the person who prepared this proposal, as well as any other individual(s) with authority to negotiate and contractually bind the offeror and also who may be contacted during the period of proposal evaluation:

Preparer’s Name/Title: ______________________________________________________

Address:________________________________________________________________

Telephone: (____) _____- _________  FAX: (____) _____- _________

Other Authorized Individual(s):

Name/Title:________________________________________________________________

Address:_________________________________________________________________

Telephone: (____) _____- _________  FAX: (____) _____- _________
II. PROPOSER CERTIFICATIONS

By signing below, I, _____________________________, authorized individual
(Name)
of _____________________________ make the following
(Firm)
certifications regarding the subject proposal:

- 365-Day Offer: This proposal is a firm offer for a 365-day (or more) period from the date of submission.
- The firm has read and will follow the procedure outlined in Attachment 5 if it proposes the services of a former NYSDOT employee(s).
- Vendor Responsibility: If selected for contract award, the firm will complete and submit the required Vendor Responsibility forms to NYSDOT within 10 days of notification of designation both electronically and in hard copy per the NYSDOT Web site.
- ST-220: If selected for contract award greater that $100,000, the firm will complete and submit the required Forms ST-220-TD and 220-CA (Contractor Certifications) prior to negotiation with NYSDOT. You should make yourself familiar with these forms by visiting the following Web sites:
  http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf (Form ST-220-CA)
  http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf (Form ST-220-TD)
- The firm is in compliance with the requirements of the Omnibus Procurement Act as described in APPENDIX A which is found in the Draft Contracts attached to this RFP.

Signature: _____________________________

III. ACCEPTANCE OF CONTRACT

By signing below, I, _____________________________, authorized individual
(Name)
of _____________________________ hereby certify that I have read and
(Firm)
accept all terms and conditions contained in the draft Contract for C031204 and, accept all terms and conditions contained in the draft Contract for C031204 including Appendix A, which are included as Attachment 1 to this Request for Proposals.

Signature: _____________________________
(Name of Acceptor)
Attachment 3

Procurement Lobbying Law Compliance

1. **Required Forms:** The consultant shall sign and e-mail/fax the following forms. These forms are part of and due with the consultant’s proposal.
   a) “Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)”
   b) “Offeror Disclosure of Prior Non-Responsibility Determinations”.

2. **NYSDOT Guidelines and Procedures**
   Under the requirements of the State Procurement Act all communications regarding advertised projects are to be channeled through the Office of Contract Management (*Designated Contacts). Until a designation is made, communication with any other NYSDOT employee concerning this project that is determined to be an attempt to influence the procurement may result in disqualification.


3. **Summary of the policy and prohibitions regarding permissible contacts**
   a) **Contacts prior to designation:**
      Any communications involving an attempt to influence the procurement are only permitted with the following Designated Contact Persons:
      - The Contract Management Designation Contract Analyst
      - The Contract Management Designation Analyst Supervisor
      - The Contract Management Civil Rights Unit Supervisor
      - The Contract Management Assistant Directors
      - The Contract Management Director

      These are some communications exempted from this restriction:
      - Participation in a pre-proposal webinar.
      - Protests, complaints of improper conduct or misrepresentation

      If any other NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee. If NYSDOT determines an impermissible contact was made, that offeror cannot be awarded the contract. A second violation would lead to a four year bar on the award of public contracts to the offeror.

   b) **Contacts after designation**
      NYSDOT identifies its primary negotiation contacts. The designated contacts include:
      - The Contract Management Designation Contract Analyst
      - The Contract Management Designation Analyst Supervisor
      - The Contract Management Civil Rights Unit Supervisor
      - The Contract Management Assistant Directors
      - The Contract Management Director
      - The Consultant Management Bureau consultant job manager
The Consultant Management Bureau consultant job manager’s immediate supervisor

The law does not limit who may be contacted during the negotiation process. However, if any NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee.

c) Information Required from Offerors that contact NYSDOT staff, prior to contract approval by the Office of the State Comptroller:
The individuals contacting NYSDOT should refer and shall be prepared to provide the following information, either by e-mail or fax as directed by NYSDOT:
   Person’s name, firm person works for, address of employer, telephone number, occupation, firm they are representing, and whether owner, employee, retained by or designated by the firm to appear before or contact the NYSDOT.

d) Applicability to an executed contract:
Restrictions similar to those described above apply to approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offeror. The staff noted above as well as the project manager and consultant manager are considered designated contact persons. NYSDOT may identify other contact persons for each of these processes.

4. Rules and regulations and more information on this law, please visit:
http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/Faq.htm (Advisory Council FAQs)
http://www.nylobby.state.ny.us/ (New York State Lobbying Act)
http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html

For more information, go to NYSDOT’s World Wide Web Site at http://www.dot.ny.gov or contact: Al Hasenkopf of NYSDOT Contract Management, 50 Wolf Rd, 6th Fl., Albany, New York 12232
E-mail: Alfred.Hasenkopf@dot.ny.gov
Tele: (518) 457-1560
Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

Offeror affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

Contract Procurement No. C031204

By: ___________________________ Date: ___________________________

Name: ___________________________

Title: ___________________________

Contractor Name: _______________________________________________________

Contractor Address: _____________________________________________________

______________________________________________________________________

[Signature]

[Signature]
Offeror Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract:
_________________________________________________________________________________

Address:  ___________________________________________________________________________

Name and Title of Person Submitting this Form:  ________________________________________

Contract Procurement Number:  _______C031204

Date:________________________

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):  No  Yes

If yes, please answer the next three questions:
2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j? (Please circle):  No  Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):  No  Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity:  ________________________________________________________________

Date of Finding of Non-Responsibility:  ______________________________________________

Basis of Finding of Non-Responsibility:  ______________________________________________

________________________________________________________________________________

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):  No  Yes

6. If yes, please provide details below.

Governmental Entity:  ______________________________________________________________

Date of Termination or Withholding of Contract:  _____________________________________

Basis of Termination or Withholding:  ________________________________________________

________________________________________________________________________________

(Add additional pages as necessary)

Offeror certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By:__________________________________  Date:____________________________________

Signature

Name:_____________________________________

Title:____________________________________
## FORM A

State Consultant Services – Contractor's Planned Employment
From Contract Start Date Through The End Of The Contract Term

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<th>O<em>Net Employment Category And O</em>NET Employment Title</th>
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Name of person who prepared this report:

Title: Phone #:

Preparer's Signature:

Date Prepared: / /

(Use additional pages, if necessary)

Page of
State Consultant Services
Contractor's Annual Employment Report
Report Period: April 1, to March 31,

Contracting State Agency Name: DOT
Agency Code: 3900283
Contract Number: C031204
Contract Term: 01/01/2014 to 12/31/2016
Contractor Name:
Contractor Address:
Description of Services Being Provided: Appraisal Services Term Agreement for NYSDOT

Scope of Contract (Choose one that best fits):
- Analysis
- Evaluation
- Research
- Training
- Data Processing
- Computer Programming
- Other IT consulting
- Engineering
- Architect Services
- Surveying
- Environmental Services
- Health Services
- Mental Health Services
- Accounting
- Auditing
- Paralegal
- Legal
- Other Consulting

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Grand Total

Name of person who prepared this report:
Preparer's Signature:
Title:
Phone #:
Date Prepared:  /  /

Use additional pages if necessary)
Attachment 5

Consultant’s Responsibility When Proposing Former NYSDOT Employees

It is the consultant’s responsibility to ensure they propose staff that is eligible to work on the proposed project. It is an individual’s responsibility to comply with the Public Officer’s Law.

The following procedure applies if either of the following criteria is met.

- It is two years or less between the date that the individual is proposed and the individual’s date of separation from the State.
- The individual proposed has worked on the project while employed by NYSDOT regardless of how long ago they left NYSDOT.

Procedure

- Before the consultant proposes an individual, the individual must obtain an opinion from the New York State Joint Commission on Public Ethics (http://www.jcope.ny.gov/) that approves their participation in the project as they are proposed.
- A copy of this opinion must be on file in the consultant’s office and available for review by NYSDOT if requested.
- Failure to obtain New York State Joint Commission on Public Ethics approval for an individual’s participation in a project may jeopardize the firm’s designation for that project.
FIRM EXPERIENCE:
- Provide relevant experience on separate pages using the following form
- Two page limit – no smaller than 11 point font for text.

General Real Property Appraisal Experience Questionnaire

Date firm established: __________________________

By what means was your firm established (DBA, Incorporated, Partnership, etc.): ___________

Years in Business: ______________________________

Please list some of the municipalities/Towns/Clients you’ve worked for:

____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

Briefly (in the space provided on this page) describe your firm’s appraisal experience.

____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
FIRM REFERENCES:
- Provide at least three Firm references.
- Use below form. Fill one out for each Firm reference (fill in number blank – ie, ‘Firm Reference #1; Firm Reference #2, etc.)
- Form is expandable – be concise.
- Reference check evaluation criteria provided below

| Firm Reference Number: | #_____
|------------------------|--------
| Client/Firm Name:      |        
|                        |        
| Project Name:          |        
|                        |        
| Project Cost (total $):|        
|                        |        
| Name & Title of Contact:|    
|                        |        
| E-Mail Address & Telephone Number: | Provide a brief description of a recent relevant project for which they are serving to reference: |
|                        |        

**Reference Evaluation Criteria:**
- Describe the nature of the project and the work that this vendor performed for you.
- What was the size of the effort (budget, duration, etc)?
- Was the work completed within budget?
- Did the vendor meet expected timeframes and deliverable deadlines?
- Was the vendor able to adapt to obstacles on the project?
- Was there continuity with the project staff proposed and assigned to the planning and execution phases of the project?
- How well did the vendor staff respond to your needs?
- How pleased are you with the work the vendor has performed/is performing for you?
- Would you contract with this vendor again?
Region(s) in Which You Offer to Provide Services

(Check Off As Applicable)

**REGION 1** – Counties of Albany, Essex, Greene, Saratoga
Schenectady, Rensselaer, Warren & Washington
Your Firm’s Office is located in _________ County.

**REGION 2** – Counties of Fulton, Hamilton, Herkimer, Madison,
Montgomery & Oneida
Your Firm’s Office is located in _________ County.

**REGION 3** – Counties of Cayuga, Cortland, Onondaga, Oswego,
Seneca & Tompkins.
Your Firm’s Office is located in _________ County.

**REGION 4** – Counties of Genesee, Livingston, Monroe, Ontario,
Orleans, Wayne & Wyoming.
Your Firm’s Office is located in _________ County.

**REGION 5** – Counties of Cattaraugus, Chautauqua, Erie & Niagara
Your Firm’s Office is located in _________ County.

**REGION 6** – Counties of Allegany, Chemung, Schuyler, Steuben, Yates
Your Firm’s Office is located in _________ County.

**REGION 7** – Counties of Clinton, Franklin, Jefferson, Lewis,
and St. Lawrence
Your Firm’s Office is located in _________ County.

**REGION 8** – Counties of Columbia, Dutchess, Orange, Putnam,
Rockland, Ulster & Westchester.
Your Firm’s Office is located in _________ County.

**REGION 9** – Counties of Broome, Chenango, Delaware, Otsego,
Schoharie, Sullivan, and Tioga.
Your Firm’s Office is located in _________ County.

**REGION 10** – Counties of Nassau & Suffolk
Your Firm’s Office is located in _________ County.

**REGION 11** – Counties of Bronx, Kings, New York,
Queens & Richmond
Your Firm’s Office is located in ____________.
**Attachment 8-A**

**General Guidelines For Preparing Appraisals for NYSDOT**

**Introduction**

One of the major functions and responsibilities of the Department’s Office of Real Estate is to prepare appraisals which meet Federal, State and Department requirements. The foundation of an effective real estate acquisition program is a well prepared appraisal which meets applicable standards and provides an owner with the compensation to which he/she is legally entitled, and at the same time, is protective of the interests of the taxpayers.

The objective of the Department is to meet these requirements and to present the necessary information in such a form that it is a useful tool for those who depend on the report in the acquisition process. Under the “one-offer” system, the Department must have an appraisal that is reflective of the market as it serves as a basis for negotiations with the property owner.

In addition to acquiring property for its transportation system, the Department may also require appraisals of properties that have been declared surplus to its present and future needs. Accordingly, appraisers may be offered appraisal assignments that reflect “sale” rather than “purchase” transactions. If this is the case, payment for the appraisal will also be by specific hourly rate as agreed upon for other project appraisals.

**Purpose of the Appraisal**

To meet the requirements outlined above, the Office of Real Estate requires an appraisal of market value, which is defined as:

**DEFINITION OF MARKET VALUE:** the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: 1) buyer and seller are typically motivated; 2) both parties are well informed or well advised and each acting in what he considers his own best interest; 3) a reasonable time is allowed for exposure in the open market; 4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and 5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.
*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amounts of any adjustment should approximate the market’s reaction to the financing or concessions based on the Appraiser’s judgment.

The above definition of Market Value is viewed by the Department as causing the appraiser to conclude essentially the same value as would be concluded in an attempt to arrive at Market Value as defined in USPAP.

The courts in New York State have consistently equated the constitutional requirements of “just compensation” with a finding and source of “market value”. As a result, Office of Right of Way’s appraisals must primarily utilize and rely upon the sales comparison and capitalization approaches to value except in those rare instances of a truly special purpose property. In those instances, the cost approach to value may be relied upon to establish market value. The broad goal of the Office’s activities in this area is to produce a well documented appraisal which leads conclusively to the best estimate of market value for the acquisition.

**Required Engineering and Related Data**

It is essential that appraisals of partial takings include the value of land and improvements that are to be acquired plus any damages which are caused to the remaining property. Accordingly, the appraiser should review the project’s construction plans, cross-sections, right-of-way maps and any other available data to develop a full understanding of the acquisition and the effects of the proposed construction. It is inappropriate to expect an appraiser to judge whether there is severance damage or special offsetting benefits accruing to a remaining property without anticipating, with a degree of accuracy, what the after situation will be.

Reduction of setback, change of grade, change of physical access, additional travel lanes, highway shoulder widths, drainage ditches, sidewalks, gutters, replacement of landscaping and fencing are some of the considerations that the appraiser must be aware of and required to describe in the appraisal report under “effects of construction”.

It is important for the appraiser to establish a rapport with the Regional Design (or Project) Engineer. For consultants, the pre-appraisal conference would be the appropriate time to obtain the name and telephone number of the Department’s engineering representatives.

Appraisers are also expected to have a working knowledge of New York’s Eminent Domain Procedures, and what severance damages New York’s Court System has ruled to be compensable and non-compensable.
Public Contacts

The very nature of the appropriation process requires that all parties having any contact with a property owner or tenant must exercise diplomacy and tact in their dealings.

Certain procedures must be followed and an open and friendly attitude must be exhibited in order for those affected to realize that the State is granting them every courtesy and consideration. All those representing the State – including appraisal consultants – shall conduct themselves with propriety, decorum and mutual rules of respect.

In all cases, the property owner or their designated representative must be offered the opportunity to accompany the appraiser when they inspect the property.

Appointments are to be made and kept. It is expected that an appointment will be made to inspect properties and interview occupants. These appointments are to be kept on time or appropriate notice of cancellation given when circumstances require that unusual course of action.

Appraisers should be supplied with either personal identification cards, or letters of identification. It is required that appraisers present these identifying documents at the outset of their first personal contact with owners or tenants.

An above average degree of courtesy applies in all contacts with owners or tenants. Every consideration, concern and patience must be shown in permitting and encouraging an owner to inform the appraiser of the points they deem important about their property.

Common sense dictates that the appraiser is never to make disparaging remarks about an owner’s property, the furniture, or physical surroundings. The appraiser must conduct themselves in a detached, objective manner.

Appraisers are never allowed to discuss values or the extent of possible damages with the owner or tenant at the time during the property’s inspection. At this point in time, the appraiser is solely a collector of facts. Monetary damages can only be determined after the appraisal is completed and reviewed.

Consultant appraisers are generally not familiar with the Department’s acquisition procedures nor have they been engaged to explain project details to property owners. Questions regarding the acquisition process or about the proposed project should be discreetly referred to the R.O.W. Agent/Real Estate Specialist who will be contacting the owner to discuss these matters.

Assembling Data

The appraiser for a specific appraisal assignment or for a project, must develop an initial working plan providing for the assembly of requisite data to avoid either unproductive efforts or the inclusion of non-essential or superfluous material in their appraisal report. When assistance is given to the appraiser by personnel, either working under their supervision or as members of a
team, this plan will designate specific duties to be performed by each individual, providing for maximum efficiency and avoid overlapping of work assignments.

1. **Appraiser’s Personal Obligation**

   The appraiser must personally perform and be responsible for certain functions in order to properly certify that they have accomplished the appropriate steps in their analysis and determination of the value. These areas of personal responsibility include, but are not limited to, the following:

   a. A personal inspection of the subject property. If structures are taken or damaged, both interior and exterior inspections and photos are necessary.

   b. Comparable sales must be inspected to the same degree as subject.

   c. Comparable sales **must be verified** as to selling price by someone who is a party to the conveyance such as grantor, grantee or one of their legal representatives. Accordingly, verification by the assessor (or other non-interested party) is not acceptable. Appraiser shall identify with whom the comparable sale has been verified.

   d. Right of way taking limits are to be visualized on the ground and the effects personally noted by the appraiser of record.

2. **Site Inspection**

   A careful and complete inventory of the property to be appraised and thorough knowledge of the area to be appropriated is an essential requirement of a sound appraisal report. A casual inspection of the premises is not only not in keeping with good appraisal practice, but is quite apparent to a property owner, with probably negative effects at the time when the offer is made.

   As part of the appraisal, the property’s size, shape, topography and existing access should be reviewed and considered both before and after the acquisition in the appraisal process. Individual items of site improvements, especially those affected by the appropriation, are to be individually inventoried and the condition of each specific item noted.

   It should also be noted that property owners sometimes have surveys of their property available, which can be of material assistance in producing the required sketches of the whole property. The availability of this survey or sketch can save much effort in those cases where no plan layout of the entire property is available, and a sketch must otherwise be prepared from a deed description or other source. The use of tax maps are also useful to reflect a property’s location, size, access and configuration.

**Building Inspection**

When inspecting structures, special attention is to be directed toward recording items of accrued depreciation; while at the same time, noting the “plus” features of the premises that make a positive contribution to the property’s value.
Photographs should be taken at the time of this inspection, which will clearly show all improvements, especially those in the area of the taking. The photographs should adequately cover the acquisition area and related structures, so that as construction changes alter the property features, sufficient pictorial data of the pre-existing condition will be available. Good photographs are particularly important if a claim is filed and the property is demolished before the Court Proceeding.

**Neighborhood Inspection**

The assembly of data should include an overview of the immediate neighborhood of the subject property. Such data assembly and analysis would encompass the generally accepted components of a professional neighborhood analysis, including influences and trends that could enhance or detract from property values.

**Sales Inspection**

The appraiser should use all available resources to obtain a collective overview of recent market transactions in the project’s area. Relevant sales should be carefully reviewed and personally inspected if they are to be considered as comparables in the appraisal process. This function and responsibility should not be delegated to another person. Where comparable sales are used for a structure being acquired, interior inspection of such comparable sales structures is mandatory unless sufficient reason is given as to why it could not be accomplished. Obviously, such comparable sales analysis would include the size and shape of the site and the location and setback of the structures located thereon. Lastly, (and as noted previously) the sales price must be verified by someone who is a party to the conveyance such as grantor, grantee or one of their legal representatives.

**Reproduction/Replacement Costs**

Cost indices may be the source of unit prices for reproduction or replacement estimates; however, the appraiser should as a matter of professional practice, check on local cost conditions and determine more specific unit prices from local builders.

**Market Rent**

Depending upon the appraisal problem, the appraiser may need to collect, inspect, and record pertinent data in connection with comparable rentals for income type properties. This would include an analysis of lease data, and the interview of owners, tenants, real estate brokers and knowledgeable individuals in lending institutions to ascertain current ranges of rental fees, terms and conditions of occupancy.

**Zoning**

Zoning regulations, and availability of variances there from, are an integral part of the data assembly process. Ordinances, flood plain and zoning maps are available from the appropriate political subdivisions, or through local government offices. Assessment data
(including equalization rates) are available at the local assessor’s office, or other central depository of such information.

Approaches to Value

There are three basic approaches to value; the sales comparison, income capitalization and cost (less accrued depreciation). In New York State, the sales comparison and income capitalization approaches are the preferred criteria of value, unless a true specialty property exists. Accordingly, if the subject property is located in an area of relatively static real estate activity, the collection of sales data may require a more expansive search for comparable market transactions. It would necessarily follow that the farther from the subject area the appraiser goes in his data collection, the less truly comparable the properties become. If this is necessary, the determination and assembly of such data will require more intensive analysis and adjustments should be explained in greater detail. Obviously, the appraiser should make every effort to find and analyze comparable sales of similar properties and avoid sales that require excessive and multiple adjustments.

In order for the Department to quickly and easily determine the relative comparability of the sales chosen by an appraiser, all sales comparison grids are required to include entries showing the total gross and net adjustments to each sale expressed as a percentage of the unadjusted unit price. The sales chosen should have the same highest and best uses and be able to stand affirmatively against the following question:

Would any reasonable buyer of the sales used have considered the subject property as a substitute or stated in other words, do the subject and sales compete for the same potential buyers?

Certification

In appraisal work, especially of a project nature, delegation of certain mechanical work function in the assembly of data is unavoidable. Even with such a necessary delegation, the appraiser personally and professionally bears sole responsibility for the appraisal report when signing the Certificate of Appraiser. Accordingly, all sales used in the report should be personally inspected and the appraisal analysis should be personally prepared.

The Appraisal Format

For economy of operation, the Department has developed a Value Finding Appraisal format for acquisitions with values of less than $50,000. This format is illustrated in Part B of this Attachment and should be followed when appraising properties in this value range. The Value Finder/Restricted Appraisal Report format should be used for uncomplicated acquisitions of low value where damages are easily explained and supported. The appraised compensation of this format shall not exceed $50,000. Formats for Full or Before and After Appraisals are not provided but coincide with the standards of the appraisal industry. Consultant appraisers are permitted to use their own formats, providing the appraisals meet the requirements set forth in the appraisal contract. It is generally expected, however, that the appraiser arrange the appraisal sequence to
coincide with the sequence of the Department’s formats. The Value Finder/Restricted Appraisal Report format should be used for uncomplicated acquisitions of low value where damages are easily explained and supported. The appraised compensation of this format shall not exceed $50,000.

**Appraisal Preparations**

It is not the intention of this instruction to cover the appraisal process. There are a myriad of texts on this subject and there are many courses available to supplement practical experience. In addition, the Appraisal Foundation has promulgated the Uniform Standards of Professional Appraisal Practice (USPAP) which provide the basis of and defines the standards of acceptable requirements for integrity, objectivity, independent judgment and ethical conduct. These standards provide specific guidance for a wide range of appraisal and appraisal review activities.

**Quality Control**

Each Consultant shall describe and be responsible for their quality control plan by which they insure compliance with State requirements.

The State reserves the right to perform quality assurance reviews of appraisal submission under this contract.

The Department has an appraisal check sheet for appraisal reports, which would be shared with designated consultants. Consultant appraisers are permitted to use their own check sheets if they are equivalent to the Department’s. The consultant’s check sheet must be reviewed and approved by the Department.
PREPARED FOR
THE STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION

VALUE FINDER/RESTRICTED APPRAISAL REPORT

REGION NO.:  
PROJECT IDENTIFICATION NO.:  
PROJECT:  
MAP NO. PARCEL NO.  

REPUTED OWNER:  

SUBJECT PROPERTY ADDRESS:  

APPRAISED VALUE: $
CERTIFICATE OF APPRAISER

PIN: PROJECT:

MAP(S): PARCEL(S):

I, ________________________, ________________________, hereby certify that:

- I have personally inspected the property herein appraised (both the exterior and interior of all affected improvements). I have also made a personal field inspection of the comparable sales relied upon, and all adjustments made to such comparables were based upon an observed comparison to the property herein appraised. I have afforded the property owner and any tenant who claims ownership of fixtures the opportunity to accompany me at the time of the inspection. The subject and the comparable sales relied upon in making said appraisal are represented by the photographs;

- To the best of my knowledge and belief, the statements contained in this appraisal herein set forth are true, and the information upon which the opinions expressed herein are correct, subject to the limiting conditions set forth;

- I understand the intended use of this appraisal will be in conjunction with the acquisition of right-of-way for transportation purposes by the State of New York with the assistance of Federal and State funding sources;

- Such appraisal has been made in conformity with appropriate laws, regulations, and policies and procedures applicable to appraisal of property for such purposes; and to the best of my knowledge no portion of the value assigned to such property consists of such items which are non-compensable under appropriate established law;

- Neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the development or reporting of a predetermined value, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal;

- I have no direct or indirect present or contemplated future personal interest in the subject property or in any benefit from the acquisition of the property appraised, and no personal interest with respect to the parties involved; I have no bias with respect to the subject property or to the parties involved in this acquisition; no one provided significant professional assistance to the person signing this report unless they are acknowledged;

- I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the New York State Department of Transportation or officials of the Federal Highway Administration and I will not do so until authorized by State Officials, or until I am required by due process of law, or until I am released from this obligation by having publicly testified as to such findings; and

- Therefore, my opinion of compensation for the acquisition as of ________________ is $______________, based upon my independent appraisal and the exercise of my professional judgment.

Date: ________________________
GENERAL ASSUMPTIONS AND LIMITING CONDITIONS: The certification of the Appraiser appearing in this appraisal report is subject to the following conditions and to such other specific and limiting conditions as are set forth by the Appraiser in this report.

1. The Appraiser assumes no responsibility for matter of a legal nature affecting the property appraised or the title thereto, nor does the Appraiser render any opinion as to the title, which is assumed to be good and marketable. The property is appraised as though under responsible ownership.

2. Any sketch in the report may show approximate dimensions and is included to assist the reader in visualizing the property. The Appraiser has made no survey of the property.

3. The Appraiser is not required to give testimony or appear in court because of having made the appraisal with reference to the property in question, unless arrangements have been previously made therefore.

4. Any distribution of the valuation in the report between land and improvements applies only under the existing program of utilization. The separate valuations for land and building must not be used in conjunction with any other appraisal and are invalid if so used.

5. The Appraiser assumes that there are no hidden or unapparent conditions of the property, subsoil or structures, which would render it more or less valuable. The Appraiser assumes no responsibility for such conditions or for engineering which might be required to discover such factors.

6. Information, estimates, and opinions furnished to the Appraiser, and contained in the report, were obtained from sources considered reliable and believed to be true and correct. However, no responsibility for accuracy of such items furnished the Appraiser can be assumed by the Appraiser.

7. Disclosure of the contents of the appraisal report is governed by the Bylaws and Regulations of the professional appraisal organizations with which the Appraiser is affiliated.

8. Neither all, nor any part of the content of the report, or copy thereof (including conclusions as to the property value, the identity of the Appraiser, professional designations, reference to any professional appraisal organizations, or the firm with which the Appraiser is connected), shall be used for any purposes by anyone but the client specified in the report, without the previous written consent of the Appraiser, nor shall it be conveyed by anyone to the public through advertising, public relations, news, sales, or other media, without the written consent and approval of the Appraiser.

9. On all appraisals, subject to satisfactory completion, repairs, or alterations, the appraisal report and value conclusion are contingent upon completion of the improvements in a workmanlike manner.

10. The property is assumed to be free and clear of environmental contamination or other adverse conditions that are not apparent during the property inspection.

11. The Appraiser’s opinions and conclusions set forth in the report may not be understood properly without consideration of additional information in the appraiser’s work file.
INTENDED USE OF APPRAISAL: This appraisal will be used in conjunction with the acquisition of right-of-way for transportation purposes by the State of New York with the assistance of Federal and State funding sources.

INTENDED USER OF APPRAISAL: This report is intended for use only by the New York State Department of Transportation (NYSDOT) and the Federal Highway Association (FHWA).

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market’s reaction to the financing or concessions based on the Appraiser’s judgment.

This definition of Market Value is found in 12 CFR Part 34.42(g).
APPRAISAL PURPOSE:
The purpose of this appraisal is to estimate the legally compensable damages as a result of the acquisition.

SCOPE OF APPRAISAL:
In accordance with the Uniform Standards of Professional Appraisal Practice (USPAP), the appraiser made a physical inspection of the subject; researched and analyzed relevant municipal data; researched and analyzed relevant sales data; and performed a suitable approach to the valuation of the subject.
Approaches to Value: In establishing the values employed in this report, the Income, Cost and Sales Comparison Approaches were considered for the purposes of determining value. Principal reliance and compelling support are found in the Sales Comparison Approach to value. Acquisition affects primarily vacant land; therefore, the Cost Approach and the Income Approach are not applicable. However, the Cost Approach will be used if necessary to value any site improvements.

DESCRIPTION OF SUBJECT PROPERTY:

HIGHEST AND BEST USE:

DESCRIPTION OF ACQUISITION:

EFFECT OF ACQUISITION:
### VALUATION DATA

#### VALUE OF ACQUIRED LAND:

<table>
<thead>
<tr>
<th>Map</th>
<th>Parcel</th>
<th>Area</th>
<th>Type</th>
<th>Unit Value</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>SF/Acre</td>
<td>FEE</td>
<td>$/SF x SF = $127.15</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>SF/Acre</td>
<td>PE</td>
<td>$/SF x SF x 90% = $83.96</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>SF/Acre</td>
<td>TE</td>
<td>$/SF x SF x 10% = $7.92</td>
</tr>
</tbody>
</table>

REFERENCE: See Comparable Sales Attached

#### VALUE OF ACQUIRED IMPROVEMENTS:

- Total: $0

REFERENCE:

#### SEVERANCE DAMAGE:

Yes ( )    No ( )

REFERENCE:

#### COST TO CURE (IF APPLICABLE):

Total: $0

REFERENCE:

#### ANALYSIS OF DAMAGES

1. Direct Damages  1. $  
2. Indirect Damages 2. -0-  
3. Cost to Cure (if applicable) 3. -0-  
4. Rental Value of T.E. 4. -0-  

APPRAISED COMPENSATION: $

#### OWNER GIVEN OPPORTUNITY TO ACCOMPANY APPRAISER:

#### EFFECTIVE DATE OF VALUATION: DATE OF APPRAISAL:

#### APPRAISER:

(name), (title)

APPRAISAL CHECKSHEET BY: Date: ____________________________
7.1 PROPERTY SKETCH
[NOT TO SCALE]

Reputed Owner:

Total Map Area:

Subject Property Area:

Map: Parcel:

Property Location:
SUBJECT PHOTOGRAPHS

**INSERT PHOTO**

LOCATION:  
VIEW:  
SHOWING:  
DATE:  

**INSERT PHOTO**

LOCATION:  
VIEW:  
SHOWING:  
DATE:  

PIN   (PROJECT NAME)  
REPUTED OWNER:  
PHOTOS TAKEN BY:  

MAP
Attachment 9

19 NYCRR Part 1106 Uniform Standards of Professional Appraisal Practice

NEW YORK CODES, RULES AND REGULATIONS

TITLE 19. DEPARTMENT OF STATE
CHAPTER XXXI. BOARD OF REAL ESTATE APPRAISAL
PART 1106. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

19 NYCRR § 1106.1

All Appraisal Reports are required to be compliant with current USPAP guidelines. The website for the latest Appraisal Foundation’s USPAP edition, which is posted/updated every two years, is:

http://www.uspap.org/

All appraisal work has to comply with these procedures to be considered acceptable by NYSDOT. If you are a licensed or certified appraiser in the State of NY, all of your reports have to be USPAP compliant.

Attachment 10

Hypothetical Scenarios

NOTE: To access and download the online files: https://www.dot.ny.gov/business and click on ‘Consultant Service Opportunities’, then click on the ‘Opportunities’ tab.
Attachment 11

Questions and Answers

RFP MAIN BODY:

RFP General:
Q1. Is there any danger in sending off the proposal early (in the next 2-3 days) before the deadline?
A1. No. NYSDOT encourages firms to submit proposals early.

Q2. If you have early submissions to the RFP will you be processing them as received or wait till all are in?
A2. For full proposal evaluation purposes: No, NYSDOT will wait until they are all in; for pre-screening purposes: yes, NYSDOT can open and check content to ensure a complete proposal has been submitted with time left to submit any missing information.

Q3. What is the purpose of the deadline for the RFP if other firms can be added to the list after that date?
A3. It is necessary to re-establish NYSDOT’s list of certified Appraisers as complete as possible and as soon as possible. The allowance for additions to the list is mainly to provide for situations such as when Appraiser firms split-up or change firms or when new firms are created etc. In addition, NYSDOT administratively prefers to progress as many of these new agreements as possible under the RFP process.

Q4. Are corporations being certified as contractors or the individual appraisers?
A4. Appraisal certification is required at the Appraiser level. NYSDOT seeks responsible and responsive Appraisal Firms, ones who offer NYS Department of State certified and NYSDOT certified Appraisers and offer fair, reasonable and competitive appraisal task assignment job prices.

Q5. Can you give us a potential time frame when NYSDOT will give the next Appraisal certification exam? I need to know this answer to consider in preparing this Proposal because it affects how many employees I can consider to be available for DOT projects.
A5. NYSDOT is hoping to hold the next exam soon. For the purpose of this RFP, only NYSDOT certified and NYSDOS certified Appraisers are allowed. Please list Appraisers in need of NYSDOT certification in your proposal, to allow their formal inclusion once they’ve taken and passed the NYSDOT exam.

Q6. Is there a list of NYSDOT approved appraisers available?
A6. Not at this time. The RFP does promise NYSDOT releasing the list of certified Appraisers in the future.

Q7. Which NYSDOT Regions are the busiest as far as appraisal activity is concerned?
A7. There is no answer to that question as it constantly varies.
Q8. How are modifications to the RFP issued? Directly to individual appraisers via email or on the DOT website? 
A8. Any future modifications to NYSDOT’s Appraisal Services RFP shall be posted to its website. All firms formally expressing interest (or currently holding a NYSDOT Appraisal Service contract) shall receive an e-mail letting them know that an update to the RFP has been posted to NYSDOT’s website, instructing firms to visit that website to download the files (RFP Modifications, announcements, etc.). NYSDOT prefers not to e-mail documents to firms during the consultant selection stage of the RFP process (treats all firms fairly and equitably; e-mail transmission issues due to large sized attachments, etc).

RFP Section 3 Scope of Services:
Q9. You indicated that only new firms have to provide work examples, etc. If our firm had a contract 4 years ago, are we considered a new firm?
A9. Just having a contract does not mean we have work samples. If your firm routinely does appraisal work for NYSDOT, then we can assume we have work samples and it would not be necessary to submit additional samples. Submitting work samples from a firm with an old, expired NYSDOT contract is allowed.

Q10. Will all of the tasks require being done under the Federal Rule, since there is Federal Aid involved? On the Federal Rule question, I was referring to the fact that there are different ways to handle a property if it falls under the Federal Rule.
A10. The appraisal work is to be done to USPAP guidelines. NYSDOT compensates according to the NYS rules vis-à-vis what is compensable. When Federal Rule needs to be followed, (which is rare – usually for 6F or Federal Park Lands), such will be identified in the task assignment request (bid proposal request).

Q11. Since you are now following USPAP, why don't you get away from the term value finding report and call it a Restricted Report so that the terminology is correct?
A11. The USPAP will change for 2014 going from three choices of titles to two choices. Report titles may change when that is determined. All Appraisal Firms with current NYSDOT contracts will be kept informed. The RFP has been updated to state that the report title is to be: Value Finder/Restricted Appraisal Report.

Q12. How do you propose we obtain the setback of the building improvements?
A12. You would scale it off the map or obtain the information directly from the surveyor. In this case please scale it off the map (Attachment 10). Assuming your question pertains to the commercial example, just assume it involves a “Before and After” report.

Q13. The RFP indicates that each sale needs a sketch of the setback of building improvements
A13. Yes, setback distances should be shown in sketches as necessary.

Q14. If I did the original project appraisal, will NYSDOT still be putting the court appraisal assignment out to competitive bid?
A14. The award of an original appraisal task assignment request for a project does not express or imply that you will be selected to do any required follow-up court testimony appraisal work. The court appraiser will be individually picked or bid out at the discretion of the region and or AG’s Office.
Q15. The RFP is missing a significant aspect of the appraisal process when court testimony is required. In the preparation of the appraisal a mix of staff and labor rates apply; but with court testimony you are dealing with a skill set that has one rate for a highly qualified professional.

A15. Court testimony is not part of the samples in this RFP process. Court testimony will be separately bid out (via the task assignment process).

Q16. Are Market Data Brochures to be prepared for projects as in the past?
A16. Yes, 10 or more unless otherwise instructed.

Q17. If Value Finder Reports are included in the original project and damages are found to exceed $50,000, will NYSDOT approve amendment to cost for change of report type to a full report?
A17. The threshold has been increased to $50,000. This is open to discussion in each individual assignment, however, it must be agreed upon prior to starting the report.

RFP Section 4 Proposal Format and Content Requirements:
Q18. Are the sample reports for appraisers required to be performed for DOT or can they be for the private sector?
A18. If you are a firm that has completed work for us before you need not submit. If you have not done work for us before please send sample of whatever work you have, one which best represents your work.

Q19. Can we skip the labeled tabs if we have a very good Table of Contents?
A19. To facilitate proposal evaluation, NYSDOT requires labeled tabs.

Q20. Is it true that the Spiral Binding is unacceptable and that the 3-Ring Binder is a must?
A20. NYSDOT requires that technical and cost proposals be bound and accepts spiral binding. 3-ring binders allow easier substitution of replacement proposal pages (should that need occur, which is not common). NYSDOT can find another way to insert replacement pages for spiral bound proposals.

Q21. Should we include the draft contract with the proposal? Should we include Attachments 2, 3 and 4 with the proposal?
A21. Do not include the draft contract in your proposal submission. Submission of completed Attachment 2 is required and submission of completed Attachment 3 is mandatory. Attachment 4 is information only for selected firms (required during contract execution).

Q22. Can the soft copy version of our proposal on CD be submitted on a external/flash drive instead?
A22. Yes: either mode is acceptable.

Q23. Do you have to submit your insurance certificate with the proposal?
A23. No. Submissions of insurance certifications are due during early contract execution (after consultant selection).
RFP Section 5 Proposal Evaluation Process:
Q24. Is distance from the appraiser's office still a part of the process in determining which region you get accepted for?
A24. No.

Q25. Will the fact that I have 3 people waiting to take the exam adversely affect the grading of my firm's qualifications because they aren't DOT-approved?
A25. Generally, no. These people can be added after they've taken and passed NYSDOT exam.

Q26. Are the proposed price evaluated on a total basis or on a price/hour basis? How do you factor in the estimate of time (hours) that the job is estimated to take into your evaluation?
A26. NYSDOT is seeking an all-inclusive price for the total job. Derivation of how this fee was arrived at is welcomed.

ATTACHMENT 1 Draft Contract:
Q27. Do you have a link to a sample of the C218 insurance form? What is the C218, a worker's comp insurance, or something else? Can you elaborate on the insurance certification? Will you be posting the insurance providers that have been willing to comply with your form requirements?
A27. NYSDOT C218 insurance certification form is available from its website via: https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions (scroll down to ‘Insurance Requirements and Forms’). In addition to requiring all selected consultant to certifying carrying both Worker’s Compensation coverage as well as Disability coverage, the C218 form certifies that the selected consultant is carrying those insurance policies required in the draft contract. Insurance coverage guidance is attached (below).

Q28. On pages 75 & 76 there are forms that have a column indicating O*Net Employment Category and Title. What is this?
A28. O*NET is a national resource which lists titles/like titles by labor category, and can be accessed via: http://www.onetonline.org/find/family?f=0&g=Go (for Form A, use: 13-2021 ‘Appraisers’). This resource is used to fill in estimates of labor while under NYSDOT’s contract (to be more fully explained during contract negotiations).

Q29. How does one access the acceptable insurance form (NYSDOT C-218) for our broker to sign?
A29. NYSDOT urges firms who get new Appraisal Services agreements for NYSDOT to seek and find a broker who is willing to sign NYSDOT C218 insurance certificate form. On an individual case-by-case, should a firm be unable to obtain a willing broker, NYSDOT may share a list of brokers who have in the past.

Q30. At the moment, I am unclear about the insurance requirement, i.e., no accord forms. I will probably have additional questions but can you clarify
A30. Acord insurance certification forms are no longer acceptable to NYSDOT. NYSDOT now only accepts its own insurance certification form C218.
ATTACHMENT 10 Hypothetical Scenarios:

Q31. Regarding Maps 1 & 2, it does not address the potential impacts from the TE as it does the Fee, either only direct or possibly indirect. This would impact a proposed fee based on our preliminary look at the property etc. Are we to just assume one or the other?

A31. Map 1 shows a FEE that will essentially eliminate 3 parallel parking spaces along the curb line. As stated, the buildings have the minimum zoned required parking prior to the acquisition. The TE is merely for work space. As stated in the proposal a “before & after” appraisal is required to determine what damages have been incurred by the subject property. A sales comparison and income approach need to be included. Essentially this is a request for a bid that requires a B & A report which includes a sales and income approach to value.

Q32. Map 3 requires a Value Finder report. There is no indication of whether Maps 1-2 should be in a Summary of Self-contained report format.

A32. Asked and answered, self contained “before & after.”

Q33. To ensure all parties are on the same footing in the hypothetical bids can you have all parties assume they have no data and all work will require original research?

A33. Yes on the commercial bid. The residential bid assumes (as written in the sample) that this Map is included in a string of value finders. The intent for estimating the value finder was to determine the total minimum price a firm is willing to do for this basic report.

Q34. Regarding those hypothetical bids, are we to assume the matter will require court testimony?

A34. Unless a task assignment request specifically requires such. For the RFP’s hypothetical assignments, court testimony is not required.

Q35. Did you say that the fee quote for the task assignment should include the fees associated with court testimony? If so, each job would have to be quoted under the presumption that it will go to trial.

A35. No, NYSDOT is not seeking court testimony services and prices via the responses to Attachment 10’s hypothetical scenarios. These are typical jobs and are not to be prepared for trial. No appraisals are for Court unless specified as such (in a future task assignment request once under contract).

Q36. Form 444 shows columns for Hourly Rate, Total Hours and Total Fee. I thought you were only looking for a total fee for each assignment. Why do we have to break it down into hours and hourly rate? For Form 444, is the break down of hours and hourly rates the only description you want to see or are you looking for a more detailed analysis of how the entire fee is calculated?

A36. While NYSDOT is not looking for a more detailed analysis as part of the normal task assignment selection process (ie, after NYSDOT’s new Appraisal Service contracts have been approved), since NYSDOT shall be evaluating hypothetical responses from a price and technical basis, it is suggested that for these responses only that a firm show how its total job price was determined (helps NYSDOT to determine the firm knows what it’s doing).
Q37. Is the type of report for Bid Proposal Maps 1 and 2 to be in a Self-contained or Summary report format?
A37. Self contained format.