REQUEST FOR PROPOSALS
STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT
Contract #C037712

Tentative RFP Schedule:
NYSDOT will attempt to adhere to the following tentative schedule with regard to progressing this solicitation:

- **RFP Release Date:** March 16, 2018
- **Pre-Proposal Webinar:** March 22, 2018
- **Question Submittal Deadline:** March 30, 2018
- **Answers/RFP Modification #1 Due:** April 5, 2018
- **Proposals Due:** April 20, 2018 by 2:00PM Eastern Time
- **Proposal Evaluation:** April 23-May 2, 2018
- **Recommendation & Designation:** May 4, 2018
- **Contract Finalizing:** May 2018
- **Contract Award:** August 2018 (October 1, 2018 start date)

1: Note: NYSDOT may open a second Q&A round, with possible extension of the scheduled proposal due date.

Inquiries and Information/ Designated Contact Person
Potential responders are advised that under New York State’s procurement lobbying law (state finance law section 139-j), communications regarding NYSDOT’s RFP #C037712 can be made only to the following sole designated contact person:

Al Hasenkopf, Contract Mgt Specialist II
New York State Department of Transportation
Contract Management Bureau
50 Wolf Road, 6th Floor
Albany, NY 12232, USA
Email: alfred.hasenkopf@dot.ny.gov
Phone: 518-457-1560

All questions concerning this solicitation must be directed only to the RFP’s designated Contact Person. The last date to submit questions for this solicitation is **March 30, 2018**. NYSDOT is not obligated to respond to any late questions (questions submitted after the question submittal deadline). However, NYSDOT may choose to respond to late questions should doing such be in the best interest of the state. Responses to all questions of a substantive nature, as well as copies of the questions, will be posted to the NYSDOT web site.
Pre-Proposal Webinar:
NYSDOT will hold a Pre-Proposal Webinar, where remote participation is optional yet recommended. The agenda shall be going over the RFP and its attachments, and highlighting what’s changed since the RFP was first issued. Questions can be submitted in advance as well as electronically via the webinar. The Pre-Proposal Webinar shall be held on March 22, 2018 at 10:00 AM. To register for the webinar, please contact: alfred.hasenkopf@dot.ny.gov.

NYSDOT will record the webinar. Answers provided at the webinar shall be recorded; some questions may have to be deferred. Answers to all substantive questions shall be publically posted onto NYSDOT’s website under this solicitation, and all parties notified via announcement. Email notices shall be sent to the email addresses of all parties who officially register their interest in NYSDOT’s RFP #C037712. Only written answers posted on the NYSDOT website will be official. Questions that address possible conflicting information in this RFP will be resolved via formal Modification to this RFP and posted on the NYSDOT website, with all firms expressing interest being notified via email. To be deemed responsive, all firms offering proposals are required to acknowledge receipt of any and all RFP Modifications in writing (by submitting the one-page acknowledgement response form included in the RFP Modification document).

RFP Modifications:
NYSDOT will issue at least one modification to this RFP to release answers to questions and release the list of interested parties. NYSDOT reserves the right to modify conditions or requirements of this RFP with sufficient notice given to all potentially interested parties. All public information releases regarding NYSDOT RFP #C037712 shall be posted to the NYSDOT website (https://www.dot.ny.gov/portal/page/portal/doing-business/opportunities/consult-opportunities). Firms who express interest in this RFP shall receive an email alerting them to each new RFP information release. Firms are advised to regularly check for releases of new RFP information. The final Modification will be posted on NYSDOT’s website not later than ten business days prior to the proposal due date – acknowledgement of receipt of any and all RFP modifications is a mandatory requirement. If any additional modification is required within that ten-day window, the Proposal due date shall be revised such that there will be seven days from the final Modification to the Proposal due date and all parties shall be notified.

Minority and Women-Owned Business Enterprise Participation:
NYSDOT has established a 30% combined MWBE participation goal for Contract #C037712. Please visit the Empire State Development MWBE Directory for certified MBEs and WBEs via: https://ny.newnycontracts.com/?TN. See RFP Section 4 for more information.

Service-Disabled Veteran-Own Business (SDVOB) Participation:
NYSDOT has established an 6% SDVOB participation goal for Contract #C037712. For a listing of current certified SVDOBs and information on how a firm can become certified as a SDVOB, please visit the New York State Office of General Services SDVOB website: http://ogs.ny.gov/core/sdvoba.asp. See RFP Section 4 for more information.

NYSDOT has Equal Employment Opportunity – Pay Equity:
In accordance with New York State Executive Order 162, issued on January 9, 2017, the selected Consultant shall provide workforce utilization reports in accordance with Article 49 in Attachment 17 RFP Draft Contract.
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 NYSDOT will affirmatively ensure 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.
RFP RESPONSE FORM

RFP #C037712 for Statewide Drug and Alcohol Testing Services

Please review this RFP, complete the following information, and email 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 (Attachment 8) 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):
_______________________________________________________________________
_______________________________________________________________________
_______________________________________________________________________

Date: _______________

Typed Name and Title: ________________________________

Telephone: ___________________ Fax: ___________________

Email Address: ________________________________

If you are interested in this opportunity, please complete this RFP response back form and email to: alfred.hasenkopf@dot.ny.gov. Thank you.
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1 INTRODUCTION

1.1 Purpose
The New York State Department of Transportation (NYSDOT; the Department) is seeking responsive proposals to select a responsible Consultant to provide statewide drug and alcohol testing services for an already established and highly functional drug and alcohol testing program.

1.2 Background
The New York State Department of Transportation (NYSDOT) is responsible for the repair and maintenance of approximately 42,000 lane miles of highways throughout New York State including operating an annual snow and ice control program to preserve and ensure the safety of the state highway system and to assure the mobility of the traveling public. At the operational level, these programs are carried out by 5,000 Transportation Maintenance Division (TMD) employees, approximately 4,500 of whom must possess and maintain a Commercial Vehicle Driver’s license (CDL), as a requirement of their positions.

In addition, NYSDOT employs approximately 300 mechanics who repair and maintain an equipment fleet of about 15,000 vehicles and other pieces of equipment. The mechanics must also possess and maintain a CDL.

There are also about 120 employees in regulatory, inspection, or other job categories, which results in their coverage under OTETA.

The employees in the categories described above are represented by public employee unions, either the Civil Service Employees Association (CSEA) or the Public Employees Federation (PEF). The large majority of NYSDOT employees subject to the testing requirements of OTETA are represented by CSEA. The consultant selected as a result of this solicitation may be required to respond to union inquiries in the labor management meeting process regarding the testing protocols, procedures and technology.

The completion of the first two years of alcohol and drug testing of the safety-sensitive employees in the New York State Department of Transportation occurred during 1995 and 1996. This action brought the Department into full compliance with the Federal Omnibus Transportation Employee Testing Act of 1991. Procedures and guidelines were established to administer mandated drug and alcohol testing to approximately 4,500 employees.

The percent of positives during the first two years was below 3%. The Department focused on an intensive evaluation and treatment plan for violators tied to appropriate disciplinary action. The Department worked closely with CSEA and PEF at all stages of the process. We have found that through these cooperative efforts, the Department's safety-sensitive workforce has been provided with a healthier and safer workplace.

In addition, the collective bargaining agreements covering the employees described above provide prescribed administrative due process procedures, which will require best evidence testimony in disciplinary arbitration hearings by the selected consultant's employees or sub-contractors who either collected the sample at issue or performed the sample analysis.

1.3 Common Terms and Acronyms
OTETA Omnibus Transportation Employee Testing Act
2 PROJECT AND CONTRACT OBJECTIVES

2.1 Project Objectives

NYSDOT has approximately 4,500 employees who report to approximately 300 work locations throughout New York State, excluding the five boroughs of New York City. Sample collection will occur at either the NYSDOT worksite or a designated collection site within a 30-mile radius of NYSDOT worksites (Attachment 18) for all types of required alcohol and drug tests (random, follow-up, pre-employment, reasonable suspicion/cause and post-accident). Testing must be accomplished in full compliance with the provisions of the Omnibus Transportation Employee Testing Act of 1991 (OTETA), as administered under the authority of the U.S. Department of Transportation (USDOT) by the Federal Motor Carrier Safety Administration (FMCSA) and is incorporated herein (49 CFR Parts 382 ‘Controlled Substances and Alcohol Use and Testing’ (Attachment 15), 49 CFR Part 40 ‘Procedures for Transportation Workplace Drug and Alcohol Testing Program’ (Attachment 16) and NYSDOT’s Drug Free Workplace Policy and Omnibus Transportation Employee Testing Act (OTETA) Compliance (Attachment 17).

Although NYSDOT will consider worksite collection and/or designated collection site drug and alcohol testing services for our regions/residencies, NYSDOT anticipates making only one (1) award as a result of this solicitation. Proposers may sub-consult or form teaming arrangements in order to provide all necessary services and/or both types of testing services (worksite/designated collection site).

In consideration of the above narrative, the following are the objectives for this project:

1. To hire a responsive, responsible, experienced, knowledgeable and qualified Consultant.
2. For the selected Consultant to accept the RFP’s Scope of Services as is.
3. To comply with OTETA drug and alcohol testing in the most efficient and effective manner; to fully meet the intent of the Act and to meet the minimum requirements of the Act.
4. To preserve the integrity and quality of the current NYSDOT drug and alcohol testing program for the term of the agreement and during any transition with a new NYSDOT third party administrator (the next, new OTETA contract award).

2.2 Contract Objectives

The Contract Objective for this solicitation is to select a responsive and responsible consultant (or team of consultants) via a fair and equitable Best Value Request for Proposal process.

CONTRACT TERM: The base term of this contract will be for FIVE (5) Contract Years commencing from the contract start date, with ONE (1) optional 12-month contract term extension, depending on performance, project need and funding availability. Work will commence on October 1, 2018.
PRIORITY: Provision of NYSDOT’s Statewide Drug and Alcohol Testing Services is mission critical.

CONSULTANT ARRANGEMENTS: The resulting contract shall be between NYSDOT and the selected Prime Consultant. The Prime Consultant shall be responsible for completion of all agreed-upon services. NYSDOT will only contract with one (1) responsive and responsible Prime Consultant, who will be the sole contact with regard to all provisions of delivering the System project under Contract #C037712. If the Consultant’s selected solution includes sub-consultants, the Consultant under contract will be the Prime Consultant who must assume full responsibility for all aspects of the project, including performance and completion of all subconsultant work. All necessary communications will be directed from NYSDOT to the Prime Consultant (Project Manager). The Prime Consultant is responsible for offering qualified sub-consultants with competitive rates/costs. NYSDOT seeks a total solution, and consultants are encouraged to partner to provide the required services and to meet the contract’s 30% combined MWBE participation goal and 6% DSVOB goal. Proposers must name a lead firm as the Prime Consultant that will serve as the legal contracting entity for the project period. If the proposal includes products or services from any other participating vendors, it is understood that those vendors will serve as sub-consultants to the Prime Consultant. **Joint ventures are not allowed.** For the purpose of evaluating proposals and developing the resulting agreement between NYSDOT and the Prime Consultant, all contributions to the project by the Prime Consultant and sub-consultants, including skills, attributes, and products, will be considered as a total solution put forth by a single proposer.

MWBE GOAL: Meet or exceed the combined 30% MWBE participation goal over the life of the contract by the firm being awarded a contract via this RFP or receipt of acceptable good faith effort documentation should the goal not be met.

DSVOB GOAL: Meet or exceed the 6% percent Service Disabled Veteran-Owned Business Program participation goal over the life of the contract by the firm being awarded a contract via this RFP or receipt of acceptable good faith effort documentation should the goal not be met.

**CONTRACT TERMS and CONDITIONS:** To enter into a contract with a responsive and responsible Consultant who, after being given sufficient time to review and opportunity to ask questions prior to proposal submission, accepts all of the terms and conditions in the RFP’s draft Contract (Attachment 11).

### 2.3 Contract Terms and Rate Adjustments

The Department estimates that the work for the successful consultant will commence October 1, 2018. The base term or duration for the contract is five years. The contract may be extended for one additional year upon written agreement of both parties and approval by the Office of the State Comptroller.

Rates and fees are to be offered for Contract Year One through Contract Year Five. If the contract is extended for the optional sixth year, or if any Extra Work is to be added to the contract, or if any material changes must be made to the agreement’s scope, schedule and budget after award, then the Producer Price Index (PPI) as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 2%, whichever is lower, will be used as a basis for adjusting rates and fees under the resulting Contract. The rate adjustment will be effective on the Effective Start Date of the Contract or January 1st (whichever is in the State’s best interest) and calculated using the previous available final (usually September) Index, using Series ID PCU5413--5413--(Architectural, engineering, and related services [http://data.bls.gov/timeseries/PCU5413--5413--?data_tool=XGtable](http://data.bls.gov/timeseries/PCU5413--5413--?data_tool=XGtable)). If at any time the above Index Series ID is discontinued or becomes unavailable, the State reserves the right to implement a comparable Index.

An example of the rate adjustment calculation is as follows (all numbers and titles used are for illustrative purposes only):

| QAT-2 Auditor 1/1/12 - 12/31/12 Billing Rate | $9.00/Hour |
October 2012 PPI Index (PCU5413--5413--)  
October 2011 PPI Index (PCU5413--5413--)  
Index Point Change  
Divided by previous Index  
Percent change, rounded to nearest tenth  
QAT-2 Auditor 1/1/13 – 12/31/13 Billing Rate ($9 x 1.016)  

132.1  
130.0  
2.1  
130.0  
1.6%  
$9.14/Hour

If the actual start of the contract is substantially different than the contract’s effective start date, then the effective date for the rate adjustment will be identified and agreed-upon by both parties.

The State reserves the right to request zero percent rate increases for the optional one-year extension, depending upon need and current market conditions.

3 SCOPE OF SERVICES

3.1 Tasks
The selected Consultant shall provide to NYSDOT all drug and alcohol testing services required to achieve compliance with all requirements of OTETA. The services sought are enunciated as follows:

1. Continuation of NYSDOT’s established and highly functional drug and alcohol testing program;
2. Timely notification of all updates/amendments to 49 CFR Part 382 and Part 40;
3. Pre-employment drug tests for approximately 500 new employees each year (including employees who move into safety-sensitive positions requiring testing);
4. Random alcohol tests for at least 10% of the covered NYSDOT population each year, i.e., approximately 450 employees;
5. Random drug tests for at least 50% of the covered NYSDOT population each year, i.e., approximately 2,300 employees;
6. Direct Observe return to duty tests;
7. Direct Observe follow-up tests required after employee's positive result and return to duty;
8. Post-accident tests, which are anticipated to number less than five (5) per year within the time limitations, set forth in regulation;
9. Reasonable suspicion tests, which are anticipated to number less than 10 per year;
10. Generate quarterly regional random selections and notify the NYSDOT Program Coordinator of selected employees using an established system;
11. The NYSDOT Program is to be performed at the worksite(s). The selected Consultant shall provide a subcontractor who will perform these services, as needed, 24 hours a day, 7 days a week, 365 days a year;
12. Continue the mechanism for employee identification and replacement in the random pool;
13. Continue the method by which managers, supervisors and employees are notified of the employee’s selection for testing;
14. Provide specific instruction/information, as necessary, on how testing will be conducted at the collection/test site, ensure process is followed and immediately resolves any issues that may arise;
15. Maintain timeframes for receiving results;
16. Provide a complete listing of mobile and collection site services providing (24 hours a day, 7 days a week, 365 days a year) on-site (NYSDOT worksites) and/or collection site specimen collections and alcohol tests in the network developed to meet the terms of this Agreement. This information will be used by NYSDOT, in collaboration with the Third-Party Administrator, in continuing policies and procedures specific to particular regions/divisions;
17. The selected Consultant will provide 24 hours a day, 7 days a week, 365 days a year onsite collection services at NYSDOT worksites unless the NYSDOT Coordinator determines that circumstances warrant the use of offsite collection services. The onsite/offsite decision will be based on variables such as:
   a. The number of covered employees in a particular county or at a particular worksite selected through the random process;
   b. Time of year, weather conditions, work schedules; and
   c. The accessibility of off-site services, if necessary;

18. In conformance with OTETA requirements, the services of a Medical Review Officer or Officers (MRO) shall be provided. The MRO(s) shall be a licensed physician(s) certified by one or more of three recognized MRO authorities: the American Association of Medical Review Officers, the American Society of Addiction Medicine or the American College of Occupational and Environmental Medicine;

19. Personal appearances at administrative hearings by individuals, who collected the specimen samples and/or who analyzed the samples, for the purpose of providing testimony;

20. Monthly reports providing details on process and results for each category of testing. The proposal must include samples of all reports and forms to be utilized. The documents must comply with OTETA requirements;

21. Consultant Project Director and OTETA Compliance Staff to confer on a regular basis for the purpose of continuous improvement of the compliance process: by telephone, at least monthly; in person, at least yearly in NYSDOT's Main Office, 50 Wolf Road, Albany, New York 12232;

22. Develop a method to ensure smooth transition of the current NYSDOT web based record keeping system. This system is used by the present Third-Party Administrator to create, update as necessary, and maintain the candidate pool (by NYS Employee ID Number) for random testing. The system is also used to create a permanent record of each employee's OTETA drug and alcohol testing history. NYSDOT OTETA Compliance Program staff will provide the Third-Party Administrator with the NYSDOT OTETA Employee Database from which the Third-Party Administrator system will generate the candidate pool and the random samples;

23. If current system is not used, then any substitute system must be compatible with the NYSDOT OTETA Employee Database. The NYSDOT OTETA Employee Database includes agency code, location, last name, first name, NYS Employee ID Number, training date, designated manager name, designated manager telephone number, designated manager fax number. The third-party administrator system, including all source code, shall become the property of NYSDOT upon completion of the contract;

24. The selected Consultant shall designate Substance Abuse Professionals (SAP), for the purpose of providing substance abuse professional services in accordance with OTETA regulations and to work with the NYSDOT Program Coordinator. The Consultant shall provide these services continuously over the term of the Agreement. The SAP(s) shall be a licensed physician (Doctor of Medicine or Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or a state licensed or certified marriage and family therapist, or a drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse), or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselors with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

3.2 Deliverables

Prior to the start of the contract, the consultant shall attend meetings with NYSDOT representatives to present its proposed work plan, and copies of all forms and record keeping systems necessary for
satisfaction of all OTETA requirements and other materials sufficient to satisfactorily demonstrate how the testing, record keeping and reporting will be accomplished.

All record keeping systems as well as all records shall be the property of NYSDOT and shall be delivered to NYSDOT upon termination of the contract.

3.3 Schedule
Schedules for all tasks will be determined and scheduled at mutually agreeable times between NYSDOT and the selected Consultant. Work tasks will be subject to NYSDOT approval and payments shall be paid under State Finance Law guidelines.

3.4 Project Organization
1. The Consultant shall prepare and submit a work plan, which will specify how the transition will be made from the current consultant while preserving the existing drug and alcohol testing program.

2. The Consultant shall submit a listing of collection sites that will be used for the NYSDOT drug and alcohol testing program. A work plan shall also be submitted stating how the Consultant will maintain a relationship with collection sites concerning the method, means, and frequency of training for collection site technicians.

3. OTETA Compliance Program staff has been designated by NYSDOT to work with the Consultant. The staff will be available to answer questions and provide overall direction, but the Consultant will be responsible for obtaining necessary information and completing the tasks necessary for OTETA compliance in relation to drug/alcohol testing.

4. Regarding fee and project duration, proposers must provide rates for services in accordance with IV. Proposal Format and Contents, B. Part II: Cost and Contract Submittal. The term of the agreement is anticipated to be for a base term of five (5) years, from October 1, 2018 through September 30, 2023, with an option to renew for one (1) additional 12-month period.

The proposer must state in the cover letter with their submission that the firm meets the minimum qualifications for this RFP as outlined above. Misrepresentation of qualifications will be considered a basis for immediate rejection of a proposal from further consideration.

3.5 Project Scope of Services
The selected Consultant shall provide all of the requested services to produce all of the contractuallyrequired deliverables (and meet the requirements) specified in the RFP and all its referenced attachments to deliver statewide drug and alcohol testing services over a five-year time period. The Consultant shall perform all of the activities and tasks required to achieve the objectives, provide all the required services, and produce all required deliverables in a professional and competent manner that meets all of the project and contract objectives and performance criteria. All proposed services provided under the resulting contract shall be consistent with State and Federal laws and regulations and shall be appropriate and acceptable to NYSDOT’s management.

Each interested Consultant must become familiar with all of the RFP’s requirements. The main body of the RFP as well as its attachments provide details on specific requirements, consultant requirements and responsibilities, and other critical information needed for Consultants to submit responsive proposals to this RFP. Consultants are solely responsible for meeting all the requirements in this RFP prior to proposal submission. The asking of written questions before the deadline for submitting proposals is encouraged.

Submission of a proposal is an affirmation by the Consultant that its organization complies with all requirements and specifications set forth in this RFP and that its organization is capable of delivering statewide drug and alcohol testing services over a five-year time period in a manner consistent with the requirements and terms of this RFP and under the resulting contract.
The selected Consultant shall, at a minimum, be responsible to perform and deliver the following services over a five-year period:

1. Produce, develop, supply, and send forms and supplies necessary for the efficient, orderly and complete administration of the requirements of NYSDOT OTETA drug and alcohol testing program.

2. Maintain a current roster of all NYSDOT employees covered by OTETA requirements. This includes moving employees to and from winter locations in as many as 125 locations bi-annually.

3. Maintain system for verbally notifying managers of monthly, bimonthly, or quarterly employee follow up tests for approximately 40 employees.

4. Maintain system for random selection of employees at the following rates:
   a. Alcohol - 10% of NYSDOT employees covered by OTETA, approximately 500 per year.
   b. Drugs - 50% of NYSDOT employees covered by OTETA, approximately 2,300 per year.

5. Coordination of random alcohol and drug testing is encouraged in order to promote optimum sampling efficiency. Note that testing must be performed on a geographically distributed basis throughout the year, recognizing differences between NYSDOT scheduling of winter operations and those carried out during other seasons.

6. Maintain system of notifying individual managers at as many as 126 locations of quarterly random employee selections, first by confidential email, or by faxing selection to managers.

7. Develop a method of collecting urine samples from employees or prospective employees in full compliance with OTETA requirements and protocols to preserve a record of chain of custody to accomplish required tests in the following categories: random, pre-employment, pre-duty, reasonable suspicion, post-accident, return to duty and follow-up.

8. Establish a process to guarantee timely transmission of urine samples to the SAMSHA-certified laboratory designated to perform the analysis for that location. Such transmission must satisfy all requirements to preserve a record of chain of custody from the site of the urine collection point to the laboratory.

9. Develop a procedure for timely communication of results between the SAMSHA-certified laboratory and the MRO regarding individual positive results and between the MRO and OTETA Compliance Program staff.

10. Develop a method of alcohol testing using Evidential Breath Testing (EBT) devices which meet the guideline specifications of the National Highway Safety Administration conforming products list. Test procedures must conform to OTETA requirements and protocols to preserve the accuracy of the test results for employees in the following categories: random, reasonable suspicion, post-accident, return to duty and follow-up.

11. Develop a procedure for timely communication of positive breath alcohol test results between the BAT and the MRO and between the MRO and the NYSDOT OTETA Compliance Program staff.

12. Develop and maintain a record keeping system of all activities conducted in the performance of the contract including, but not limited to, creating a candidate pool for random selections and permanent records of test results by employee and by geographic location. Such records must be kept in accordance with the requirements spelled out in OTETA and such records are the property of NYSDOT and shall be delivered to NYSDOT upon termination of the contract.

13. Prepare and submit monthly reports on the results of all tests completed during the month by employee, location, and type of test.
3.6 Deliverable Acceptance Process

1. When the deliverable has been accepted, the Consultant will be so notified and they will submit an invoice via email to NYSDOT Project Manager(s). Signed invoice to follow in regular mail.

2. NYSDOT Project Manager(s) will forward the invoice to designated NYSDOT payment person along with a statement indicating that the deliverable fulfills contract requirements and has been accepted.

3. Designated NYSDOT payment person will then forward the invoice to Accounting for payment.

4. For all software-related deliverables, the Consultant’s RTM and the RFP’s requirements will be used to govern acceptance.

4 PROPOSAL FORMAT AND CONTENTS

4.1 General

For the purposes of evaluation, each proposal must be submitted in two parts with each part bound separately. The first part shall consist of the Technical and Management Proposal, and the second part is the Cost and Administrative Proposal. Each part of the proposal must be complete in order that the evaluation of both parts can be accomplished independently and concurrently. The Technical and Management proposal shall be evaluated strictly on the basis of its merits. Cost information is not to be included in your technical proposal. Technical and Management information is not to be included in your cost proposal.

Web links are only allowed if sufficient information is provided to specifically access the referenced information’. General or non-specific web links are not acceptable.

NOTE: NYSDOT will 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, if properly designated by an offeror. If an offeror believes information included in their proposal is confidential and proprietary, the proposer shall identify those page(s) of their proposal which contain such information as “confidential and proprietary”. Additionally, offerors need to explain the reason(s) why this information should be considered exempt from public disclosure under FOIL. This information is to be provided in the Cover Letter. Labeling each page of your proposal as confidential is not acceptable.

4.2 Consultant 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:

1. 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.

2. A copy of this opinion must be on file in the consultant’s office and available for review by NYSDOT if requested.

3. 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.
4.3 Proposal Submission
Your proposal must be received by NYSDOT in Contract Management Bureau’s 50 Wolf Road, 6th floor, Albany, New York 12232 address by 2:00 PM on April 20, 2018. Access to the building requires clearance through First Floor Security. NYSDOT is not responsible for late proposals due to shipping delays. However, should your proposal be on its way with a possible delay in its physical delivery, please as soon as practicable contact the designated RFP contact person.

4.4 Proposal Formatting
Questions regarding proposal formatting are encouraged. Please ensure the following proposal formatting rules are followed:

1. Proposals shall be submitted in three-ring binders. Do not submit proposals bound in any other way (e.g., stapled, spiral- or cloth-bound are not permitted).

2. Clearly label any attachment with the proposer’s name on a cover sheet that is firmly attached to the document. Also add the RFP name and contract number.

3. Clearly label any unattached documents with the proposer’s name on the cover page of the document. Also add the RFP name and contract number. It is preferred that each response section be separated by a labeled tab page.

4. Electronic or fax submission of proposals is not allowed.

5. Proposals must be printed on standard 8½ by 11-inch white paper. Pages can be printed double-sided. Color printing is allowed. Larger sized 11 by 17-inch ‘fold-outs’ are permitted (provided the binding does not prevent folding out).

6. Proposals must be organized in accordance with the format set forth in the RFP document (Tables 1 and 2, which NYSDOT shall use to pre-screen proposals for completeness and initial RFP responsiveness).

7. Proposal text should be 11 point font or larger, except where necessitated for readability of tables, figures, schedules, or special graphics. Twelve (12) point font is preferred. Please avoid printing schedules using fonts smaller than 8 point.

8. Proposals must be self-contained and not reference web links. If it is necessary to include web links, it is a response requirement that specific directions be provided regarding how to navigate within the website to access the referenced information. Failure to do this may result in a lowered technical score.

9. Illustrations that support the text must be simple and direct and be either sized to fit on 8½ by 11-inch paper or printed on 11 by 17-inch paper as long as the pages are folded to the 8½ by 11-inch size, and can be folded out from the bound spine of the document. Color illustrations and photographs must be reproducible in black and white without obscuring their distinctive information.

4.5 Technical Proposal Submission
Your technical proposal should follow the format listed below.

Table 1 - Technical and Management Submittal

| □ | Five (5) printed and bound complete hardcopies plus one complete PDF copy plus all constituent components in native MS Office 2016 compatible formats |
| □ | Securely sealed and clearly labeled with the consultant’s name, address, and telephone number and a label saying: RFP #C037712 Statewide Drug and Alcohol Testing Services’ Technical and Management Proposal |
Signed Cover Letter: Include the name, address and phone number of the proposer, and the names, titles, address, emails, and telephone number of person(s) with authority to negotiate the resulting contract. Identify those who prepared the response as well as those persons who may be contacted during the procurement process. Must be on official company letter head. Identify specific confidential and proprietary information. Cover letter must state that the firm is able to provide all services and meets all RFP requirements. Any Confidential and Proprietary information should be identified and addressed in the cover letter. Two-page limit.

Table of Contents: Identify the page numbers of all sections. Each section shall be divided or separated by labeled raised tabs. Submittal of documents external to your technical proposal are allowed (i.e., work samples) and such shall be referenced in your table of contents.

Submit an Approach. Provide an informative description of the proposed approach and work effort. Describe your overall approach for performing this effort and accomplishing project objectives. Provide a discussion on the important issues involved with the effort to achieve compliance with OTETA drug and alcohol testing, including enough substantive discussion to demonstrate an understanding of OTETA, NYSDOT project objectives and scope of services and familiarity with applicable requirements.

Your proposed approach should, when possible, be based upon practical experience implementing a program for compliance with OTETA in a governmental setting similar to NYSDOT, and should identify problems which may be encountered and propose solutions. Additionally, your proposed approach must demonstrate how quality assurance/quality control will be affected.

Coordination of random alcohol and other drug testing is encouraged in order to promote optimum sampling efficiency. For example, breath alcohol technicians might also collect urine samples. Testing must be scheduled on a geographically distributed basis throughout the year. Scheduling must take into account that NYSDOT highway maintenance operations are conducted around the o’clock on a 7 day a week 24-hour basis during Snow and Ice control season from November – March 31 each year.

Submit a Management Plan. Provide a management plan which identifies and describes the following items:

1. How the effort will be planned, directed and controlled.
2. Arrangements for, and coordination of sub-consultants. Present a plan to ensure accomplishment of the offered MWBE participation and SDVOB participation.
3. How personnel (including sub-consultants) will be phased into the effort over the life of the contract.
4. The anticipated relationship of NYSDOT management and staff to the consultant, and the responsibilities of each, including an overall explanation of what NYSDOT staff may be required, utilization and how all coordination between the consultant/vendor and NYSDOT will be achieved.
5. Reporting methodology and frequency.

Present an Organization and Staffing Plan. Include an organizational chart which identifies the proposing firm, any sub-consultants and all laboratories to be utilized. Provide the geographic location, days of week and hours of operation for such laboratories. Also include evidence of SAMSHA/NIDA certification for all laboratories which will perform sample analyses. Describe the quality control program(s) in place and how they meet OTETA (FMCSA) regulations.

Provide a detailed schedule in bar chart form which depicts the starting and completion times, in regard to the tasks required in transitioning the NYSDOT testing program from the current third-party administrator, and their relative sequence in time, in terms of weeks or months from the October 1, 2018 Notice to Proceed. The first NYSDOT Drug and Alcohol random selection will be conducted during the first month of new contract award. Identify milestones, including any proposed meetings, approvals, etc., which may be appropriate for the effort.
Complete and submit **Attachment 1: Firm Experience**. Inform NYSDOT regarding your direct prior experience in developing and conducting drug and alcohol testing programs mandated by state or federal legislation for other large employers regarding:
1. Implementation of existing drug testing (pre-employment, pre-duty, follow-up, random, return-to-duty, post-accident and reasonable suspicion) including, how testing will be provided 24 hours/day, 7 days/week, year round.
2. Implementation of existing alcohol testing for random, return-to-duty, post-accident, reasonable suspicion and follow-up including how post-accident and reasonable suspicion testing will be provided 24 hours/day, 7 days/week, year round.
3. Successful business practices with certified testing labs.
4. Transfer of existing records from current consultant third party administrator and the web based record keeping system, implementation and maintenance of record keeping and reporting system (including copies of sample reports and forms to be utilized). Experience involving primarily onsite collection, used in conjunction with multiple collection sites, in a wide geographic area would be most relevant.
Provide a profile, including information on whether the firm is local, regional or national. This section must indicate the length of time in business (including any previous names by which the company conducted business).

Complete and submit **Attachment 2: Key Personnel Experience**. Include resumes for all key personnel (including sub-consultants). Identify the project manager who will be responsible for communicating with NYSDOT on all project matters and percent of time project manager will dedicate to working with NYSDOT.

### 4.6 Cost and Administrative Proposal Submittal

Your cost proposal should follow the format listed below:

#### Table 2 – Cost and Administrative Proposal Submittal

<p>| | |</p>
<table>
<thead>
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<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Two (2) printed and bound complete hardcopies plus one complete electronic PDF copy plus each cost proposal section in native MS Excel 2016 compatible formats</td>
</tr>
<tr>
<td></td>
<td>Securely sealed and clearly labeled with the words: RFP #C037712 Statewide Drug and Alcohol Testing Services Cost and Administrative Proposal</td>
</tr>
</tbody>
</table>

**Cost Proposal:**

Complete and submit **Attachment 3: Cost Proposal**

**Administrative Section:**

Complete and submit the **Attachment 4: Procurement Lobbying Law Compliance Forms**

Complete and submit **Attachment 5: Consultant Information and Certifications (sign both Sections II and III): PRIME CONSULTANT ONLY**

Complete and submit Section I of **Attachment 5: Consultant Information and Certifications for EACH SUBCONSULTANT**

Complete and submit **Attachment 6: Diversity Practices Questionnaire**

Complete and submit **Attachment 7: MWBE Participation Information Form**

Complete and submit (if applicable) **Attachment 7A: MWBE Participation Solicitation Log AND Goal Attainment Explanation Letter**

Complete and submit **Attachment 8: SDVOB Participation Information Form**

Complete and submit (if applicable) **Attachment 8A: SDVOB Participation Solicitation Log AND Goal Attainment Explanation Letter**

Complete and submit **Attachment 9: New York Business Reporting**
4.6.1 Cost Proposal Submittal

NYSDOT requires that cost information be presented using RFP Attachment 3: Cost Proposal. The accuracy of calculations is the sole responsibility of the proposer. Should any questions arise pertaining to completing Attachment 3 and its instructions, please submit them to the designated NYSDOT contact person before the Question & Answer deadline.

The Cost Proposal shall set forth all lump sum fees for the provision of all RFP-required drug and alcohol testing service fees for the contract’s base five-year term; the Cost Proposal shall offer all fully-loaded hourly labor rates for expert testimony and substance abuse professional services again for the contract’s base five year term. The Cost Proposal shall also present the Grand Total cost of your proposal for the five-year base term of the contract.

The Cost Proposal will be evaluated to determine such matters as the reasonableness of costs for testing and testimony and the probable total cost to NYSDOT. It is also subject to use as the basis of any subsequent negotiations. Therefore, it is important that Cost Proposals be complete, accurate, consistent, and well documented. Any cost conditions or contingencies must be clearly stated.

Method of Payment: Method of payment shall be per Schedule B Schedule of Fees and Rates of the resulting contract. Payment will be based on the successful delivery of and acceptance of completed deliverables per Schedule A Scope of Services via the fees and rates contained in Schedule B of the resulting contract.

The selected Consultant shall designate a Billing Representative who will be responsible for resolving any invoicing issues during the term of the Contract. The cost for any Extra Work services shall be negotiated and agreed upon by both parties using the Agreement’s fixed labor rates and added to the agreement via formal supplemental agreement.

Requests for progress and final payments shall be made by the designated consultant on standard payment request forms (FIN 421). Use proper procedure for billing each deliverable: electronic submission of an advance draft billing to NYSDOT’s assigned Project Manager is recommended. NYSDOT has provided electronic billing information which is available via: https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions. The sample spreadsheet contains all of the proper, required billing forms, as well as a sample billing. The Project Manager will respond via email either with comments/corrections or with an approval to submit the final billing via signed hardcopy. The last and final payment will become due and payable within thirty (30) days after delivery of the final deliverable(s) and a completed, acceptable standard NYS FIN 421 payment request form.

All vendors are directed to register with the New York State Office of the State Comptroller to receive electronic payments per the Governor’s Directive.

4.6.2 Administrative Proposal Section Submittal Requirements

ATTACHMENT 4. Complete and submit Attachment 4 Procurement Lobbying Law Compliance Forms. Filing the two required forms is mandatory for all consultants in order to be considered for contract award. Failure to submit the required PLL forms with your proposal will result in elimination from consideration for contract award. Please call or email the individuals identified as the Designated Contacts of this RFP if you have any questions regarding how to complete this required form. For additional information, please see Attachment 4.
Per the Procurement/Lobbying Law of 2005, any person who wishes to contact NYSDOT regarding this project during the restricted period (i.e., from advertisement through designation), may only contact the RFP’s designated contact person. All proposers should become familiar with NYSDOT’s Procurement Lobbying Law Interim Guidelines and Procedures. The document is located at: https://www.dot.ny.gov/main/business-center/consultants/general-info then scroll down to ‘Procurement Lobbying Law Interim Guidelines and Procedures’.

**ATTACHMENT 5.** The Prime Consultant must complete all sections and submit Attachment 5: Consultant Information and Certifications. All signatures on each copy must be an original.

**Acceptance of Agreement Terms and Conditions:** Offerors shall include as Attachment 5 to this RFP, to indicate their acceptance of all of the terms and conditions contained in the draft Agreement (Attachment 13). Attachment 5 also requires the signature of an official authorized to bind the offeror to all of its provisions, a statement certifying that the proposal shall remain valid for at least 365 days, a statement that the firm accepts the RFP’s Scope of Services ‘as-is’, and a statement that, if awarded the contract, the offeror will comply with all the requirements of the RFP, including all of its attachments. Altering this form without the prior expressed written approval of the New York State Department of Transportation is prohibited and may lead to the proposal being deemed non-responsive and subsequently dismissed. No exceptions to any of the draft contract’s terms and conditions will be entertained by NYSDOT. Conditional bids will be deemed non-responsive.

In addition, complete and submit Section I of Attachment 5 for each proposed sub-consultant.

**ATTACHMENT 6.** Complete and submit Attachment 6. It is required that all firms report diversity practices information by completing the RFP’s Diversity Practices Questionnaire. NYSDOT evaluates the diversity practices of primes to ensure that certified minority and women-owned businesses are given the opportunity for maximum participation in state contracts. Diversity practices are a legal requirement and may include past, present or future actions and policies which show interaction in developing M/WBE firms. Interested proposers should complete Attachment 6: Diversity Practices Questionnaire which will be evaluated during the procurement process.

**ATTACHMENT 7 and ATTACHMENT 7A.** Complete and submit Attachment 7: MWBE Participation Form. Provide the legal names of all certified MBE and WBE consultants (prime and/or subconsultant).

While not indicative of a proposer’s individual merit (technical excellence, proposer’s ability, experience, etc.), NYSDOT encourages the participation of certified Minority Business Enterprises (MBE) and certified Women-owned Business Enterprises (WBE) in its solicitations. The level of MWBE participation will be relevant to the process of selecting proposals that will best achieve the overall goals of the Department. Please visit the Empire State Development’s MWBE Directory to identify and reach out to certified MBEs and WBEs via: https://nysucp.newnycontracts.com/.

For this specific procurement, NYSDOT has established a combined 30% MWBE participation goal for Contract #C037712. Meaningful participation by qualified sub-consultants who are certified as a MBE and/or a WBE (prior to the receipt of proposal) count toward the combined 30% goal. Any combination of MBE and WBE participation is allowed (thus the intent behind a ‘combined goal’).

Meaningful participation is defined as providing commercially useful functions or services. These services should:

- Result in a product or service distinguishable from the Prime Consultant’s product or service or be a part of the services provided by the Prime Consultant,
• Be for scope of service elements which can be and are completely performed, supervised and managed by the MBE and or WBE consultant, and/or
• Perform significant tasks which can be considered commercially marketable.

Interested proposers should verify their attainment of the above established MWBE participation goal by completing Attachment 7: MWBE Participation Information. To count towards the contract’s 30% combined MWBE goal, a firm offering MBE and/or WBE participation must be currently certified per Empire State development’s MWBE Directory. Participation by prime MBEs and participation by prime WBEs counts towards meeting the goal.

If the proposal does not meet the 30% MWBE participation goal, the firm must provide evidence of a good faith effort by completing Attachment 7A: MWBE Participation Solicitation Log. Additionally, if the firm does not meet the specified goal, the firm must include in its Attachment 7A submission a Goal Attainment Explanation Letter explaining why the firm was unable to meet the MWBE goal (in full or if partially), which serves to substantiate the firm’s good faith effort. The letter should include sufficient justification as to why the goal was not met or was met partially and should at a minimum address the following factors: the potential firm’s method of accomplishing the work, the subcontracting opportunities associated with the proposed approach and scope of services, and the availability of certified firms for the work to be performed by either a Prime Consultant or via subcontract.

Additionally, Prime Consultants who are certified as a WBE or Prime Consultants who are certified as a WBE count towards meeting the contract’s MWBE participation goal.

**ATTACHMENT 8 and ATTACHMENT 8A.** Complete and Submit Attachment 8: Service-Disabled Veteran-Owned Business Program (SDVOB) information.

New York State has established participation goal of 6% for this solicitation. Only meaningful participation by either a prime contractor who is certified as an SDVOB or inclusion of subcontractor(s) who is/are certified as an SDVOB counts toward the SDVOB participation goal. Meaningful participation is defined as providing commercially useful functions or services. These services should:

• Result in a product or service distinguishable from the Prime Contractor’s product or service or be a part of the services provided by the Prime Contractor,
• Be for scope of service elements which can be and are completely performed, supervised and managed by the SDVOB Contractor, and/or
• Perform significant tasks which can be considered commercially marketable.

A listing of current certified SVDOBs and information on how a firm can become certified as a SDVOB, please visit the New York State Office of General Services: [http://ogs.ny.gov/core/sdvoba.asp](http://ogs.ny.gov/core/sdvoba.asp).

Interested proposers should verify their attainment of the above established SDVOB participation goal by completing Attachment 8: SDVOB Participation Information. For participation to count towards the SDVOB goal set for this solicitation, the offered SDVOB participating firm must be currently certified by Empire State Development. If the proposal does not meet the 6% SDVOB participation goal, the firm must provide evidence of a good faith effort by completing Attachment 8A: SDVOB Subcontractor Participation Solicitation Log.

Additionally, if the firm does not meet the specified goal, the firm must include in its submission a Goal Attainment Explanation Letter explaining why the firm was unable to meet the applicable SDVOB (in full or if partially), which serves to substantiate the firm’s good faith effort. The letter should include sufficient justification as to why the goal was not met or was met partially and should at a minimum address the following factors: the potential firm’s method of accomplishing the work, the subcontracting
opportunities associated with the proposed approach and scope of services, and the availability of certified firms for the work to be performed by either a prime contractor or via subcontract.

A prime contractor that is an SDVOB still must make a good faith effort to include SDVOB subcontractors in their proposal. Only participation by certified SDVOB subcontractors may count towards the contract participation goal. Participation by a certified SDVOB prime contractor does not count towards meeting the contract goal (participation by a certified SDVOB prime contractor helps to meet the State’s corporate SDVOB goal).

The above forms and letter must be included in Cost and Administrative Proposal submittal. Firms are advised to refer to RFP Section 5 for the procedure the Department will follow in evaluating a firm’s proposed SDVOB participation.

**ATTACHMENT 9.** Complete and submit Attachment 9. It is required that all firms report use of firms located within New York state by completing the RFP’s New York Business Reporting form.

**ATTACHMENT 10.** Complete and submit Attachment 10: Non-Collusive Bidding Certificate Form.

**ATTACHMENT 11.** Complete and submit Attachment 11: Vendor Assurance of No Conflict of Interest or Detrimental Effect.

**ATTACHMENT 12.** Complete and submit Attachment 12: OAR: Acknowledgement of Receipt. Each firm must acknowledge receipt of the RFP and all RFP Modifications. There is no requirement to acknowledge any RFP Announcements.

5 PROPOSAL EVALUATION PROCESS

5.1 Minimum RFP Responsiveness Requirements

Any firm that does not provide all of the following by the RFP deadline may be deemed to be non-responsive. Any proposal deemed to be non-responsive will be removed from further consideration (prior to the technical evaluation of proposals):

1. Complete Technical and Management proposal (Table 1)
2. Complete Cost and Administrative proposal (Table 2)
3. Submission of completed Procurement Lobbying Law forms (Attachment 4)
4. Submission of completed Form OAR (Attachment 12)

5.2 Pre-Screening of Proposals

It is NYSDOT’s sole discretionary determination as to whether a proposal is complete. Proposals which do not meet all of the RFP’s Minimum Responsiveness Requirements may be deemed incomplete and/or non-responsive. NYSDOT reserves the right to seek clarification before completion of the RFP’s proposal pre-screening step. Proposals deemed to be incomplete shall be deemed to be non-responsive and shall be removed from further consideration. NYSDOT reserves the right to deem a proposal as non-responsive after completion of the Pre-Screening step.

**Proposal Due Date.** All proposals must be delivered to NYSDOT Contract Management in hard copy by 2:00 PM on April 20, 2018. Any proposals received after that time/date shall not be evaluated further. Late proposals shall become property of NYSDOT.

**Proposal Opening, Log-in and Certification.** Proposals received on or prior to the due date and time will be opened, inventoried for completeness, certified, and logged-in (per RFP Tables 1 and 2). For proposals received before/on the due date, firms may receive clarification questions/requests based upon
the response completeness checks, with any requested clarification information due back to NYSDOT by COB that same day.

**Minimum Proposal Requirements.** Per RFP Section 4, any proposal which does not meet all of the RFP’s minimum proposal submission requirements by the proposal submission deadline may be determined to be non-responsive. Any proposals deemed non-responsive shall be removed from further consideration (prior to the technical evaluation of proposals) based on any one of the following:

1. Failure to submit a complete Technical and Management proposal (Table 1)
2. Failure to submit a complete Cost and Administrative proposal (Table 2)
3. A proposal which either fails to meet or exceed the 30% MWBE contract goal or offers an unacceptable Good Faith Effort documentation and Letter of Explanation
4. A proposal which either fails to meet or exceed the 6% SDVOB contract goal or offers an unacceptable Good Faith Effort documentation and Letter of Explanation
5. Failure to submit completed Attachment 4 Procurement Lobbying Law Compliance Forms
6. Failure to acknowledge any formally-released RFP Modifications (Form OAR Attachment 12)

**MWBE Goal Attainment/GFE Acceptance Review.** The proposed MWBE participation percentages offered for NYS ESD certified MWBEs will be reviewed (RFP Attachment 7). Each offered MBE and/or WBE must be currently listed in the NYS ESD Directory to count towards meeting the Department’s 30% MWBE participation goal. If the proposed MWBE participation is less than the established 30% goal, the firm’s evidence of a Good Faith Effort (RFP Attachment 7A) to achieve the goal will be reviewed along with the firm’s letter of explanation as to why it was unable to meet the goal. If a proposer submits a proposal which meets or exceeds the MWBE goal, then the certification registration status of all offered MWBE participants will be verified by NYSDOT, and if certified, the proposed MWBE goal accepted.

If a proposer submits a proposal which does not meet the 30% MWBE goal for Contract #C037712, then the submitted good faith log will be reviewed for acceptability and verification of the robustness of effort. Blank, missing, incomplete or otherwise unacceptable good faith efforts may be deemed non-responsive and have their proposal removed from further consideration. Such proposers will be contacted to request clarification of their submitted good faith effort log. Offered clarifications will be considered by NYSDOT. Proposers with acceptable good faith effort logs will have their full proposals proceed further in the proposal evaluation process.

**SDVOB Goal Attainment/GFE Acceptance Review.** The proposed SDVOB participation percentages offered for NYS OGS certified Service Disabled Veteran-Owned Businesses will be reviewed (RFP Attachment 8). Each offered SDVOB must be currently listed in the NYS OGS Directory to count towards meeting the Department’s 6% SDVOB participation goal. If the proposed SDVOB participation is less than the established 6% goal, the firm’s evidence of a Good Faith Effort (RFP Attachment 8A) to achieve the goal will be reviewed along with the firm’s letter of explanation as to why it was unable to meet the goal. If a proposer submits a proposal which meets or exceeds the SDVOB goal, then the certification registration status of all offered SDVOB participants will be verified by NYSDOT, and if certified, the proposed SDVOB goal accepted.

If a proposer submits a proposal which does not meet the 6% SDVOB goal for Contract #C037712, then the submitted good faith log will be reviewed for acceptability and verification of the robustness of effort. Blank, missing, incomplete or otherwise unacceptable good faith efforts may be deemed non-responsive and have their proposal removed from further consideration. Such proposers will be contacted to request clarification of their submitted good faith effort log. Offered clarifications will be considered by NYSDOT. Proposers with acceptable good faith effort logs will have their full proposals proceed further in the proposal evaluation process.
5.3 Evaluation Category Weight Distribution

Proposals will be evaluated using the NYSDOT’s Best Value method based upon a 100-total point scale. The Technical and Management portion will be point scored and will represent 75 points of the total Best Value score for the proposal. The cost section of the Cost and Administrative proposal will be evaluated and point scored and will represent 25 points of the total Best Value score for the proposal. A more detailed breakdown of the RFP’s proposal evaluation category weights is as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Weight</th>
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<tbody>
<tr>
<td>Firm Experience</td>
<td>30 Points</td>
</tr>
<tr>
<td>Key Personnel Experience</td>
<td>20 Points</td>
</tr>
<tr>
<td>Management Plan</td>
<td>15 Points</td>
</tr>
<tr>
<td>Approach</td>
<td>10 Points</td>
</tr>
<tr>
<td>Cost</td>
<td>25 Points</td>
</tr>
<tr>
<td><strong>TOTAL POINTS:</strong></td>
<td><strong>100 Points</strong></td>
</tr>
</tbody>
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5.4 Technical & Management Proposal Evaluation (Up to 75 Points)

General

Technical evaluation of proposals will be accomplished by the members of the Technical Evaluation Committee (TEC) comprised, as appropriate, of technical, program and management subject matter experts. An evaluator package shall be prepared and submitted to members of the TEC; this package shall contain evaluator instructions and evaluation instruments, and shall become part of the procurement record. The TEC shall be briefed on the proposal evaluation process prior to distribution of proposals.

Members of the Committee will evaluate and score each proposal individually (may ask initial clarification questions). Each evaluator shall measure the degree of responsiveness of each proposal’s responses to the specifications and requirements contained in the RFP against the RFP’s proposal evaluation factors, looking for quality, reasonableness and professionalism. The quality of a firm’s approach shall be evaluated as an integral part of each functional and non-functional requirement response (as applicable). Members of the TEC shall document their responsiveness findings, and record a whole number numerical score (using the zero-to-ten scoring instrument with grade definitions). The TEC shall convene as a group to discuss the proposals, firm by firm, factor by factor. Evaluators will be allowed to revise scores on the basis of the committee discussions. Reasons for score changes will be documented on the TEC member’s scoresheet as well as electronically by Contract Management. Clarification questions may be formulated during group discussion, and forwarded to firms for responding (either for further TEC group discussion or for technical demonstrations). Clarification responses shall be forwarded to the TEC for additional consideration. Scoring of written proposals shall remain open until after conclusion of evaluating and scoring the Technical Interviews. Members of the TEC shall be given the opportunity to revise (re-score) their earlier scores/findings based upon the additional clarification information garnered from the Technical Interviews.

As the TEC evaluates and scores each technical and management proposal, the resulting raw average written technical score by firm are kept by each TEC member (on their respective scoresheets) as well as by Contract Management on an electronic composite best value spreadsheet. Contract Management may initially list firms in alphabetic order and later on by initial and final best value rank order.

Technical and Management Written Proposal Evaluation (Up to 75 Points)

The technical evaluation criteria listed below, per the RFP, shall be used by the TEC. Each factor’s respective weight is identified in parenthesis. Some of the above major evaluation categories are further divided into subcategories with no assigned subweights, as the one higher-level category weight covers all subcategories. These are detailed below:
1. Firm Experience (Up to 30 points):
   a. Quality, extent and relevance of proposer’s experience (including all sub-consultants) in conducting similar efforts, particularly of a magnitude and in a setting similar to NYSDOT’s (Up to 30 points)

2. Key Personnel Experience: Quality, extent and relevance of experience, education and training of key personnel (including any sub-consultants) (Up to 20 points)

3. Management Plans (Up to 15 points)
   a. Quality of project organization and management plan; extent to which they will provide for successful, timely and fully compliant program implementation as evidenced by the: (i) plan for directing and controlling the effort; (ii) coordination of sub-consultants, and/or teaming arrangements; (iii) plan for maintaining and phasing personnel into the effort; (iv) quality of interaction and coordination with NYSDOT; and (v) reporting methodologies (up to 7 points)
   b. Completeness of information regarding collection site network, laboratory certification and quality control documentation (up to 5 points)
   c. Degree to which proposal reflects understanding and comprehension of project scope and objectives. (up to 1 point)
   d. Quality of proposer’s resources relative to the needs of the project; quality of project organization; quality of project plans; reasonableness of staff/task allocations for each task and total effort. (up to 1 point)
   e. Completeness and reasonableness of schedule. (up to 1 point)

4. Approach (Up to 10 points)
   a. Quality of approach and methodology for performing the effort; extent to which such approach and methodologies clearly demonstrate an understanding of the applicable issues and requirements and will effectively and efficiently accomplish NYSDOT objectives (up to 5 points)
   b. Quality of proposed testing labs. (up to 3 points)
   c. Quality of approach and scope of services for accomplishing project objectives; initiative and creativity of proposer. (up to 2 points)

Reference Checks
Reference checks (to verify offered experience) may be required to complete the evaluation of technical proposals. In cases where TEC members are unfamiliar with a firm’s work or NYSDOT does not have prior consultant performance documentation, the TEC may request verification of a firm’s offered references. Subject references shall be contacted by Contract Management using its standard reference check questionnaire, adjusting that per the RFP. Reference check feedback will be forwarded to the TEC for their consideration during the after-group discussion phase. The TEC may meet to consider reference check information. Evaluators will be allowed to revise their technical scores based on receipt and consideration of this additional information and their follow-up discussions. Changes to scores and their reasons shall be recorded on written scoresheets as well in electronic form.

Written Technical Proposal Clarifications
NYSDOT reserves the right to seek written clarification from firms submitting proposals in order to assure a full understanding of their responsiveness to the solicitation’s technical requirements. If written clarification, based upon proposal review, is requested by the Technical Evaluation Committee, a firm which is the target of the clarification may be asked to provide written clarification at any time during the proposal evaluation process. Evaluators will be allowed to revise their technical scores based on receipt and consideration of this additional clarifying information and follow-up TEC discussions. Reasons for any score changes shall be documented.
**Cost Proposal Evaluation (Up to 25 Points)**

Cost proposals shall be reviewed, evaluated and scored for all proposals once they have cleared Pre-screening requirements checks. Cost proposals shall be point scored with up to 25 best value points available out of the 100 best value points total. Initial cost scores shall be developed and combined with average technical proposal scores to identify initial Best Value scores. Cost proposal clarification questions may be asked at this time.

The cost proposal with the lowest proposed Grant Total Cost to deliver five-years of drug and alcohol testing services per Attachment 3 shall receive a perfect cost score of 25 points. Proposals with higher relative Grand Total Costs shall receive proportionately lower cost proposal scores.

All proposed Consultant fees and hourly labor rates shall be evaluated for reasonableness. NYSDOT may address rates prior to and/or after consultant selection and prior to contract award.

Cost scores (which are relative to the field of consultants competing for contract award) are subject to change depending upon whether or not cost proposal clarification responses (or Best and Final Offer responses or proposal withdrawals or pass/fail dismissals) lead to proposed cost changes. Cost scoring results shall be used to determine which proposals are to be shortlisted/which firms are susceptible to contract award (a best value determination). A final cost score shall be calculated once all cost proposal evaluation has been completed.

**Initial Best Value Determination**

Perfected cost scoring results will be added to the initial raw technical scores, generating an initial best value score by firm. Firms shall be ranked in initial best value score order (highest to lowest).

Should any firm withdraw their proposal during the proposal evaluation process, NYSDOT will remove that firm’s technical and cost information from the Best Value evaluation documentation and shall recalculate the remaining field’s technical and cost scores (without the withdrawn firm’s information).

**Best & Final Offers (BAFO; Optional)**

The Department reserves the right to request Best and Final Offers from firms which make the shortlist. Any Best and Final Offer request may ask additional further clarifying technical and/or cost proposal questions of firms to further clarify their submitted proposals. NYSDOT also may request a cost only BAFO. Should NYSDOT opt to request BAFOs, all shortlisted firms will receive a BAFO request. Responding firms will be allowed to submit a Best and Final Offer (technical and/or cost); firms may opt to not submit a BAFO. Evaluators will be allowed to revise their technical scores for the written proposal based on their consideration of any new or changed technical proposal information contained in any Best and Final Offer (will re-sign/re-date the applicable hardcopy scoresheets). If changes to a firm’s technical proposal lead to corresponding, necessary revisions to their cost proposal (or should a firm opt to clarify their cost proposal) or should the Department opt to request cost-only BAFOs, the Department’s Contract Management representative shall make the necessary, appropriate adjustments to that firm’s cost proposal evaluation.

Should any firm withdraw their proposal after a possible BAFO request, NYSDOT will remove that firm’s technical and cost information from the Best Value evaluation documentation and shall recalculate the remaining field’s technical and cost scores (without the withdrawn firm’s information).

**Final Best Value Evaluation**

After evaluation of all technical information submitted by competing consultants (i.e. initial written proposals, written clarifications, and possible Best and Final Offers), NYSDOT will perfect (curve) the technical scores so that the highest-rated raw written technical proposal score gets changed and assigned a
perfect score of **75 points** for this solicitation with the other technical scores adjusted proportionately downward. Cost proposals have previously been evaluated and the resulting cost scores perfected by cost proposal scoring rule (lowest Grant Total Cost receives **25 points**). Perfected cost scoring results will be added to the perfected written technical proposal score to generate a tentative final best value score. Firms shall be ranked in Final Best Value score order (highest to lowest).

**Tie-Breaking Rule:** Should any of the tentative final Best Value Scores of one or more proposals competing for the contract award lie within one point of each other, then State Finance Law Section 163(10)(a) shall be used to settle any ties.

Once all possible score ties have cleared, NYSDOT will determine the Final Best Value Score, where after the proposal with the highest Final Best Value score shall be recommended to NYSDOT Executive Management for contract award for contract #C037712.

**Consultant Selection Recommendation & Tentative Contract Award**

A consultant selection and designation memo shall be prepared and forwarded to the applicable NYSDOT Executive Manager(s) with an accompanying proposal evaluation process results report. The memo shall recommend selection of the top-ranked Best Value Consultant for tentative contract award of Contract #C037712 to NYSDOT Executive Management. The Executive Manager will be asked to concur with the final conclusion of the proposal evaluation process - a recommendation for the tentative contract awards for the Department - and designate the top-Best Value rated consultant based upon the above results.

Should negotiations with the top-ranked Best Value Consultant fail to produce agreed-upon contracts, then NYSDOT Executive Management will designate and award contract #C037712 to the next highest-ranked Best Value Consultant. The Department will then enter into negotiations with the second-highest rated Consultant. This process may repeat itself until acceptable contracts are consummated. The consultant designation becomes final after the NYS Office of the State Comptroller approves Contract #C037712.

The designation shall be publicly posted. Once the public has been notified of the solicitation’s results, negotiations with the selected Consultant can commence. The final contract is subject to approval by NYSDOT, the Attorney General, and the Office of the State Comptroller, and is not binding until such approval is received.

At the conclusion of the proposal evaluation process, an announcement of NYSDOT’s designation(s) will be posted the ‘Consulting Services’ listing on NYSDOT’s website via: [https://www.dot.ny.gov/business](https://www.dot.ny.gov/business). All proposers will be notified in writing regarding the results from the solicitation. All non-designated firms will be offered an opportunity to request a debriefing.

It is expressly understood that this RFP does not commit NYSDOT to award a contract, to 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.

6 **ADMINISTRATIVE SPECIFICATIONS**

6.1 **State’s Rights**

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
mispresentation or lack of information. With regard to proposal submitted, NYSDOT asserts the following prerogatives 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 requirement or 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. 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.

6.2 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/general-info.

6.3 Information for the Selected Consultant

6.3.1 Vendor Responsibility
In accordance with the NYS Finance Law, NYSDOT will only make contract award to vendors that are determined to be responsive and responsible. All selected offerors of contracts valued at $100,000 or more will be required to submit a Vendor Responsibility Questionnaire through the Office of the State Comptroller website via http://www.osc.state.ny.us/vendrep/index.htm before negotiation of a contract. Offerors must certify the accuracy of the information they provide in the questionnaire. In addition, any subconsultant providing services valued at $100,000 or more is required to submit Vendor Responsibility Questionnaire through the Office of the State Comptroller website.
6.3.2 Registration with NYSDOT
Consultant firms entering into contracts with the New York State Department of Transportation (NYSDOT) as Prime Consultants, joint venture partners or sub-consultants, are required to electronically register their firm using the Consultant Selection System web application (CSSWeb). All consultant firms entering into Non-Architectural/Non-Engineering 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: https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions. 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.

6.3.3 Registration with Statewide Financial System (SFS)
Should this solicitation lead to a designation, the Prime Consultants will be required to electronically register with the Statewide Financial System (SFS) - if not already registered. NYSDOT will initiate the registration process in the SFS application and then contact the Prime Consultant 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 Prime Consultant. 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. However, a SFS vendor number is firm name specific. Since many firms have different variations of their business identities, firms will be required to register in the name of the business entity that NYSDOT is doing business with.

6.3.4 Consultant Employment Disclosure Requirements of this Project
Go to Office of the State Comptroller’s Web site (http://www.osc.state.ny.us/procurement then scroll down and click on ‘Form B: Contractor’s Annual Employment Report with Instructions’) to become familiar with Consultant Employment Disclosure requirements, which went into effect June 19, 2006. The Consultant selected for this solicitation shall be required to complete ‘State Consultant Services – Contractor’s Planned Employment’ (Form A, Attachment 18) 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” (Form B, Attachment 18) 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.

6.3.5 Insurance Requirements of this Project
Please carefully read the terms and conditions of the Draft Contract appended as Attachment 17 of this RFP. Your attention is drawn to the insurance requirements for this Project that are contained in Article 9 of the Draft Contract. These insurances are mandatory for the firm(s) selected as a result of this solicitation and will not be waived.

6.3.6 Contractor Tax Certification
Per Section 5-a of the NYS Tax Law, all vendors selected for contracts in excess of $100,000 for the sale of goods or services must complete and submit Forms ST-220-TD and ST-220-CA (Contractor
Certifications) prior to negotiation of a contract with State agencies. You should make yourself familiar with these forms by visiting the following Web sites:


7 RFP ATTACHMENTS
ATTACHMENT 1

FIRM EXPERIENCE

The qualifications and prior experience of the proposing Consultants are of great importance to NYSDOT. Direct, prior experience regarding the delivery of drug and alcohol testing services is highly desirable. Comparable firm experience is allowed only if a direct relevancy is clear. Provide a list of projects currently in progress and those completed within the last three to five years which are relevant to this effort. Proposers must demonstrate that experience and expertise through past and current project attestations and reachable, verifiable references. NYSDOT reserves the right to request information from any source so named and to contact additional references (including appropriate references not specifically named by proposers) to completely verify all offered experience.

Requirement Description: **Organizational Overview**

The organizational overview should consist of a succinct statement outlining corporate/business history including a general mission statement, the overall number of employees per position, and other general information about the firm. The Offeror must demonstrate that it possesses adequate staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified herein this RFP, and demonstrate that the Offeror has been in continuous operation for at least the past five (5) years. In addition, the Proposer must provide a statement of previous experience that qualifies the Proposer to provide the Project Services. Proposer may include information not defined as required in this section but deemed necessary to fully understand the Proposer’s Company experience and Staff Qualifications.

Consultant’s Organizational Overview Response:

---

Requirement Description: **Company Experience**

Provide a description of the Proposer’s direct, prior experience in delivery of drug and alcohol testing services to large clients with diverse and scattered work locations environments and a large number of employees subject to testing. Describe this experience and related services as well as describing the client in each case. The number of years the Proposer’s team has been providing drug and alcohol testing services. Information documenting the complexity (large project, multi-year, multi-site, multi-agency, etc.) of previous implementations. This should include, but not be limited to:

1. the type of client (government entity, private company, etc.)
2. the number of locations
3. the project duration
4. the number of Proposer FTE’s involved in the implementation
5. the number of client FTE’s involved in the implementation
6. and any other information relevant to describing the client organization in the context of this RFP

Consultant’s Company Experience Response:
Requirement Description: **Company References**

Submit relevant project and contact information for reachable references for up to two past relevant company projects. It is preferred that each cited project experience be of similar scale and scope to this RFP. All cited company references must be reachable (i.e., willing to provide a reference on behalf of the proposer to NYSDOT upon request). The references should be willing to provide information via an emailed reference response form and possibly follow that up with a conference call to speak further on the proposer's behalf.

Fill out the requested information using the provided form. Use one form for each company reference provided, for up to two past project references. Be sure to cover the proposed Prime Consultant and each proposed Subconsultant.

**Consultant’s Company Reference Response (include as many completed responses as appropriate):**

<table>
<thead>
<tr>
<th>Reference Company Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reference Main Line of Business:</td>
<td></td>
</tr>
<tr>
<td>Reference Contact Information</td>
<td></td>
</tr>
<tr>
<td>Primary Contact Person’s Name:</td>
<td></td>
</tr>
<tr>
<td>Title:</td>
<td></td>
</tr>
<tr>
<td>Affiliation/Company Employed By:</td>
<td></td>
</tr>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Email:</td>
<td></td>
</tr>
<tr>
<td>Project Information</td>
<td></td>
</tr>
<tr>
<td>Project Name:</td>
<td></td>
</tr>
<tr>
<td>Project Start Date:</td>
<td></td>
</tr>
<tr>
<td>Project End Date:</td>
<td></td>
</tr>
<tr>
<td>Project Budget:</td>
<td></td>
</tr>
<tr>
<td>Number of Staff Involved:</td>
<td></td>
</tr>
<tr>
<td>Types of Staff Involved:</td>
<td></td>
</tr>
</tbody>
</table>

**Degree to which offered key personnel were primarily responsible for project delivery:**

*Description of all services provided and how they were/are comparable to the size and scope of the services specified in this RFP:*

*An explanation of the size and complexity of the project, including how it compares in size to this project:*

*A list of all sub-consultants and the duties they performed (if applicable):*

*Project results and benefits delivered to the client*
<table>
<thead>
<tr>
<th>Requirement Description: <strong>Experiences with Subconsultant</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Information documenting the Proposer’s experience working with any proposed sub-contractors (e.g. nature of the relationship, number of engagements worked together, duration of engagements, percent split between firms, etc.).</td>
</tr>
</tbody>
</table>

**Consultant’s Subconsultant Experience Response:**
ATTACHMENT 2

KEY PERSONNEL EXPERIENCE & REFERENCES

Consultant Key Personnel Experience and Resumes:
- Complete a profile form for each proposed Contractor personnel.
- One form is provided below. Use additional pages as needed.

<table>
<thead>
<tr>
<th>Staff Name and Title:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Associations, Degrees, and Certifications:</td>
</tr>
<tr>
<td>Number of Years of Relevant Experience in the Proposed Project Role:</td>
</tr>
<tr>
<td>Description of Relevant Experience:</td>
</tr>
</tbody>
</table>

Consultant Key Personnel References:
- Provide two per proposed contractor staff person.
- Can cite more than one project – work needs to be relevant to the RFP.
- Use below form, one for each (fill in number blank – i.e., Staff Reference #1; Staff Reference #2, etc.)
- Form is expandable – be concise.
- Reference check evaluation criteria provided below

<table>
<thead>
<tr>
<th>Staff reference Number:</th>
<th>#____</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client Name (Reference Company):</td>
<td></td>
</tr>
<tr>
<td>Reference Main Line of Business:</td>
<td></td>
</tr>
<tr>
<td>Project Name:</td>
<td></td>
</tr>
<tr>
<td>Name &amp; Title of Contact:</td>
<td></td>
</tr>
<tr>
<td>Email Address &amp; Telephone Number:</td>
<td></td>
</tr>
</tbody>
</table>

Provide a Brief Description of Recent, Relevant Project for which they are Serving to Reference

Staff Reference Check Evaluation Criteria:
- Describe the nature of the project and the work that this staff member performed for you.
- How would you rate the staff member’s experience and qualifications?
- How well did the staff member respond to your needs?
- How pleased are you with the work the staff member has performed/is performing for you?
- Would you contract with this staff member again?
ATTACHMENT 3

COST PROPOSAL INSTRUCTIONS

STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT
Contract #C037712

A. Per Item Costs (Exhibits 1 and 2):
   1. Collection Site Testing (Drug and Alcohol Test during normal hours and off hours)
   2. On-Site Testing (Scheduled and Emergency Drug and Alcohol Test)
   3. Expert Testimony
   4. Split Specimen
   5. Substance Abuse Professional Services
   6. Litigation Packages

Provide all-inclusive costs to deliver all RFP requirements via Cost Proposal Attachment 3, Exhibit 1 (Page 1 of 2) and Exhibit 2 (Page 2 of 2). The RFP will be evaluated, in part, based on Cost Proposal Attachment 3’s Grand Total.
   a. A lump sum unit cost, on a per employee basis, for the provision of a pre-employment pre-duty, random, return to duty, follow up, post-accident and reasonable suspicion drug test complaint with all federal requirements as well as for non-federal follow up tests. An all-inclusive unit cost for drug testing shall be proposed for each of the contract’s first five years, with a year-to-year limit of two percent.
   b. A lump sum unit cost, on a per employee basis, for the provision of a random, return-to-duty, follow-up, post-accident and reasonable suspicion alcohol testing complaint with all federal requirements as well as for non-federal follow-up tests. An all-inclusive unit cost for alcohol testing shall be proposed for each of the contract’s first five years, with a year-to-year limit of two percent.
   c. A lump sum unit cost, on a per employee basis, for the provision of a random, return-to-duty, follow-up, post-accident and reasonable suspicion combined drug/alcohol test complaint with all OTETA requirements. An all-inclusive unit cost for a combined drug/alcohol test shall be proposed for each of the contract’s first five years, with a year-to-year limit of two percent.
   d. A lump sum unit cost, on a per employee basis, for the provision of split specimen compliant with all federal requirements. An all-inclusive unit cost for split specimen shall be proposed for each of the contract’s first five years, with a year-to-year limit of two percent.
   e. All-inclusive hourly labor rates for expert professional and technical testimony services and substance abuse professional services shall be proposed for each of the contract’s first five years, with a year-to-year limit of two percent. The specific hourly rates shall be inclusive of all direct costs, indirect costs and fee/profit, except for travel. Travel expenses, including meals and lodging will be reimbursed in accordance with guidelines set forth by the New York State Office of the State Comptroller: http://www.osc.state.ny.us/agencies/travel/travel.htm
   f. A lump sum unit cost, for the provision of a complete litigation package containing the full chain of custody of the test in question. The litigation package is to be used in a hearing.
B. Direct Non-Salary Costs

All direct non-salary expenses are to be included in the rates offered for each item. Expert testimony and Substance Abuse Professional Services cost per hour is inclusive of all direct costs, indirect costs and fee/profit, the only exception is for travel which will be reimbursed in accordance with NYS travel/per diem rates. The latest state and nationwide rates are available at the following Web site: [http://www.osc.state.ny.us/agencies/travel/travel.htm](http://www.osc.state.ny.us/agencies/travel/travel.htm). NYSDOT shall not directly reimburse the selected Consultant (and any of its sub-consultants) for the cost of local living and commuting (such expenses are to be included in the consultant’s overhead rate). In addition, any costs associated with general continuing education, certification classes, or educational and professional activities are not reimbursable or chargeable to the project.

C. Total Proposed Budget

The total proposed five-year contract budget (Grand Total from Attachment 3) will be the maximum amount payable and shall include all expenses necessary to administer this contract. The firm will be paid per item in accordance with a schedule of services to be coordinated with NYSDOT program manager and the selected firm. The Grand Total shall be derived from the sum of Exhibits 2A, 2B, 2C, 2D and 2E.
## EXHIBIT 1A

**SCHEDULE OF FEES: YEAR ONE**

*For the Base Five-Year Term*

**STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT**

*Contract #C037712*

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost Per Item Year One</th>
<th>Estimated Quantity</th>
<th>Estimated Cost Year One</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COLLECTION SITE TESTING</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Testing During normal collection site hours:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test, affiliated lab (e.g. ACM, Quest, Metox)</td>
<td></td>
<td>ea.</td>
<td>1,300</td>
</tr>
<tr>
<td>Drug test, non-affiliated lab</td>
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<td>ea.</td>
<td>183</td>
</tr>
<tr>
<td>Alcohol test</td>
<td></td>
<td>ea.</td>
<td>240</td>
</tr>
<tr>
<td>Testing During off-hours&lt;sup&gt;1&lt;/sup&gt;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td></td>
<td>ea.</td>
<td>2</td>
</tr>
<tr>
<td>Alcohol test</td>
<td></td>
<td>ea.</td>
<td>2</td>
</tr>
<tr>
<td><strong>ON-SITE TESTING</strong></td>
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</tr>
<tr>
<td>Scheduled tests (e.g. random)</td>
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</tr>
<tr>
<td>Drug test</td>
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<td>2,200</td>
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<tr>
<td>Alcohol test</td>
<td></td>
<td>ea.</td>
<td>400</td>
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<tr>
<td>Emergency tests (e.g. post-accident)</td>
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</tr>
<tr>
<td>Drug test</td>
<td></td>
<td>ea.</td>
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</tr>
<tr>
<td>Alcohol test</td>
<td></td>
<td>ea.</td>
<td>2</td>
</tr>
</tbody>
</table>

**Notes:**

1. When collection site is normally closed, e.g. post-accident test.
2. Contract Year One shall be from October 1, 2018 to September 30, 2019.

Costs quoted for all drug and alcohol tests, on site or off site and during regular business hours or outside regular business hours, are inclusive of all consultant costs, fees, travel expenses or charges associated with collection, analysis, administration, and reporting of those test.
## EXHIBIT 2A

**SCHEDULE OF LABOR RATES AND FEES: YEAR ONE**

For the Base Five-Year Term

STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT

Contract #C037712

<table>
<thead>
<tr>
<th>ITEM</th>
<th>Rate/Fee: Year One</th>
<th>Estimated Quantity: Year One</th>
<th>Proposed Cost: Year One</th>
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<tbody>
<tr>
<td>EXPERT TESTIMONY 3</td>
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<td></td>
</tr>
<tr>
<td>Professional (Physician)</td>
<td></td>
<td>hr. 2</td>
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</tr>
<tr>
<td>Technical (Other)</td>
<td></td>
<td>hr. 2</td>
<td></td>
</tr>
<tr>
<td>SPLIT SPECIMEN</td>
<td></td>
<td>ea. 3</td>
<td></td>
</tr>
<tr>
<td>SUBSTANCE ABUSE PROFESSIONAL SERVICES 3</td>
<td></td>
<td>hr. 25</td>
<td></td>
</tr>
<tr>
<td>LITIGATION PACKAGE</td>
<td></td>
<td>ea. 6</td>
<td></td>
</tr>
</tbody>
</table>

**YEAR ONE TOTAL**

(basis for cost evaluation in part)

$___________

Notes:

3 Expert testimony and substance abuse professional services cost per hour is inclusive of all direct costs, indirect costs, and fee/profit EXCEPT for travel which will be reimbursed in accordance with NYS travel guidelines and subject to NYSDOT’s approval.
## EXHIBIT 1B

### SCHEDULE OF FEES: YEAR TWO

For the Base Five-Year Term

STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT

Contract #C037712

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost Per Item Year Two</th>
<th>Estimated Quantity</th>
<th>Estimated Cost Year Two</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COLLECTION SITE TESTING</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Testing During normal collection site hours:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test, affiliated lab (e.g. ACM, Quest)</td>
<td>ea.</td>
<td>1,300</td>
<td></td>
</tr>
<tr>
<td>Drug test, non-affiliated lab</td>
<td>ea.</td>
<td>183</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>240</td>
<td></td>
</tr>
<tr>
<td>Testing During off-hours ¹</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>ON-SITE TESTING</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scheduled tests (e.g. random)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2,200</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>Emergency tests (e.g. post-accident)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Notes:

¹ When collection site is normally closed, e.g. post-accident test.
² Contract Year Two shall be from October 1, 2019 to September 30, 2020.

Costs quoted for all drug and alcohol tests, on site or off site and during regular business hours or outside regular business hours, are inclusive of all consultant costs, fees, travel expenses or charges associated with collection, analysis, administration, and reporting of those test.
## EXHIBIT 2B

**SCHEDULE OF LABOR RATES AND FEES: YEAR TWO**

For the Base Five-Year Term

**STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT**

Contract #C037712

<table>
<thead>
<tr>
<th>Expert Testimony</th>
<th>Year Two ²</th>
<th>Year Two ²</th>
<th>Year Two ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional (Physician)</td>
<td>hr.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Technical (Other)</td>
<td>hr.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Split Specimen</td>
<td>ea.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Substance Abuse Professional Services ³</td>
<td>hr.</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

### YEAR TWO TOTAL

(basis for cost evaluation in part) $___________

---

**Notes:**

³ Expert testimony and substance abuse professional services cost per hour is inclusive of all direct costs, indirect costs, and fee/profit EXCEPT for travel which will be reimbursed in accordance with NYS travel guidelines and subject to NYSDOT’s approval.
### EXHIBIT 1C

**SCHEDULE OF FEES: YEAR THREE**

For the Base Five-Year Term

**STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT**

Contract #C037712

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost Per Item Year Three</th>
<th>Estimated Quantity</th>
<th>Estimated Cost Year Three</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COLLECTION SITE TESTING</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Testing During normal collection site hours:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test, affiliated lab (e.g. ACM, Quest)</td>
<td>ea.</td>
<td>1,300</td>
<td></td>
</tr>
<tr>
<td>Drug test, non-affiliated lab</td>
<td>ea.</td>
<td>184</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>240</td>
<td></td>
</tr>
<tr>
<td><strong>Testing During off-hours</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>ON-SITE TESTING</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scheduled tests (e.g. random)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2,200</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>Emergency tests (e.g. post-accident)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Notes:

1. When collection site is normally closed, e.g. post-accident test.
2. Contract Year Three shall be from October 1, 2020 to September 30, 2021.

Costs quoted for all drug and alcohol tests, on site or off site and during regular business hours or outside regular business hours, are inclusive of all consultant costs, fees, travel expenses or charges associated with collection, analysis, administration, and reporting of those test.
COST PROPOSAL

EXHIBIT 2C
SCHEDULE OF LABOR RATES AND FEES: YEAR THREE
For the Base Five-Year Term

STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT
Contract #C037712

<table>
<thead>
<tr>
<th>EXERT TESTIMONY ³</th>
<th>Year Three ²</th>
<th>Year Three ²</th>
<th>Year Three ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional (Physician)</td>
<td>hr. 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technical (Other)</td>
<td>hr. 2</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| SPLIT SPECIMEN | ea. 3 | |

| SUBSTANCE ABUSE PROFESSIONAL SERVICES ³ | hr. 25 | | |

<table>
<thead>
<tr>
<th>YEAR THREE TOTAL</th>
<th>Year Three ²</th>
<th>Year Three ²</th>
<th>Year Three ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>(basis for cost evaluation in part)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

$___________

Page 2 of 2

Notes:
³ Expert testimony and substance abuse professional services cost per hour is inclusive of all direct costs, indirect costs, and fee/profit EXCEPT for travel which will be reimbursed in accordance with NYS travel guidelines and subject to NYSDOT’s approval.
# COST PROPOSAL

**EXHIBIT 1D**

SCHEDULE OF FEES: YEAR FOUR

For the Base Five-Year Term

STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT

Contract #C037712

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost Per Item Year Four</th>
<th>Estimated Quantity</th>
<th>Estimated Cost Year Four</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COLLECTION SITE TESTING</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Testing During normal collection site hours:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test, affiliated lab (e.g. ACM, Quest) ea.</td>
<td></td>
<td>1,300</td>
<td></td>
</tr>
<tr>
<td>Drug test, non-affiliated lab ea.</td>
<td></td>
<td>184</td>
<td></td>
</tr>
<tr>
<td>Alcohol test ea.</td>
<td></td>
<td>240</td>
<td></td>
</tr>
<tr>
<td>Testing During off-hours ¹</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test ea.</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Alcohol test ea.</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>ON-SITE TESTING</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scheduled tests (e.g. random)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test ea.</td>
<td></td>
<td>2,200</td>
<td></td>
</tr>
<tr>
<td>Alcohol test ea.</td>
<td></td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>Emergency tests (e.g. post-accident)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test ea.</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Alcohol test ea.</td>
<td></td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Notes:

¹ When collection site is normally closed, e.g. post-accident test.
² Contract Year Four shall be from October 1, 2021 to September 30, 2022.

Costs quoted for all drug and alcohol tests, on site or off site and during regular business hours or outside regular business hours, are inclusive of all consultant costs, fees, travel expenses or charges associated with collection, analysis, administration, and reporting of those tests.
COST PROPOSAL

EXHIBIT 2D

SCHEDULE OF LABOR RATES AND FEES: YEAR FOUR

For the Base Five-Year Term

STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT
Contract #C037712

<table>
<thead>
<tr>
<th>EXPERT TESTIMONY ³</th>
<th>Year Four ²</th>
<th>Year Four ²</th>
<th>Year Four ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional (Physician)</td>
<td>hr.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Technical (Other)</td>
<td>hr.</td>
<td>2</td>
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</tr>
<tr>
<td>SPLIT SPECIMEN</td>
<td>ea.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>SUBSTANCE ABUSE PROFESSIONAL SERVICES ³</td>
<td>hr.</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

**YEAR FOUR TOTAL**
(basis for cost evaluation in part)

$___________

Notes:
³ Expert testimony and substance abuse professional services cost per hour is inclusive of all direct costs, indirect costs, and fee/profit EXCEPT for travel which will be reimbursed in accordance with NYS travel guidelines and subject to NYSDOT’s approval.
COST PROPOSAL

EXHIBIT 1E
SCHEDULE OF FEES: YEAR FIVE
For the Base Five-Year Term

STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT
Contract #C037712

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost Per Item Year Five</th>
<th>Estimated Quantity</th>
<th>Estimated Cost Year Five</th>
</tr>
</thead>
<tbody>
<tr>
<td>COLLECTION SITE TESTING</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Testing During normal collection site hours:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test, affiliated lab (e.g. ACM, Quest)</td>
<td>ea.</td>
<td>1,300</td>
<td></td>
</tr>
<tr>
<td>Drug test, non-affiliated lab</td>
<td>ea.</td>
<td>184</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>240</td>
<td></td>
</tr>
<tr>
<td>Testing During off-hours 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>ON-SITE TESTING</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scheduled tests (e.g. random)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2,200</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>Emergency tests (e.g. post-accident)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Alcohol test</td>
<td>ea.</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Notes:
1  When collection site is normally closed, e.g. post-accident test.
2  Contract Year Five shall be from October 1, 2022 to September 30, 2023.

Costs quoted for all drug and alcohol tests, on site or off site and during regular business hours or outside regular business hours, are inclusive of all consultant costs, fees, travel expenses or charges associated with collection, analysis, administration, and reporting of those test.
## Attachment 3

**COST PROPOSAL**

### EXHIBIT 2E

**SCHEDULE OF LABOR RATES AND FEES: YEAR FIVE**

For the Base Five-Year Term

**STATEWIDE DRUG AND ALCOHOL TESTING SERVICES FOR NYSDOT**

Contract #C037712

<table>
<thead>
<tr>
<th>EXPERT TESTIMONY ³</th>
<th>Year Five ²</th>
<th>Year Five ²</th>
<th>Year Five ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional (Physician)</td>
<td>hr.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Technical (Other)</td>
<td>hr.</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

| SPLIT SPECIMEN | ea. | 3 |  |

| SUBSTANCE ABUSE PROFESSIONAL SERVICES ³ | hr. | 25 |  |

### YEAR FIVE TOTAL

(basis for cost evaluation in part)

$__________

---

**Notes:**

³ Expert testimony and substance abuse professional services cost per hour is inclusive of all direct costs, indirect costs, and fee/profit EXCEPT for travel which will be reimbursed in accordance with NYS travel guidelines and subject to NYSDOT’s approval.

---

**Five-Year Grant Total:** This figure shall be the sum of the Year One, Year Two, Year Three, Year Four and Year Five Totals.

**GRAND TOTAL for CONTRACT #C037712**

(basis for cost evaluation)

$__________

**FIRM NAME:** ____________________________
**ATTACHMENT 4**

**PROCUREMENT LOBBYING LAW COMPLIANCE FORMS**

**Offeror’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)**

<table>
<thead>
<tr>
<th>Offeror affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contracts as required by State Finance Laws §139-j (3) and §139-j (6) (b).</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contract No.</strong></td>
</tr>
<tr>
<td><strong>By:</strong></td>
</tr>
<tr>
<td><strong>Name:</strong></td>
</tr>
<tr>
<td><strong>Title:</strong></td>
</tr>
<tr>
<td><strong>Contractor Name:</strong></td>
</tr>
<tr>
<td><strong>Contractor Address:</strong></td>
</tr>
</tbody>
</table>
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: C037712

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 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 Finding of Non-responsibility: _______________________________________________________________________

   Basis of Finding of Non-responsibility: _______________________________________________________________________

   (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: ________________________________
ATTACHMENT 4 (Continued)

PROCUREMENT LOBBYING LAW COMPLIANCE FORM INFORMATION

1. Required Forms: The consultant shall sign and email/fax the following forms. These forms are part of and due with the consultant’s proposal.

- Offeror’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (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 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 conference.
   - 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 the Department 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 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 email 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. The Department may identify other contact persons for each of these processes.

4. Rules and regulations and more information on this law, please visit: http://ogs.ny.gov/Aboutogs/regulations/defaultAdvisoryCouncil.html (Advisory Council FAQs)

For more information, go to NYSDOT’s Web Site at http://www.dot.ny.gov or contact:

Al Hasenkopf, Contract Management Specialist II
NYSDOT Contract Management
50 Wolf Road, 6th Floor
Albany, New York 12232
Email: alfred.hasenkopf@dot.ny.gov
Tele: (518) 457-1560
ATTACHMENT 5
CONSULTANT INFORMATION AND CERTIFICATIONS

CONTRACT NUMBER: C037712
PROJECT TITLES: Statewide Drug and Alcohol Testing Services

I. CONSULTANT INFORMATION

FIRM NAME: ______________________________________________________________

ADDRESS:_________________________________________________________________

CITY:_________________________________________ STATE: __________

ZIP CODE: __ __ __ __ - __ __ __ __

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

EMAIL ADDRESS: _________________________________________________________

CONTACT PERSON: ________________________________________________________

Consultant’s Federal Identification Number (FIN):________________________

Consultant’s NYSDOT Consultant Identification Number (CIN): __________________

• 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 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 period from the date of submission.
- The firm has read and will follow the procedure outlined in Section 6.6 of the RFP 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 Questionnaire via the OSC VendRep portal within 10 days of notification of designation. (http://www.osc.state.ny.us/vendrep/forms_vendor.htm)
- ST-220: If selected for contract award greater than $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:

Signature: ___________________________________________

III. ACCEPTANCE OF CONTRACT

By signing below, I, _____________________________, authorized individual (Name) of _____________________________ hereby certify that I have read and accept all terms and conditions contained in the draft Contract, including Appendix A, which is included as Attachment 13 to this Request for Proposals.

Signature: ___________________________________________

(Name of Acceptor)
ATTACHMENT 6

DIVERSITY PRACTICES QUESTIONNAIRE

I, ___________________, as __________________ (title) of _______________ firm or company (hereafter referred to as the company), swear and/or affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. Does your company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? Yes or No

   If Yes, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals.

2. What percentage of your company’s gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company’s clients or customers?

3. What percentage of your company’s overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company’s clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?

4. Does your company provide technical training\(^2\) to minority- and women-owned business enterprises? Yes or No

   If Yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

5. Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program?

   If Yes, identify the governmental mentoring program in which your company participates and provide evidence demonstrating the extent of your company’s commitment to the governmental mentoring program.

6. Does your company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? Yes or No

   If Yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

---

1 Do not include onsite project overhead.

2 Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.
7. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Yes or No
   If Yes, provide documentation of program activities and a copy of policy or program materials.

8. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority- and women-owned business enterprises if selected as the successful respondent? Yes or No
   If Yes, complete the attached Utilization Plan.

All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

Signature of Owner/Official

Printed Name of Signatory

Title

Name of Business

Address

City, State, Zip

STATE OF _______________________________
COUNTY OF _______________________________

On the ______ day of ________, 20__, before me, the undersigned, a Notary Public in and for the State of __________, personally appeared ______________________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this certification and said person executed this instrument.

__________________________
Notary Public

My Commission Expires: ______________________________
ATTACHMENT 7

MWBE PARTICIPATION INFORMATION

Please complete the following table for the prime firm and all sub-consultants (consultant team composition): please identify each firm’s legal name, checking if they are an Empire State Development (ESD) certified MBE and/or a ESD certified WBE, and indicating each firm’s percentage of the total salary for the contract. Please keep in mind that only ESD certified MBE and/or certified WBE Prime Consultants and/or ESD certified MBE and/or certified WBE sub-consultants are eligible to participate toward attainment of this state-funded procurement.

Further, participation by a certified MBE and/or WBE Prime Consultant as well as certified MBE and/or WBE sub-consultants may count towards the Combined 30% MWBE participation goal.

If the combined percentage of total salary for all certified MBES and/or all certified WBES proposed is less than the M/WBE participation goal, then the proposing prime firm is required to fill out and submit the Participation Solicitation Log (Attachment 11A), and is required to submit a MWBE Goal Attainment Explanation Letter.

Contract#: C037712: Statewide Drug and Alcohol Testing Services

<table>
<thead>
<tr>
<th>Firm Legal Name</th>
<th>NYS ESD Certified MBE/WBE</th>
<th>% of Total Contract Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MBE</td>
<td>WBE</td>
</tr>
<tr>
<td><strong>A. Prime Consultant</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B. Sub-Consultants</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Total | 100% |
ATTACHMENT 7A:

MWBE PARTICIPATION SOLICITATION LOG
(Good Faith Effort Documentation)

<table>
<thead>
<tr>
<th>CONTRACT NO. C037712</th>
<th>COMBINED 30% MWBE PARTICIPATION GOAL</th>
<th>PAGE NUMBER ___ OF ___</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Firm Name</td>
<td>Contact Person</td>
<td>Telephone Number (Include Area Code)</td>
</tr>
<tr>
<td>Solicited Company Name and Contact Person</td>
<td>Telephone (With Area Code)</td>
<td>Federal Employer ID #</td>
</tr>
</tbody>
</table>

*See Solicitation Log Instructions listed on Page 48.
ATTACHMENT 8
SDVOB PARTICIPATION INFORMATION FORM

Please complete the following table for the prime firm and all subcontractors (Contractor team composition): Please identify each firm’s legal name, checking if they are a NYS Office of General Services Certified SDVOB, and indicating each firm’s percentage of the total salary for the contract. Please keep in mind that only certified SDVOB prime Contractors are eligible to participate toward attainment of this state-funded procurement.

Further, participation by a certified SDVOB Contractor may count towards the 6% SDVOB participation goal.

If the combined percentage of total salary for all certified SDVOBs proposed is less than the 6% SDVOB participation goal, then the proposing prime firm is required to fill out and submit the Participation Solicitation Log, Attachment 12A and is required to submit a SDVOB Goal Attainment Explanation Letter.

Contract#: C037712: Statewide Drug and Alcohol Testing Services

<table>
<thead>
<tr>
<th>Firm Legal Name</th>
<th>NYS Office of General Services Certified SDVOB</th>
<th>% of Total Contract Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>A. Prime Contractor</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Subcontractors</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>Total</td>
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<tr>
<td></td>
<td></td>
<td>100%</td>
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</table>
## ATTACHMENT 8A

**SDVOB SUBCONTRACTOR PARTICIPATION SOLICITATION LOG**  
*(Good Faith Effort Documentation)*

<table>
<thead>
<tr>
<th>CONTRACT NO. C037712</th>
<th>6% SDVOB PARTICIPATION GOAL</th>
<th>PAGE NUMBER ___ OF ___</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>PRIME FIRM NAME/ADDRESS/ZIP CODE</th>
<th>CONTACT PERSON</th>
<th>TELEPHONE NUMBER <em>(INCLUDE AREA CODE)</em></th>
<th>EMAIL</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>SOLICITED COMPANY NAME AND CONTACT PERSON</th>
<th>TELEPHONE <em>(WITH AREA CODE)</em></th>
<th>FEDERAL EMPLOYER ID #</th>
<th>WORK TYPES BEING SOLICITED</th>
<th>TYPES AND DATES OF CONTACTS</th>
<th>CONTACT RESULT(S)</th>
</tr>
</thead>
</table>

|  |  |  |  |  |  |
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MWBE SOLICITATION LOG INSTRUCTIONS

(Good Faith Effort Documentation)

To be deemed responsive to this solicitation, Consultants whose proposed MWBE participation does not meet the established participation goal must document and report their efforts to solicit participation by certified MWBE in this Non-Architecture/Non-Engineering contract. The Solicitation Log is used for this purpose.

PLEASE NOTE: For RFP’s with MBE and/or WBE goals, only consultants or sub-consultants certified by New York State Empire State Development may count toward goal attainment.

Guidance concerning Good Faith Efforts in meeting MWBE participation goals is located at the end of this section.

The log is to be filled out and submitted with the proposing firm’s Cost and Contract Proposal. In order for a proposal to be determined as responsive when the MWBE participation goal is not attained at all or only partially attained, then the proposer must complete all sections of this form and submit a Solicitation Log, along with a Goal Attainment Explanation Letter, documenting the firm’s Good Faith Effort. A separate Solicitation Log must be submitted for each Participation Goal established in the RFP.

*** DBE CERTIFICATION IS A FEDERAL PROGRAM CERTIFICATION. ***
IT IS SEPARATE AND DISTINCT FROM THE NEW YORK STATE MBE & WBE PROGRAM. PLEASE DO NOT CONFUSE THE TWO. FIRMS WITH QUESTIONS REGARDING THESE PROGRAMS ARE ENCOURAGED TO SUBMIT WRITTEN QUESTIONS

PAGE NO.: Enter 1 of 1; or 1 of 2 and 2 of 2; etc. Use additional forms as needed.

PRIME NAME/ADDRESS/ZIP CODE: Enter name of the Prime Consultant, its address and zip code.

CONTACT PERSON: Enter the name of the person your firm has designated as the authorized contact person for this solicitation.

CONTACT PERSON TELEPHONE AND EMAIL: Enter area code, phone number and email address for the person your firm has designated as the authorized contact person for this solicitation.

MBE/WBE/DBE CONSULTANTS SOLICITED:

SOLICITED COMPANY NAME AND CONTACT PERSON: Enter name of solicited firm and name of the individual associated with the firm to whom the solicitation inquiry was sent.

TELEPHONE (With Area Code): Enter TELEPHONE number of the solicited firm.

FEDERAL EMPLOYER ID #: Enter the Federal Employer Identification Number of the solicited firm.
**WORK TYPE(S) BEING SOLICITED:** Enter the work type(s) or Commercial Useful Function for which this firm has been solicited in connection with the Scope of Services for this contract. NOTE: Work type codes are provided for every certified firm listed in the DBE Registry. Commodity type codes are provided for every certified firm listed in the ESD M/WBE Registry.

**TYPES AND DATES OF CONTACT:** Enter dates on which your firm contacted the solicited firm, either by mail (date solicitation sent), telephone (including date and time of call) or other person-to-person contacts. Identify the type of contact by prefacing each date with ‘M’ if a mail contact; “T” if a telephone call; and “D” if a direct meeting with the firm.

**CONTACT RESULT(S):** Enter the code(s) which indicates the result(s) of your solicitation.

*** USE ADDITIONAL PAGES AS NEEDED ***

A description of the codes to use is as follows:

**CODE DESCRIPTION:**

1. This firm is unavailable to participate in the contract for the reason(s) stated on the DBE Solicitation Response. (Attach explanation to the Log.)

2. This firm is no longer in business. (NOTE: If this action is checked, attach your explanation as to why the solicitation was sent to the firm and how evidence that it was no longer in business was obtained. Attach the returned envelope showing that it was undeliverable, for instance.

3. The soliciting Prime Consultant was unable to reach this firm after having a telephone conversation to follow-up on the participation solicitation inquiry. (NOTE: Indicate in the Types and Dates of Contact column the dates and times at which follow-up was attempted.)

4. This firm did not respond to repeated telephone messages. (NOTE: Indicate in the Types and Dates of Contact column the dates and times at which messages were left.)
Guidance Concerning Good Faith Efforts in Meeting MWBE Participation Goals in Federally-Funded Contracts

The following is a list of types of actions that demonstrate good faith efforts in obtaining MWBE participation. This list is not exclusive or exhaustive. The bidder must show that it took all necessary and reasonable steps to achieve a MWBE goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MWBE participation, even if they were not fully successful.

- Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, utilizing the ESD MWBE Directory [http://www.esd.ny.gov/MWBE.html](http://www.esd.ny.gov/MWBE.html)) the interest of all certified MWBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the MWBEs to respond to the solicitation. The bidder must determine with certainty if the MWBEs are interested by taking appropriate steps to follow up initial solicitations.

- Selecting portions of the work to be performed by MWBEs in order to increase the likelihood that the MWBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWBE participation, even when the bidder might otherwise prefer to perform these work items with its own forces.

- Providing interested MWBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

- Negotiating in good faith with interested MWBEs – it is the bidder’s responsibility to make a portion of the work available to MWBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available MWBE subcontractors and suppliers, so as to facilitate MWBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of MWBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MWBEs to perform the work.

- A bidder using good business judgment should consider a number of factors in negotiating with subcontractors, including MWBE subcontractors, and would take a firm’s price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding a MWBE is not in itself sufficient reason for failure to meet the contract MWBE goal. Also, the ability or desire to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts.

- Do not reject MWBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor’s standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union versus non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor’s efforts to meet the project goal.
▪ Making efforts to assist interested MWBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contract.

▪ Making efforts to assist interested MWBEs in obtaining necessary equipment, supplies, materials or related assistance or services.

▪ Effectively using the services of available minority/women community organizations; minority/women contractors’ groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MWBEs.
NEW YORK BUSINESS REPORTING

Encouraging Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York’s infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor’s optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State’s economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below and if answered in the affirmative, completing and submitting the following table for all firms (Prime Consultant and all sub-consultants) participating in your proposal. The definition of ‘NYS Business’ is: ‘Any firm with a business address which lies within the borders of New York State from which location the proposed services from this firm shall be provided under this contract’. Indicate whether each proposed firm is classified as a NYS Business, the total dollar amount attributable to each firm, the total proposed contract cost, and the NYS business address of each firm.
Will New York State Businesses be used in the performance of this contract?
Yes _____
No _____

<table>
<thead>
<tr>
<th>Firm Legal Name</th>
<th>NYS Business? (Y or N)</th>
<th>% of Total Proposed Contract Cost</th>
<th>NYS Business Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Prime Consultant</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>B. Sub-Consultants</td>
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<td>$</td>
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<td>$</td>
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</tr>
</tbody>
</table>

Total Proposed Contract Cost: $
ATTACHMENT 10

NON-COLLUSIVE BIDDING CERTIFICATION

NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY
SECTION 139-D OF THE STATE FINANCE LAW

SECTION 139-D, Statement of Non-Collusion in bids to the State:

BY SUBMISSION OF THIS BID, BIDDER AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this _______ day of ____________, 20____ as the act and deed of said corporation of partnership.
NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY
SECTION 139-D OF THE STATE FINANCE LAW

IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:
NAMES OF PARTNERS OR PRINCIPALS | LEGAL RESIDENCE
--------------------------------- | ------------
________________________________ | ______________
________________________________ | ______________
________________________________ | ______________
________________________________ | ______________
________________________________ | ______________

IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:
NAME | LEGAL RESIDENCE
----- | ------------
President: 
| 
Secretary: 
| 
Treasurer: 
| 
President: 
| 
Secretary: 
| 
Treasurer: 
| 
NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY 
SECTION 139-D OF THE STATE FINANCE LAW

Identifying Data

Potential Contractor: __________________________________________________

Address: __________________________________________________________________________

__________________________________________________________________________

City, Town, etc.

Telephone: _______________ Title __________________________

If applicable, Responsible Corporate Officer

Name: __________________________ Title __________________________

Signature: _______________________________________________________________

Joint or combined bids by companies or firms must be certified on behalf of each participant.

______________________________________________

Legal name of person, firm or corporation  ________________________________________________

By

Name __________________________

Title __________________________

Address: __________________________________________________________________________

__________________________________________________________________________

City State
Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Firm offering to provide services pursuant to this [RFP/Contract], as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this [RFP/Contract] does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;

2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;

3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm’s ability to carry out its obligations under any existing contracts between the Firm and the State;

4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;

5. During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and

8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment,
hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms responding to this [RFP/Contract] should note that the State recognizes that conflicts may occur in the future because a Firm may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name, Title:

Signature: Date:

This form must be signed by an authorized executive or legal representative.
ATTACHMENT 12
FORM AOR

ACKNOWLEDGMENT OF RECEIPT OF RFP, MODIFICATIONS AND RESPONSES TO QUESTIONS

<table>
<thead>
<tr>
<th>NAME OF PROPOSER</th>
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<tbody>
<tr>
<td></td>
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</tbody>
</table>

We hereby acknowledge receipt of the <NAME> System Services Request for Proposals #C037712, dated March 16, 2018 and subsequent responses to questions and Modifications issued by the Department, as listed below.

Add additional lines in tables below, if needed.

<table>
<thead>
<tr>
<th>RFP Received</th>
<th>Date Issued by NYSDOT:</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP Modification Number:</td>
<td>Date Issued by NYSDOT:</td>
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</table>

<table>
<thead>
<tr>
<th>SIGNED</th>
</tr>
</thead>
<tbody>
<tr>
<td>DATE</td>
</tr>
<tr>
<td>NAME</td>
</tr>
<tr>
<td>(printed or typed)</td>
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<tr>
<td>TITLE</td>
</tr>
</tbody>
</table>
ATTACHMENT 13
DRAFT CONTRACT

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

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

COMPTROLLER'S CONTRACT NO. C037712

PROJECT: Statewide Drug and Alcohol Testing Services

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 New York State Department of Transportation (hereinafter referred to as "STATE" or "DEPARTMENT") whose Main Office is located at 50 Wolf Road in the County of Albany, State of New York 12232, and

CONSULTANT FIRM NAME
CONSULTANT FIRM ADDRESS
(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.

NOW, THEREFORE, the parties hereto, for the consideration hereinafter named, do agree as follows:

ARTICLE 1. PERFORMANCE OF WORK.

Subject to the provision of ARTICLE 14 hereof, the CONSULTANT shall perform all of the work described in SCHEDULE A generally in accordance with the CONSULTANT'S PROPOSAL 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 CONTRACT. 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. 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. DOCUMENTS FORMING THE CONTRACT.

The contract documents shall be deemed to include:

1. This AGREEMENT (including EXHIBITS),
2. 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, Appendix C, and Appendix D,
3. Schedule A Scope of Services (including Exhibits),
4. Schedule B Schedule of Rates and Fees (including Exhibits),
5. The STATE’s Request for Proposals (RFP; dated ____ ) incorporated by reference, and

ARTICLE 3. INSPECTION.

The duly authorized representatives of the STATE, 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 4. TERM OF THE AGREEMENT.

The CONSULTANT agrees that the base term of the AGREEMENT shall be 60 months from October 1, 2018 to September 30, 2023. Additionally, this AGREEMENT may be extended for one additional 12-month period based on need and performance as determined by the STATE and approved by the Office of the State Comptroller.

ARTICLE 5. MAXIMUM AMOUNT.

Item I. The maximum aggregate amount payable by the State to the CONSULTANT hereunder for the performance and completion of the work over the Agreement’s three-year term is $_____ unless increased by a supplemental agreement. It is understood and agreed that the STATE 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 6. PROVISION FOR PAYMENT.

The STATE shall pay to the CONSULTANT, and the CONSULTANT agrees to accept as full compensation for services provided under this agreement:

Item I. Service fees (as shown in SCHEDULE B EXHIBIT 1) shall cover all services required under this Agreement, and fully loaded labor rates (as shown in SCHEDULE B EXHIBIT 2) shall be used to pay for employees assigned to this PROJECT. The Fully loaded labor rates are
not subject to audit, however, the number of hours charged is subject to audit. If the AGREEMENT is extended beyond (end date in Article 4), then all of the fully loaded labor rates and service fees shown in EXHIBITs 1 and 2 are eligible for rate adjustments. They may be adjusted annually by the lower of either the percent change for the Producer Price Index – Architectural, Engineering and Related Services (Series ID: PCU5413--5413--) for the most recent 12-month period as calculated by the U.S. Department of Labor - Bureau of Labor Statistics, or 2.0%, all subject to current market conditions. If at any time the above Index Series ID is discontinued or becomes unavailable, the STATE reserves the right to implement a comparable Index.

Item II. Actual Direct Non-Salary Costs incurred in fulfilling the terms of this AGREEMENT are subject to audit. All reimbursement for travel, meals and lodging shall be made at actual cost paid but such reimbursement shall not exceed the prevailing maximum rates established by the State Comptroller.

Items purchased under this PROJECT shall become the property of the STATE at the completion of the work, or at the option of the STATE, appropriate value shall be established as a credit to the STATE.

ARTICLE 7. 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, or by email at epunit@osc.state.ny.us. 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.

ARTICLE 8. PARTIAL PAYMENTS.

The CONSULTANT shall be paid in monthly progress payments based on actual allowable costs incurred during the period in accordance with ARTICLE 6 of 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 Sub-consultants of the Consultants schedule for submitting monthly 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 will not include any provisions in their subcontracts that would circumvent the intent of 49 CFR 26.29 to require the CONSULTANT to make partial payments to all Subcontractors and Sub-consultants within ten (10) calendar days of receipt of payment from the STATE.

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 9. FINAL PAYMENT.

a) Section 179 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 Sub-consultants within ten (10) calendar days of receipt of final payment from the STATE.

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 except as otherwise provided in ARTICLE 9(b).

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 10. 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 STATE, in writing, of this fact prior to beginning any of the work. The notification shall include all information required by the Department. The STATE 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 STATE. The STATE shall be under no obligation to reimburse the CONSULTANT for any extra or additional work performed without the prescribed notification and authorization. The STATE will not allow fixed fee for any extra work undertaken without prescribed notification and authorization. In the event that the STATE determines that such work does constitute extra work, the STATE 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 STATE 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 STATE all assistance required by the STATE. 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 STATE’s directions shall be exercised by the issuance of a separate Agreement, if necessary.

**ARTICLE 11. CONSULTANT LIABILITY.**

To the fullest extent permitted by law, the Consultant shall indemnify and save harmless the State, and/or any municipality, public benefit corporation, railroad, and/or public utility whose property or facilities are affected by the work, from suits, claims, actions, damages and costs, of every name and description arising from the work under its contract during its prosecution and until the final acceptance thereof. The Consultant and any assigns, heirs, or successors in interest shall also indemnify and save harmless, to the fullest extent permitted by law, the inspecting engineer or inspector working for the State relative to the project from suits, claims, actions, damages and costs involving personal injury and property damage arising from the Consultant’s work under the contract during its prosecution and until the final acceptance thereof. The State may retain such monies from the amount due the Consultant as may be necessary to satisfy any claim for damages recovered against the State, any municipality and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the work as the result of the Consultant’s work under the contract, until the claim has been resolved or determined prior to release of any monies to the Consultant under the contract. The Consultant’s obligation under this paragraph shall not be deemed waived by the failure of the State to retain the whole or any part of such monies due the Consultant, nor where such suit, action, damages and/or costs have not been resolved or determined prior to release of any monies to the Consultant under the contract, nor shall such obligation be deemed limited or discharged by the enumeration or procurement of any insurance for liability for damages imposed by law upon the Consultant, Subconsultant or the State, any municipality and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the work, or for any consultants working for the State. It is understood by the State and the Consultant that the Consultant’s Professional Liability/Errors and Omissions policy required in the Article of this Contract entitle “Insurance” shall be utilized for claims involving the Consultant’s professional negligence.

The Consultant has the obligation, at its own expense, for the defense of any action or proceeding which may be brought against the parties specified in this Section. This obligation shall include the cost of attorneys’ fees, disbursements, costs and other expenses incurred in connection with such action or proceeding. Such obligation to indemnify in the foregoing paragraph does not extend to those suits, actions, damages and costs of every name that arise out of the sole negligence of the State, or the negligence of any municipality and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the contract work, or the negligence of any consultants working for the State, their agents or employees, relative to the construction, alteration, or repair or maintenance of a building, highway or structure or appurtenances and appliances thereof including moving, demolition and excavating connected therewith. Notwithstanding the foregoing, the parties being defended by the Consultant may elect to join any action or tender their own defense, at their sole expense and discretion.
ARTICLE 12. INSURANCE.

The Consultant shall procure, at its own sole cost and expense, and shall maintain in force at all times during the term of this contract including any extensions or renewals until satisfactory completion of all work under the contract, the policies of insurance covering all operations under the contract whether performed by it or its sub-consultants as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York and that have an A.M. Best Company rating of (A-) or better or approved by the Department. The Department may, at its sole discretion, permit the placement of policies with a non-authorized carrier or carriers upon request by the Consultant accompanied by the documentation required by 11 NYCRR §27.0 et seq.; provided that nothing herein shall be construed to require the Department to accept insurance placed with a non-authorized carrier under any circumstances. The Consultant shall deliver to the Department evidence of such policies as the Department deems necessary to verify that the required insurance is in effect. If policies are changed or canceled, the CONSULTANT shall inform the STATE immediately. The STATE will determine whether to issue an order to the CONSULTANT to stop work.

A. Conditions Applicable to Insurance. All policies of insurance required by this agreement must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the Consultant are specified in Paragraph B, Insurance Requirements, below. General liability insurance shall apply separately on a per-job or per-project basis.

2. Policy Forms. Except as may be otherwise specifically provided herein or agreed in writing by the Department, policies must be written on an occurrence basis. In the event that occurrence-based coverage is not commercially available, claims-made policy forms will be considered provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three (3) years with respect to events that occurred but were not reported during the term of the policy. Insurance policies that remove or restrict blanket contractual liability located in the “insured contract” definition (as stated in Section V, Number 9, Item f in the ISO CGL policy) or that remove or modify the “insured contract” exception to the employers liability exclusion so as to limit coverage for claims that arise out of contract work, or that do not cover the additional insured for claims involving injury to employees of the named insured or subcontractors, are not acceptable. Policy forms must be provided to the Department upon request.

3. 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 the NYS DOT Contract Number. Consultant is strongly encouraged to transmit certificates and other materials concerning insurance coverage, referencing Contract Number C037712 and the name of the Consultant in the Subject Line, by email to: Insur.consult.contr@dot.ny.gov

Certificates may be mailed to the:
New York State Department of Transportation
Contract Management Bureau
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 ten (10) days’ prior written notice to the Department by Certified Mail, Return Receipt Requested at the address stated above. In addition, if required by the Department, the Consultant shall deliver to the Department within ten (10) work 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 a form satisfactory to the Department. The ACORD 25 Certificate must be accompanied by an ACORD 855 “New York Construction Addendum” completed to indicate information about the liability insurance.

b. Be signed and dated by an authorized representative of the insurance carrier or producer.

c. Disclose any deductible, self-insured retention, aggregate limit.

d. Refer to this Contract by number on the face of the certificate.

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:

a. 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

b. May withhold further contract payments in accordance with Partial Payments, Section §109-04 of the Standard Specifications, or

c. Treat such failure as a breach or default of the contract.

4. Additional Insureds. All insurance policies required by these specifications, except workers’ compensation and professional liability shall be endorsed to provide coverage to “The State of New York/New York State Department of Transportation, any municipality in which the work is being performed, any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, and their agents or employees” with respect to any claim arising from the Consultant’s Work under this contract or as a result of the Consultant’s activities. The endorsement shall be effected by endorsement of the applicable policy using ISO form CG 20 10 11 85, CG 20 37 07 04, CG 20 33 07 98 when used in combination with CG 20 37 07 04, or CG 20 33 10 01 or a form(s) that provides equivalent coverage.

5. Primary Coverage. The liability and protective liability insurance policies shall provide primary and non-contributory coverage to the Department for any claim arising from the Consultant’s Work under this contract, or as a result of the Consultant’s activities.

6. Waiver of Subrogation. As to every type and form of insurance coverage required from the Consultant, there shall be no right of subrogation against the State of New York/New York State Department of Transportation, its agents or employees. To the extent that any of Consultant’s policies of insurance prohibit such a waiver of subrogation, Consultant shall secure the necessary permission to make this waiver.
7. **Policy Renewal/Expiration.** At least ten (10) calendar days prior to the expiration of any policy required by this contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the Department than the expiring policies shall be delivered to the Department in the manner required for service of notice in Paragraph A.3. 

8. **Self-Insured Retention/Deductibles.** Consultants utilizing self-insurance programs are required to provide a description of the program for Department approval. Collateralized deductible and self-insured retention programs administered by a third party may be approved. Except as may be specifically provided in the Contract Documents of a particular project, the Consultant or third-party-administered insurance deductible shall be limited to the amount of the bid deposit or $100,000, whichever is less. Security is not required if it is otherwise provided to an administrator for an approved risk management program. The Department will not accept a self-insured retention program without security being posted to assure payment of both the self-insured retention limit and the cost of adjusting claims. The Consultant shall be solely responsible for all claim expense and loss payments within any permitted deductible or self-insured retention. If the Consultant’s deductible in a self-administered program exceeds the amount of the bid deposit, the Consultant shall furnish an irrevocable Letter of Credit as collateral to guarantee its obligations. Such Letter of Credit or other collateral as may be approved by Department must be issued by a guarantor or surety with an AM Best Company rating of (A-) or better. If, at any time during the term of this agreement, the Department, in its sole discretion, determines that the Consultant is not paying its deductible, it may require the Consultant to collateralize all or any part of the deductible or self-insured retention on any or all policies of insurance or, upon failure to promptly do so, the same may be withheld from payments due the Consultant.

9. **Waiver of Indemnities.** The Consultant waives any right of action it and/or its insurance carrier might have against the Department (including its employees, officers, commissioners, or agents) for any loss that is covered by a policy of insurance that is required by this contract. The Consultant waives any right of action it and/or its insurance carrier might have against the Department (including its employees, officers, commissioners, or agents) for any loss, whether or not such loss is insured.

10. **Subconsultant’s Liability Insurance.** In the event that any portion of the work described in this contract is performed by an approved subconsultant, the insurance requirements of this Article shall be incorporated into the subcontract agreement. Subconsultant insurance requirements shall include the requirements for Workers’ Compensation, Commercial General Liability, and, if applicable, Commercial Auto and/or Professional Liability. Excess or umbrella insurance is not required for sub-consultants. Consultant shall require that Certificates of Insurance, meeting the requirements of the Department are provided to the Department documenting the insurance coverage for each and every subconsultant employed by them to do work under this contract.

B. **Insurance Requirements.** The types of insurance and minimum policy limits shall be as follows:

1. **Workers’ Compensation and Disability Insurance.** As required by State Finance Law Section 142, the Consultant shall maintain in force workers’ compensation insurance upon forms required by or acceptable to the Workers Compensation Board for all of
Consultant’s employees. Consultant shall also maintain disability insurance as required by the Disability Benefits Law of the State of New York.

2. Commercial General Liability Insurance. The Consultant shall maintain an occurrence form commercial general liability policy or policies insuring against liability arising from premises (including loss of use thereof), personal injury or death, advertising injury, liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of Consultant. Such coverage shall be written on an ISO occurrence form (ISO Form CG 00 01 12 07 or a policy form providing equivalent coverage) in an amount of not less than $1,000,000.00 per occurrence and not less than $2,000,000.00 aggregate. Unless otherwise provided, the policy or policies of insurance providing the liability coverage shall include:

   a. Coverage for contractual liability assumed by the Consultant insured under an insured contract (including the tort liability of another assumed in a business contract).

   b. All insurance policies required by these specifications except workers’ compensation and professional liability shall be endorsed to provide coverage to “the State of New York/New York State Department of Transportation, any municipality in which the work is being performed, any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, or any consultant inspecting engineer or inspector working for or on the project, and their agents or employees” using ISO form CG 20 10 11 85, CG 20 37 07 04, CG 20 33 07 98 when used in combination with CG 20 37 07 04, or CG 20 33 10 01 or a policy form or forms providing equivalent coverage.

   c. Products-Completed Operations Coverage, as provided in the General Liability Policy, or in certain instances through ISO form CG 26 11 09 99 or suitable equivalent.

   d. Where contract work will be performed by unregistered off-road equipment, Consultant shall provide documentation of a blanket Pollution Liability policy, or an endorsement to cover short-term pollution events, ISO form CG 04 33 10 01 or equivalent.

   e. Coverage for claims for bodily injury asserted by an employee of an additional insured and any Employer Liability Exclusion which may otherwise operate to exclude such coverage shall be voided in this respect.

   f. Explosion, Collapse and Underground Hazards coverage (“XCU”) (for contracts that call for the performance of excavating, underground work, and/or the use of blasting equipment).

3. Commercial Automobile Insurance including liability and required coverage for New York. In the event that automobiles are used in connection with Consultant’s business or operations with the Department, the Consultant shall maintain a commercial or other automobile policy or policies insuring against liability for bodily injury, death, or damage to property and other mandatory coverages, relating to the use, operation, loading or unloading of any of Consultant’s automobiles (including owned, hired and non-owned vehicles) on and around the project. This may be ISO form CA 00 01 10 01, CA 00 01 01 87 or a policy form providing equivalent coverage along with mandatory New York endorsements. Coverage shall be in an amount of not less than $1,000,000 each accident.
4. **Umbrella or Excess Liability Insurance.** The Consultant shall maintain an occurrence form umbrella liability policy or policies insuring against liability arising from premises (including loss of use thereof), operations, independent Consultants, products-completed operations, personal injury and advertising injury, and liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of Consultant or arising from automobile liability as described above. Such coverage shall be written on an ISO occurrence form CU 00 01 12 07 or a policy form providing equivalent coverage. In the event that umbrella coverage is unavailable, equivalent excess coverage may be substituted. The minimum required limits for the umbrella/excess coverage shall be sufficient to provide a total of not less than $5,000,000 per occurrence/aggregate.

5. **Consultant’s Risks.** The Consultant shall be responsible for obtaining any insurance it deems necessary to cover its own risks, including without limitation: (a) business interruption, such as gross earnings, extra expense, or similar coverage, (b) personal property, and/or (c) automobile physical damage and/or theft. In no event shall the Department be liable for any damage to, or loss of, personal property, or damage to, or loss of, an automobile that is covered by a policy of insurance that is required by this agreement, even if such loss is caused by the negligence of the Department.

**ARTICLE 13. INTERCHANGE OF DATA.**

All technical data in regard to the PROJECT existing in the office of the STATE or existing in the offices of the CONSULTANT shall be made available to the other party to this Agreement without expense to such other party.

**ARTICLE 14. DISPOSITION OF DATA.**

At the time of completion of the work, the CONSULTANT shall make available to the STATE all documents and data pertaining to the work or to the PROJECT which materials at all times shall be the property of the STATE. It is agreed that the CONSULTANT may maintain copies of all documents and data. Or in the event that this Agreement is terminated for any reason, then, within ten (10) days after such termination, the CONSULTANT shall make available to the STATE the aforementioned data and material.

**ARTICLE 15. 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 STATE 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 9 of this AGREEMENT.

**ARTICLE 16. 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 S365 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 Contract Management 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 State 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 S362 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 17. TERMINATION.

The STATE 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 STATE 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 STATE.

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 §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.

ARTICLE 18. 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 STATE 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 STATE 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 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 the CONSULTANT, including retained percentages to the date of the death of the last survivor.

ARTICLE 19. INDEPENDENT CONTRACTOR.

The CONSULTANT, 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 STATE by reason hereof, and that they will not, be reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the STATE, including but not limited to Worker's Compensation coverage, Unemployment Insurance benefits, Social Security coverage or Retirement membership or credit.

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 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 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/SUB-CONSULTANTS.

All subcontractors and sub-consultants 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 sub-consultant shall include all standard required contract provisions, and such agreements shall be subject to review by the State.

ARTICLE 24. ORDER OF PRECEDENCE.

In the event of any inconsistency between or among the provisions and contents of this AGREEMENT, it is agreed that such inconsistency shall be resolved in the following descending order of precedence:

1. APPENDIX A,
2. The provisions required by state and federal law to be inserted in the AGREEMENT as set forth in APPENDIX A-1, APPENDIX B, APPENDIX C and APPENDIX D;
3. This AGREEMENT, including Signature Page, Notary Page and Exhibits;
4. Schedule A Scope of Services (including Exhibits),
5. Schedule B Schedule of Rates and Fees (including Exhibits),
6. The STATE’s Request for Proposals (RFP; dated ____ ) incorporated by reference, and

ARTICLE 25. CERTIFICATION REQUIRED BY 49CFR, PART 29.

The signatory 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):

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
2. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
3. Does not have a proposed debarment pending; and
4. Has not been indicted, convicted, or 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.

EXCEPTIONS - ________.

ARTICLE 26. CERTIFICATION FOR FEDERAL-AID CONTRACTS.

The prospective participant certifies, by signing this Agreement to the best of his or her knowledge and belief, that:
(1) 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 officer 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 loan, the entering into of any cooperative agreement, and extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) 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 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 27. 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 STATE may in certain circumstances, provide compensation for such work.

(b) Neither the STATE'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 STATE 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 STATE 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 28. 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 SUBCONTRACTOR/SUB-CONSULTANTS regarding the obligations arising under this clause to insure such confidentiality. The CONSULTANT shall have written policies and/or business procedures in place which will protect Confidential Information from unauthorized disclosure, use, access, loss, alteration or destruction. 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 States 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 §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 SUB-CONSULTANTS.

ARTICLE 29. 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 of 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 30. 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 email.

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: William A. Howe, Contract #C037712
Title: Director
Address: NYSDOT Contract Management Bur., 50 Wolf Rd., 6th Fl, Albany, NY 12232
Telephone Number: 518-457-2600
Facsimile Number: 518-457-2875
Email Address: Bill.howe@dot.ny.gov

Consultant’s Name: __________________
Contact Person’s Name: __________________
Title: __________________
Address: __________________
Telephone Number: __________________
Facsimile Number: __________________
Email 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
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 31. 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, 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 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, Exhibit ___) and submit copies to the Office of the State Comptroller, the Department of Civil Service, and the Department of Transportation on or before May 15th 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 sub-consultant or subcontractor. Form B will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1st to March 31st). Annual employment reports should be submitted to the following three agencies. 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 Counsel’s Office

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: consultantdisclosure@dot.ny.gov.

ARTICLE 33. ENSURING PAY EQUITY BY STATE CONSULTANTS/CONTRACTORS.
In accordance with Executive Order 162, issued on January 9, 2017, the consultant shall provide detailed workforce utilization reports of the CONSULTANT and each sub-consultant – or subcontractor – that include, in addition to equal employment opportunity information, the job title and salary of each employee directly performing work on a STATE contract.

If the CONSULTANT cannot identify the individuals working directly on a State contract, then the CONSULTANT and each sub-consultant shall provide such information of each employee in the CONSULTANT’S entire workforce. Such information shall be reported to the Department at quarterly intervals.

The reporting period shall be on a quarterly basis (January 1 through March 31, April 1 through June 30, July 1 through September 30 and October 1 through December 31). The reporting requirement shall begin on the effective date of the contract and continue for the duration of the contract term. Reports shall be submitted within 15 calendar days from the end of each reporting period. This provision is in effect for the quarterly reporting period ending December 31, 2017, or the quarterly reporting period that is immediately subsequent to the effective date of the contract, whichever date is later.

Detailed workforce utilization reports, as required above, shall be submitted in such form and in such manner as shall be required by the Department and as in accordance with Consultant Instruction 17-01.

The consultant shall include this provision in every subcontract so that such provisions shall be binding upon each sub-consultant, if the subcontract is in excess of $25,000.

ARTICLE 34. CONFLICTS OF INTEREST.

A. The CONSULTANT has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the CONSULTANT’s performance of the services does not and will not create a conflict of interest with, nor position the CONSULTANT to breach any other contract currently in force with the State of New York, that the CONSULTANT will not act in any manner that is detrimental to any STATE project on which the CONSULTANT is rendering services.

A. The CONSULTANT hereby reaffirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the CONSULTANT's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this AGREEMENT. The CONTRACTOR shall have a duty to notify the STATE immediately of any actual or potential conflicts of interest.

B. In conjunction with any subcontract under this AGREEMENT, the CONSULTANT shall obtain and deliver to the STATE, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the sub-consultant/subcontractor. The CONSULTANT shall also require in any subcontracting agreement that the sub-consultant/subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the STATE a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its sub-consultants/subcontractors prior to entering into a subcontract.

C. The STATE and the CONSULTANT recognize that conflicts may occur in the future because the CONSULTANT may have existing, or establish new, relationships. The STATE will review the nature of
any relationships and reserves the right to terminate this AGREEMENT for any reason, or for cause, if, in the judgment of the STATE, a real or potential conflict of interest cannot be cured.

**ARTICLE 35. ETHICS REQUIREMENTS.**

The Consultant and its Sub-consultants/Subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the “Ethics Requirements’). The Consultant certifies that all of its employees and those of its Sub-consultants/Subcontractors who are former employees of the State and who are assigned to perform services under this Contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the Consultant or its Sub-consultants/Subcontractors and who is disqualified from providing services under this Contract pursuant to any Ethics Requirements may share in any net revenues of the Consultant or its Sub-consultants/Subcontractors derived from this Contract. The Consultant shall identify and provide the State with notice of those employees of the Consultant and its Sub-consultants/Subcontractors who are former employees of the State that will be assigned to perform services under this Contract, and make sure that such employees comply with all applicable laws and prohibitions. The State may request that the Consultant provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The State shall have the right to withdraw or withhold approval of any Sub-consultant/Subcontractor if utilizing such Subconsultant/Subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The State shall have the right to terminate this Contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

**ARTICLE 36. SUBCONTRACTING.**

The CONSULTANT agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the STATE. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

The CONSULTANT may arrange for a portion(s) of its responsibilities under this AGREEMENT to be subcontracted to qualified, responsible sub-consultants/subcontractors, subject to approval of the STATE. If the CONSULTANT determines to subcontract a portion of the services, the sub-consultants/subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this AGREEMENT must be fully explained by the CONSULTANT to the STATE. As part of this explanation, the sub-consultant/subcontractor must submit to the STATE a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the CONSULTANT prior to execution of this AGREEMENT.

The CONSULTANT retains ultimate responsibility for all services performed under the AGREEMENT.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this AGREEMENT including, but not limited to, the body of this AGREEMENT, Appendix A – Standard Clauses for New York State Contracts and the advertisement for proposals. Unless waived in writing by the STATE, all subcontracts between the CONSULTANT and sub-consultants/subcontractors shall expressly name the STATE, through the Department of Transportation, as the sole intended third party beneficiary of such subcontract. The STATE reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the STATE a party to any subcontract or create any right, claim, or interest in the sub-consultant/subcontractor or proposed sub-consultant/subcontractor against the STATE.
The STATE reserves the right, at any time during the term of the AGREEMENT, to verify that the written subcontract between the CONSULTANT and sub-consultants/subcontractors is in compliance with all of the provisions of this Section and any subcontract provisions contained in this AGREEMENT.

The CONSULTANT shall give the STATE immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a sub-consultant/subcontractor or which may affect the performance of the CONSULTANT’s duties under the AGREEMENT. Any subcontract shall not relieve the CONSULTANT in any way of any responsibility, duty and/or obligation of the AGREEMENT.

If at any time during performance under this AGREEMENT total compensation to a sub-consultant/subcontractor exceeds or is expected to exceed $100,000, that sub-consultant/subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.
IN WITNESS WHEREOF, this Contract #C037712 has been executed by the STATE, acting by
and through the Commissioner of Transportation, and the Consultant, by signature below, 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

_________________________________ By ______________________________
CONTRACT MANAGEMENT DATE DEPARTMENT OF TRANSPORTATION DATE

Consultant Certifications: I certify that all the information with respect to the “Proposer
Responsibility Questionnaire” submitted by <FIRM NAME> on the <DATE> pursuant to the
requirements set forth in OSC’s ‘Financial Guide to Operations’ is complete true and accurate. I
additionally certify that 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 “Proposer Responsibility
Questionnaire” submitted that date.

In addition to the acceptance of this Agreement, I certify that all information provided to NYSDOT
with respect to the requirements contained in State Finance Law Sections 139j & 139k is complete,
true, and accurate.

By ______________________________ Title: ______________________________
<FIRM NAME>.

Date: ______________________________

Statewide Drug and Alcohol Testing Services for NYSDOT

APPROVALS

ATTORNEY GENERAL

THOMAS P. DI NAPOLI
STATE COMPTROLLER

By: ______________________________

Date: ______________________________
Acknowledgement for Contract #C037712 Original Agreement

For contracts signed in New York State

State of New York )
County of ) ss.:

On the______ day of __________ in the year 2018, 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(s) on behalf of whom 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 2018 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(s) on behalf of whom 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, lessor, lessee or any other party):

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

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

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

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

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

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.
7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, 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 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:

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(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, upgrades, 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  
e-mail: 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  
e-mail: 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. **RECIROCITY 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/Offerors pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: https://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 January 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 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 NYS DOT 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 NYS DOT’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, NYS DOT 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 NYS DOT 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 NYS DOT to enter into such litigation to protect the interests of NYS DOT, 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/plafap). 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 DBEs 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 matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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 agency3 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:

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

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.

   (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.

3 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.
4 www.cfda.gov/
(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-e, 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 I 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 notify the New York State Department of Transportation.

(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 than 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
APPENDIX D

PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:
REQUIREMENTS AND PROCEDURES
(revised State 7-12-2017)

I. General Provisions

A. The New York State Department of Transportation (NYSDOT) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (NYCRR) for all State contracts, as defined therein, with a value (10 in excess of $25,000 for labor, services, equipment, materials, or any combination of

B. The consultant to the subject contract (the “Consultant” and the “Contract” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to NYSDOT, to fully comply and cooperate with NYSDOT in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (EEO), and contracting opportunities for New York State-certified Minority and Women-Owned Business Enterprises (MWBEs). The Consultant’s demonstration of “good faith efforts” pursuant to 5 NYCRR Section 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix C and such other remedies are available to NYSDOT pursuant to the Contract and applicable law.

II. MWBE Utilization Plan

A. The Consultant represents and warrants that the Consultant has submitted an MWBE Utilization Plan, or shall submit a MWBE Utilization Plan at such time as shall be required by NYSDOT. The MWBE Utilization Plan is to be submitted consistent with the requirements stated in the procurement document.

B. The Consultant agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.

C. The Consultant further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such material breach, NYSDOT shall be entitled to any remedy provided herein, including but not limited to, a finding that the Consultant is non-responsive.

III. Waivers Post Contract Execution

A. If the Consultant, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Consultant may submit a request for a waiver to the NYSDOT Contract Management Bureau, Civil Rights Unit. Such waiver request must be supported by evidence of the Consultant’s good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, NYSDOT shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.

B. If NYSDOT, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Consultant is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regards to such non-compliance, NYSDOT may issue a notice of deficiency to the Consultant. The Consultant must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of the MWBE Contract Goals.

IV. Liquidated Damages – MWBE Participation

A. Where NYSDOT determines that the Consultant is not in compliance with the requirements of this Appendix and the Consultant refuses to comply with such requirements, or if the Consultant is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Consultant shall be obligated to pay to NYSDOT liquidated damages.

B. Such liquidated damages shall be calculated as an amount equaling the difference between:
   1. All sums identified for payment to the MWBEs had the Consultant achieved the contractual MWBE goals; and
   2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by NYSDOT, the Consultant shall pay such liquidated damages to NYSDOT within sixty (60) days after they are assessed. Provided, however, that if the Consultant has filed a complaint with the Director of the Division of Minority and Women’s Business Development pursuant to 5 NYCRR Section 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Consultant following the complaint process.
### State Consultant Services
**Contractor’s Annual Employment Report**

**Report Period:** April 1, to March 31,

| Contracting State Agency Name: Transportation | Agency Code: 3900283 |
| Contract Number: C037712 |
| Contract Term 10/1/2018 to 9/30/2023 |
| Contractor Name: |
| Contractor Address: |

**Description of Services Being Provided:** Statewide Drug and Alcohol Testing Services

**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:** / /
Schedule A
SCOPE OF SERVICE

<PLACEHOLDER>
(As Is from RFP Scope of Services)

Schedule B

SCHEDULE OF FEES AND RATES

<PLACEHOLDER>
(To Be Based on Selected Consultant’s Cost Proposal)
Exhibit B

NYSDOT’s Request for Proposals, dated __, as Modified

(Added via Reference)

Exhibit C

The Consultant’s Proposal, Dated, as clarified

(Added via Reference)
**FORM A**

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

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Grand Total

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

(Use additional pages, if necessary)
State Consultant Services  
Contractor’s Annual Employment Report

Report Period: April 1, 2023 to March 31, 2023

Contracting State Agency Name: Transportation  
Agency Code: 3900283

Contract Number: C037712

Contract Term 10/1/2018 to 9/30/2023

Contractor Name:

Contractor Address:

Description of Services Being Provided: Statewide Drug and Alcohol Testing Services

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: / /
ATTACHMENT 15

49 CFR PARTS 382, ET. AL.
CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

49 CFR Parts 382, et. al. – Controlled Substances and Alcohol Use and Testing is an accompaniment to this RFP and may be accessed at the following website:


ATTACHMENT 16

49 CFR PART 40
PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAM

Attachment 11, 49 CFR Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing Program is an accompaniment to this RFP and may be accessed at the following website:

ATTACHMENT 17

NYSDOT DRUG FREE WORKPLACE POLICY AND OMNIBUS TRANSPORTATION
EMPLOYEE TESTING ACT (OTETA) COMPLIANCE

This bulletin outlines the New York State Department of Transportation's (Department) standards on the prohibition of alcohol and drugs in the workplace, and compliance with the Omnibus Transportation Employee Testing Act (OTETA). It will assist employees in guiding their conduct, thereby promoting workplace safety and productivity, and protecting the Department from criticism and liability. It also provides instruction to supervisors on actions to take when an employee appears impaired at work. These efforts will contribute to a safer workplace.

The Department of Transportation (the “Department”) is responsible for providing policies and practices that ensure a safe and healthy work environment for all employees, and establishing and enforcing policies and practices protecting the public. The Department's requirements are based on the Department's long-standing practice and policy prohibiting the use of alcohol and drugs on the job. These requirements originate in the Federal Drug-Free Workplace Act of 1988; the State of New York's Policy on Alcohol and Controlled Substances in the Workplace statement of 1986; the Drug-free Workplace Policy & Procedure (MAP 4.15-4-2); the Omnibus Transportation Employee Testing Act of 1991 which is the Department policy on compliance with OTETA (MAP 4.15-4-1); the DMV Regulations Affecting Commercial Driver License Operators; and the State Vehicle Use Policy.

Specifically, OTETA mandates alcohol and drug testing of employees in various positions and assignments requiring the possession of a Commercial Driver’s License (CDL) or defined as safety-sensitive under the following circumstances: pre-employment/pre-duty drug testing; alcohol and drug testing for reasonable suspicion, post-accident, random, return to duty and follow-up. See attached list of safety-sensitive positions.

At the time of hire, or first-time promotion, to an OTETA safety-sensitive position, employees are notified of their status; drug tested, and required to participate in training which explains their responsibilities and the details of the testing process prior to their inclusion in the random testing pool. An OTETA Compliance Manual is located at each Regional Director's Office, Regional Administrative Services Office, Regional Safety Office, Regional Program Office, Residency, Fleet Administration and Support and Bridge Maintenance Shops as well as Employee Relations and executive offices located in the Main Office. The manual is also located on the Employee Relations Bureau IntraDOT site under the OTETA tab. This manual contains details on the testing process and it should be considered part of the policy.

The Department will assist employees who have a drug or alcohol dependency problem to recover from such addictions provided the employees seek and accept assistance. The Department maintains an Employee Assistance Program (EAP) to help, refer, and advise employees with respect to drug and alcohol abuse. This program is confidential and unrelated to the alcohol and drug testing process (OTETA). It is important to emphasize that those employees with alcohol and/or drug problems who wish to avail themselves of rehabilitative services under the EAP, or any other rehabilitation program, should pursue help before they are determined to be in violation of the
Department's Drug-Free Workplace Policy and OTETA. Employees who test positive for drugs and/or alcohol under OTETA are subject to disciplinary action. In addition to disciplinary action, in compliance with Federal Regulations, employees will be referred to a Substance Abuse Professional (SAP), and they must complete the OTETA return-to-duty process. This includes employees who provide a substituted or altered specimen, and employees who are considered to have refused to test. Disciplinary action taken to resolve drug and/or alcohol related misconduct and/or incompetency issues can include penalties up to and including termination of employment.

**EMPLOYEE RESPONSIBILITIES**

It is the policy of the New York State Department of Transportation that:

1. No employee, or any employee of contractors or consultants performing work pursuant to a contract with, or for the benefit of, the Department, or an individual working for the Department on a volunteer basis, shall use, sell, distribute, dispense, possess or manufacture any alcoholic beverage or illegal drug or any other intoxicating substance or drug paraphernalia on a job site or on Department property, or while on duty. This Policy includes traveling in a State vehicle, or a vehicle leased or rented for State business; or in a privately-owned vehicle being used for State business during the employee’s work hours.

2. No employee shall be at work unfit for duty, including reporting for duty at the beginning of a shift or upon returning from any break, lunch, or rest period as a result of consuming alcohol, illegal drugs, or other intoxicant. This includes traveling in a State Vehicle, or a vehicle leased or rented for State business, or in a privately-owned vehicle being used for State business during the employee’s work hours. Further, no employee in a safety-sensitive position shall report to work in a condition that violates OTETA and corresponding rules. The Act defines unfit for duty as having a Breath Alcohol Content (BAC) of .02 or greater or having a positive drug test that shows the presence of amphetamines (including Methamphetamine, Ecstasy), opiates (Codeine, Morphine, 6-MAM), marijuana, cocaine, or Phencyclidine (PCP) in his or her system.

3. An employee on paid standby status shall remain fit for duty at all times in accordance with this policy.

4. An employee notified of being in a safety-sensitive position as defined by the rules of OTETA is further prohibited from the use of alcohol four (4) hours prior to operating a Commercial Motor Vehicle (CMV). No supervisor having knowledge that an employee in a safety-sensitive position has used alcohol within four (4) hours shall permit that employee to operate a CMV. Employees so notified should refer to the OTETA training materials for further details and as questions arise, contact the Department's OTETA Compliance Program staff at (518) 485-7131 or Main Office Employee Relations at (518) 457-3543.

5. While the use of lawful prescription drugs is not prohibited, they should not render an employee unfit for duty. Situations where prescription drugs may affect an employee's ability to perform his or her assigned job should be brought to the supervisor's attention by the employee. This is especially important if the employee's job responsibilities have an impact on the health and safety of others and/or has been identified as a safety-sensitive position. The specific prescriptions involved and the nature of the employee’s health condition requiring the use of a drug do not need to be disclosed. However, a supervisor
may request a physician's certification that the employee is fit for duty without restriction(s). It may also be necessary to confirm the employee's fitness for duty in accordance with Section 72 of the New York State Civil Service Law through a medical examination performed by a State physician at the Department’s expense. Supervisors should consult with their management chain and the appropriate Regional Administrative Services Office or the Employee Relations Bureau for further directions on the Section 72 process.

6. Any work-related accident or injury involving State vehicles, equipment and/or property where it can be demonstrated that the use of alcohol, drugs, or other intoxicants may have been a contributing factor, will result in formal discipline which can include penalties up to and including termination of employment. Employees serving in a safety-sensitive position shall be required to take post-accident alcohol and drug tests under certain circumstances as required by OTETA. A safety-sensitive employee shall not use alcohol for eight (8) hours following an accident or until they undergo a post-accident alcohol test, whichever occurs first. Employees notified that they are in a safety-sensitive position should refer to the OTETA training material for further details and as questions arise, contact the Department's OTETA Compliance Program staff at (518) 485-7131.

7. Any Department employee may be directed to undergo a medical examination including alcohol and/or drug testing at the Department's expense if a supervisor has reasonable suspicion that the employee is not able to perform his or her duties as a result of the use of alcohol and/or a controlled substance.

   a. An employee identified as being in a safety-sensitive position, as defined by OTETA, must be directed to undergo alcohol and drug testing when the supervisor has "reasonable suspicion" to believe the employee violated the alcohol or drug prohibitions of the Act. Specific requirements and directions for requesting such testing are found in the OTETA Compliance Manual and the Department's Reasonable Suspicion training materials for supervisors.

   b. Reasonable suspicion must be based on specific reliable observations about the employee's appearance, behavior, speech, or body odors. Some examples would be unsteady gait, odor of alcohol on the breath, thick or slurred speech, aggressive or abusive language or behavior, disorientation or lethargy. Other factors to consider include employee’s time and attendance patterns, on-the-job accidents, difficulty remembering instructions or conversations, poor relationships with coworkers and supervisor, and other variations in productivity. Usually reasonable suspicion will be based upon a combination of these factors. However, under OTETA if the odor of alcohol is detected, testing is required. It is the only time when a single indicator warrants testing.

8. Under the Federal Motor Carrier Safety Administration (FMCSA) rules, use of Methadone and Suboxone automatically disqualifies an employee identified as being in a safety-sensitive position from driving a Commercial Motor Vehicle.

9. An employee identified as being in a safety-sensitive position as defined by OTETA is required to cooperate with the provisions of OTETA, which mandate testing of employees for alcohol and other drugs. This means that the employee must participate in the required training, sign the receipt of information form, and make himself or herself available for
testing should his or her name be selected. Failure to cooperate fully with the random, pre-employment, pre-duty, reasonable suspicion, post-accident, return-to-duty or follow-up testing procedures will be considered insubordination and will be considered a positive test result and will warrant appropriate disciplinary action.

10. Violations of these rules may result in disciplinary action up to and including termination of employment.

**SUPERVISOR RESPONSIBILITIES**

Supervisors and managers are required to report and act upon violations of these rules and shall not knowingly permit employees to continue working or operating a vehicle if they suspect them of being unfit to perform normal duties. It is policy of the New York State Department of Transportation that:

1. Supervisors are responsible for determining through direct observation whether an employee is capable of performing his or her assigned duties. Symptoms of being under the influence of alcohol and drugs include incoherent or belligerent speech, smell of alcohol, difficulty working, or erratic or unusual behavior uncommon to the employee. Under OTETA, if the odor of alcohol is detected, testing is required. It is the only time when a single indicator warrants testing. (See #8 of the Employee Responsibilities section of this bulletin.)

2. Any Department employee who is suspected of being unfit for duty shall not remain at the workplace. All such incidents and situations as described in #1 above should be witnessed and documented in writing on the Reasonable Suspicion Observation Form. Being unfit for duty is a form of employee misconduct. The Department may take disciplinary action against any manager or supervisor who knowingly allows an employee suspected of being unfit for duty to remain at the workplace.

3. Safety-sensitive employees who are suspected of being unfit for duty as a result of alcohol or drug use must be tested in accordance with OTETA. Specific directions are located in the OTETA Compliance Manual and the Department’s Reasonable Suspicion Training Materials for Supervisors.
   a. Further, any non-safety-sensitive employee who is suspected of being unfit for duty as a result of alcohol or drug use should be directed for a medical examination, which may include alcohol or drug testing in accordance with Section 72 of the Civil Service Law.
   b. The Department has the ability for immediate fitness for duty testing on a 24/7 basis under an established protocol available through the Employee Health Service (EHS). For further information visit the EHS website at [http://www.cs.ny.gov/ehs](http://www.cs.ny.gov/ehs) or contact the Employee Relations Bureau at (518) 457-3543.
   c. Clearly, any employee who appears to be unfit should not be allowed to drive to a collection site for testing or to drive home from the workplace.

4. After reasonable suspicion testing issues have been resolved, the supervisor should arrange to send the unfit employee home with a member of the employee’s family or friend of the
employee or in a taxi at the employee's expense. If all other alternatives are exhausted, a supervisor may allow an employee who appears to be unfit for duty to be driven home in a State vehicle by another employee.

5. The fact that an unfit employee under the influence of alcohol or other drugs was not allowed to remain at the workplace is not necessarily considered a disciplinary suspension. After removal is achieved, the supervisor or manager should discuss the specifics of the situation with the Regional Administrative Services Office or the Main Office Employee Relations Bureau to review whether disciplinary charges and suspension or other administrative actions are appropriate. Each situation will be evaluated on a case-by-case basis.

6. When an employee displays dangerous, aggressive or abusive behavior, which constitutes a danger to that employee or others and the employee resists voluntarily leaving the workplace, clearance to suspend under the disciplinary procedure should be immediately sought through appropriate channels from the Employee Relations Bureau. In cases where the employee does not comply with disciplinary suspension or due to the time of day disciplinary suspension approval could not be obtained and the employee continues to display aggressive and/or abusive behavior, which constitutes a danger in the workplace, the supervisor may have to contact local law enforcement authorities to remove the employee from the workplace. Law enforcement intervention should only be taken if it is believed an immediate danger to persons or property exists and the other measures described above were unsuccessful in controlling the situation.

7. An employee who reports to work unfit for duty, and is sent home, may be subject to medical examination by a physician at the State's expense as a condition of returning to work. In such cases, the appropriate Regional Administrative Services Office or the Employee Relations Bureau should be consulted for advice.

8. In accordance with OTETA, supervisors of safety-sensitive employees are responsible for assisting management in the process of notifying and transporting, if necessary, selected employees to alcohol and drug testing.

**MANAGEMENT RESPONSIBILITIES**

It is the policy of the New York State Department of Transportation that:

1. A drug and alcohol-free workplace is maintained through the efforts and personal example of management.

2. Appropriate corrective actions are taken with subordinate managers and supervisors who fail to perform his or her duties and responsibilities as outlined in this bulletin and the Department Policy and Manual of Administrative Procedures.

3. Managers and supervisors should discuss with subordinate employees any behavior or job performance factors that may indicate the use of drugs, alcohol, or other violations of the NYSDOT Drug-Free Workplace Policy and when appropriate, recommend that employees seek assistance through the Employee Assistance Program (EAP). Managers and supervisors should not attempt to diagnose or treat the problem, but remain focused on the
work-related issues and problems.

4. Designated managers will direct employees in safety-sensitive positions to mandatory pre-employment/pre-duty, reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing in accordance with OTETA. Managers should also refer other employees believed to be unfit for duty for medical examination and possible alcohol and drug testing in accordance with Section 72 of the New York State Civil Service Law. Managers should contact the appropriate Regional Administrative Services Office or the Employee Relations Bureau for direction.

5. In accordance with OTETA procedures, designated managers of safety-sensitive employees are responsible for receiving the list of individuals who are selected for random alcohol and drug testing, and for assuring that selected employees are sent to testing. The names of those individuals must be held in confidence until the individuals are notified and onsite testing occurs or individuals are sent to a designated collection site. All selected individuals must be sent for testing as soon as possible after the manager is notified (see OTETA Compliance Manual for specifics).

6. All employees, supervisors, and managers must be made aware of the Department's Drug-Free Workplace Policy and OTETA Compliance policies and procedures. The Department will also train supervisors and managers on how to recognize behaviors and complete necessary documentation that support reasonable suspicion for requesting medical examinations, and/or alcohol and drug testing.

In summary, it is the policy of the Department that **all employees** remain free of any drug or alcohol induced impairments while on duty; refrain from the use of illegal drugs and/or alcohol while on duty, and while serving in a safety-sensitive position; undergo any drug and alcohol testing requested in accordance with OTETA and/or Section 72 of the New York State Civil Service Law, and comply fully with the requirements of the testing processes.

**ATTACHMENTS**

NYS C.D.L. REASONABLE SUSPICION OBSERVATION FORM
SAFETY-SENSITIVE TITLES ELIGIBLE FOR ALCOHOL & DRUG TESTING
# Employee Information:

<table>
<thead>
<tr>
<th>Employee Name:</th>
<th>Employee Job Title:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Date of Observation:</th>
<th>Time of Observation:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Employee reported to work at [time]:</th>
<th>Employee task performed when observed:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Observing Supervisor:</th>
<th>Location:</th>
</tr>
</thead>
</table>

**Check all that apply. Write any additional information in the space provided.**

**Please print clearly within designated areas.**

## Physical Indicators

**If the odor of alcohol is detected, employee must IMMEDIATELY be sent for testing.**

### Breath Odor:

- [ ] Alcoholic Beverage
- [ ] Chemical
- [ ] Faint
- [ ] Strong
- [ ] Mild
- [ ] Nothing Noticeable

**Notes:**

### Appearance:

- [ ] Burns on Person or Clothing
- [ ] Ripped/Torn Clothing
- [ ] Odor on Person/Clothing
- [ ] Messy
- [ ] Partially Dressed
- [ ] Appears Normal
- [ ] Dirty/Stained Clothing

**Notes:**

### Eyes:

- [ ] Watery
- [ ] Glassy
- [ ] Closed
- [ ] Bloodshot
- [ ] Droopy Eyelids
- [ ] Appears Normal

**Notes:**

### Face:

- [ ] Red
- [ ] Cuts, Abrasions
- [ ] Runny Nose
- [ ] Slobbering
- [ ] Sweaty
- [ ] Grinding Teeth
- [ ] Pale
- [ ] Dry Mouth
- [ ] Appears Normal

**Notes:**

## Speech Indicators

<table>
<thead>
<tr>
<th>Speech:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Shouting</td>
<td>Slow</td>
</tr>
<tr>
<td>Profane</td>
<td>Thick, Slurred</td>
</tr>
<tr>
<td>Incoherent</td>
<td>Whispering</td>
</tr>
<tr>
<td>Silent</td>
<td>Rambling</td>
</tr>
<tr>
<td></td>
<td>Repetitive</td>
</tr>
<tr>
<td></td>
<td>Rapid</td>
</tr>
<tr>
<td></td>
<td>Appears Normal</td>
</tr>
<tr>
<td>BEHAVIOR INDICATORS</td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Demeanor:</strong></td>
<td></td>
</tr>
<tr>
<td>Cooperative</td>
<td>Crying</td>
</tr>
<tr>
<td>Drowsy</td>
<td>Excited</td>
</tr>
<tr>
<td>Talkative</td>
<td>Anxious</td>
</tr>
<tr>
<td>Fighting</td>
<td>Calm</td>
</tr>
</tbody>
</table>

| Actions:            |
| Fighting           | Hostile         | Non-Communicative | Hyperactive |
| Profane            | Threatening     | Erratic           | Appears Normal |

<table>
<thead>
<tr>
<th>PERFORMANCE INDICATORS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standing:</strong></td>
</tr>
<tr>
<td>Unbalanced</td>
</tr>
<tr>
<td>Feet Wide Apart</td>
</tr>
</tbody>
</table>

| Walking:              |
| Stumbling            | Rapid           | Swaying          | Appears Normal |
| Unsteady             | Falling         | Rigid            |        |
| Stiff Legged         | Holding On      | Staggering       |        |

<p>| Skills:               |</p>
<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Performed a thorough pre-op inspection and preventative maintenance.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Started and idled the vehicle properly.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Put vehicle in motion safely and smoothly.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Shifted transmission smoothly and efficiently.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Drove on roadway safely and properly, observed all traffic laws.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Passed other vehicles safely, legally and only when necessary.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Properly turned vehicle.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Proceeded through intersections properly.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Proceeded through railroad crossing properly.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Followed safe backing procedures.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Transported and dumped material correctly.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Operated vehicles safely while towing equipment.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Parked and shut down vehicle properly.</td>
</tr>
</tbody>
</table>

Notes:
At __________, on __________, I completed this form based on my direct observation of this employee.

(time)  (date)

<table>
<thead>
<tr>
<th>Observing Supervisor (print name)</th>
<th>Signature of Observing Supervisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Based upon review of the reasonable suspicion form, the employee, ______________________</td>
<td>print name of employee</td>
</tr>
<tr>
<td>❑ should be tested</td>
<td></td>
</tr>
<tr>
<td>❑ should NOT be tested.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reviewing Supervisor (print name)</th>
<th>Signature of Reviewing Supervisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>(if by phone call, note time and date of call)</td>
<td></td>
</tr>
</tbody>
</table>
SAFETY-SENSITIVE TITLES

ELIGIBLE FOR ALCOHOL AND DRUG TESTING

Bridge Repair Assistant
Bridge Repair Assistant Trainee 1
Bridge Repair Assistant Trainee 2
Bridge Repair Mechanic
Bridge Repair Supervisor 1
Bridge Repair Supervisor 2
Construction Equipment Mechanic
Crane and Shovel Operator
Drill Rig Operator, Assistant
Drill Rig Operator
Equipment Operator Instructor
Equipment Operator Instructor, Supervising
Highway Equipment Operator
Highway Maintenance Supervisor 1
Highway Maintenance Supervisor 2
Highway Maintenance Worker 1
Highway Maintenance Worker 2
Highway Maintenance Worker Trainee 1
Highway Maintenance Worker Trainee 2
Maintenance Assistant
Maintenance Assistant (Residency Sign Crew)
Maintenance Assistant (Parks)
Motor Equipment Maintenance Supervisor 1
Motor Equipment Maintenance Supervisor 2
Motor Equipment Mechanic
Pavement Marking Supervisor
Sign Crew Supervisor
Traffic Signal Mechanic, Assistant
Traffic Signal Mechanic, Supervising
Traffic Systems Technician 1
Traffic Systems Technician 2
Tree Pruner
Tree Pruner Supervisor

**Other titles should be included when job assignment requires that the employee function in a safety-sensitive capacity.**
ATTACHMENT 18
MAP OF NYSDOT REGIONS AND WORKSITES
## NYSDOT Residency Worksite Locations (By Region)

### Region 1

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>RES NO</th>
<th>ADDRESS</th>
<th>CITY</th>
<th>Facility Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voorheesville</td>
<td>1-1</td>
<td>16 Maple Rd</td>
<td>Voorheesville</td>
<td>Residency</td>
</tr>
<tr>
<td>Elizabethtown</td>
<td>1-2</td>
<td>7735 NYS Rt 9N</td>
<td>Elizabethtown</td>
<td>Residency</td>
</tr>
<tr>
<td>Cairo</td>
<td>1-3</td>
<td>Rte. 23 at Bross St. (107 DOT Rd.)</td>
<td>Cairo</td>
<td>Residency</td>
</tr>
<tr>
<td>Defreestville</td>
<td>1-4</td>
<td>288 Troy Road</td>
<td>Defreestville</td>
<td>Residency</td>
</tr>
<tr>
<td>Saratoga</td>
<td>1-5</td>
<td>351 West Ave.</td>
<td>Saratoga Spr</td>
<td>Residency</td>
</tr>
<tr>
<td>Schenectady</td>
<td>1-6</td>
<td>3008 Chrysler Ave.</td>
<td>Rotterdam</td>
<td>Residency</td>
</tr>
<tr>
<td>Warrensburg</td>
<td>1-7</td>
<td>4021 Main Street</td>
<td>Warrensburg</td>
<td>Residency</td>
</tr>
<tr>
<td>Hudson Falls</td>
<td>1-8</td>
<td>3716 Burgoyne Ave. Hudson Falls</td>
<td>Hudson Falls</td>
<td>Residency</td>
</tr>
</tbody>
</table>

### Region 2

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>RES NO</th>
<th>ADDRESS</th>
<th>CITY</th>
<th>Facility Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indian Lake</td>
<td>2-2</td>
<td>Rt. 28</td>
<td>Indian Lake</td>
<td>Residency</td>
</tr>
<tr>
<td>Herkimer</td>
<td>2-3</td>
<td>131 5th Avenue</td>
<td>Herkimer</td>
<td>Residency</td>
</tr>
<tr>
<td>Fultonville</td>
<td>2-5</td>
<td>3059 St. Hwy. 5S</td>
<td>Fultonville</td>
<td>Residency</td>
</tr>
<tr>
<td>Utica</td>
<td>2-6</td>
<td>2436 Chenango Rd.</td>
<td>Utica</td>
<td>Residency</td>
</tr>
<tr>
<td>Rome</td>
<td>2-7</td>
<td>6515 State Route 26</td>
<td>Rome</td>
<td>Residency</td>
</tr>
</tbody>
</table>

### Region 3

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>RES NO</th>
<th>ADDRESS</th>
<th>CITY</th>
<th>Facility Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waterloo</td>
<td>3-1</td>
<td>78 E River Road</td>
<td>Waterloo</td>
<td>Residency</td>
</tr>
<tr>
<td>Cortland</td>
<td>3-2</td>
<td>3668 NYS Rt 281</td>
<td>Cortland</td>
<td>Residency</td>
</tr>
<tr>
<td>North Syracuse</td>
<td>3-3</td>
<td>5430 South Bay Road</td>
<td>N Syracuse</td>
<td>Residency</td>
</tr>
<tr>
<td>Camillus</td>
<td>3-4</td>
<td>5700 Devoe Road</td>
<td>Camillus</td>
<td>Residency</td>
</tr>
<tr>
<td>Mexico</td>
<td>3-5</td>
<td>5846 Scenic Ave (Rte. 3)</td>
<td>Mexico</td>
<td>Residency</td>
</tr>
</tbody>
</table>

### Region 4

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>RES NO</th>
<th>ADDRESS</th>
<th>CITY</th>
<th>Facility Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Batavia</td>
<td>4-1</td>
<td>5441 East Main St</td>
<td>Batavia</td>
<td>Residency</td>
</tr>
<tr>
<td>Lakeville</td>
<td>4-2</td>
<td>Rt. 20A, I-390, Exit 8</td>
<td>Lakeville</td>
<td>Residency</td>
</tr>
<tr>
<td>East Rochester</td>
<td>4-3</td>
<td>938 W. Linden Ave</td>
<td>E Rochester</td>
<td>Residency</td>
</tr>
<tr>
<td>Spencerport</td>
<td>4-4</td>
<td>2441 South Union St.</td>
<td>Spencerport</td>
<td>Residency</td>
</tr>
<tr>
<td>Warsaw</td>
<td>4-7</td>
<td>Rt. 19</td>
<td>Warsaw</td>
<td>Residency</td>
</tr>
<tr>
<td>Newark</td>
<td>4-8</td>
<td>1140 E Union St.</td>
<td>Newark</td>
<td>Residency</td>
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### Region 5
<table>
<thead>
<tr>
<th>Region 6</th>
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<tbody>
<tr>
<td><strong>FACILITY</strong></td>
</tr>
<tr>
<td>Friendship</td>
</tr>
<tr>
<td>Coopers Plains</td>
</tr>
<tr>
<td>Watkins Glen</td>
</tr>
<tr>
<td>Hornell</td>
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<tr>
<th>Region 7</th>
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<tbody>
<tr>
<td><strong>FACILITY</strong></td>
</tr>
<tr>
<td>Plattsburgh</td>
</tr>
<tr>
<td>Malone</td>
</tr>
<tr>
<td>Watertown</td>
</tr>
<tr>
<td>Lowville</td>
</tr>
<tr>
<td>Potsdam (New)</td>
</tr>
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<table>
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<tbody>
<tr>
<td><strong>FACILITY</strong></td>
</tr>
<tr>
<td>Hudson</td>
</tr>
<tr>
<td>Fairview</td>
</tr>
<tr>
<td>Lake Carmel</td>
</tr>
<tr>
<td>Newburgh</td>
</tr>
<tr>
<td>Middletown</td>
</tr>
<tr>
<td>New City</td>
</tr>
<tr>
<td>Kingston</td>
</tr>
<tr>
<td>Katonah</td>
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<td>Valhalla</td>
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<tbody>
<tr>
<td><strong>FACILITY</strong></td>
</tr>
<tr>
<td>Binghamton</td>
</tr>
<tr>
<td>Oxford</td>
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<tr>
<td>Hancock</td>
</tr>
<tr>
<td>Oneonta</td>
</tr>
<tr>
<td>Cobleskill</td>
</tr>
<tr>
<td>Monticello</td>
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<tr>
<td>Tioga</td>
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## Region 10

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>RES NO</th>
<th>ADDRESS</th>
<th>CITY</th>
<th>Facility Type</th>
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</thead>
<tbody>
<tr>
<td>Syosset</td>
<td>10-1</td>
<td>500 Robbins Lane</td>
<td>Syosset</td>
<td>Residency</td>
</tr>
<tr>
<td>Garden City</td>
<td>10-2</td>
<td>925 Stewart Ave</td>
<td>Garden City</td>
<td>Residency</td>
</tr>
<tr>
<td>Riverhead</td>
<td>10-3</td>
<td>1900 Co. Rd., Rte. 58</td>
<td>Riverhead</td>
<td>Residency</td>
</tr>
<tr>
<td>Central Islip</td>
<td>10-4</td>
<td>371 Carleton Ave</td>
<td>Central Islip</td>
<td>Residency</td>
</tr>
<tr>
<td>Melville South</td>
<td>10-5</td>
<td>1400 Walt Whitman Rd, N Service Road</td>
<td>Melville</td>
<td>Residency</td>
</tr>
<tr>
<td>North Merrick</td>
<td>10-6</td>
<td>1234 Meadowbrook Road</td>
<td>North Merrick</td>
<td>Residency</td>
</tr>
</tbody>
</table>