



NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

REQUEST FOR PROPOSALS #PFL-2017-1

“PAID FAMILY LEAVE PROGRAM”

RELEASE DATE: December 26, 2017

PROPOSAL DUE DATE: June 15, 2018

IMPORTANT NOTICE: A Restricted Period under the Procurement Lobbying Law is currently in effect for this Procurement and will remain in effect until State Comptroller approval of the resultant contract. During the Restricted Period for this Procurement ALL communications must be directed, in writing, solely to the Procurement Manager as listed below and shall be in compliance with the Procurement Lobbying Law and the NYS Department of Civil Service “*Rules Governing Conduct of Competitive Procurement Process*” (refer to RFP, Section II: Procurement Protocol and Process).

**Department of Civil Service Contact for
Inquiries and Submissions for this Solicitation:**

**PFL Procurement Manager
Employee Benefits Division, Room 1106
New York State Department of Civil Service
Albany, New York 12239
(518) 402-2096**

E-mail: PFL2017RFP@cs.ny.gov

**Lola Brabham
Acting Commissioner
New York State Department of Civil Service**

**James DeWan
Acting Director
New York State Department of Civil Service
Employee Benefits Division**

SECTION I: INTRODUCTION**A. Purpose**

The purpose of this Request for Proposals (RFP or Procurement), entitled “Paid Family Leave Program” is to secure the services of a qualified Offeror to administer and insure a stand-alone Paid Family Leave (PFL) Program for employees of the State of New York. The PFL benefits shall be reflective of and compliant with the PFL Program introduced in the State Fiscal Year 2016-17 enacted budget and promulgated in Article 9 of the Workers’ Compensation Law. For additional information on the PFL Program, visit <https://www.ny.gov/programs/new-york-state-paid-family-leave>.

The Department of Civil Service (Department) intends to enter into a contract (Agreement) with one (1) Offeror selected as a result of this RFP. Upon approval by the New York State Comptroller, the term of the Contract shall be for the implementation period plus five (5) years. The implementation period shall be completed by January 1, 2019.

If the Offeror’s Proposal includes Key Subcontractors or Affiliates, the Offeror will be considered the Prime Contractor, and the Offeror shall assume full responsibility for the fulfillment of all of the Contractor responsibilities under the Agreement. This RFP and other relevant information may be reviewed at: www.cs.ny.gov/PFL2017RFP/index.cfm

Note: Refer to Section VII: Glossary of Terms, for definitions of terms used throughout this RFP.

B. Overview of the New York State Paid Family Leave Program

The New York State PFL Program is designed to provide wage replacement and job protection to employees who need time away from their job to:

- Bond with a newly born, adopted or fostered child (up to the first 12 months following birth or placement);
- Care for a Family Member with a serious health condition; or
- Assist loved ones when a Family Member is deployed abroad on active military duty.

Employees with a regular schedule of 20 or more hours per week are eligible for PFL after 26 weeks of employment. Employees with a regular schedule of less than 20 hours per

week are eligible after 175 days worked. Employees do not have to exhaust sick and/or vacation leave before using PFL. Leave can be taken weekly or daily and can be intermittent.

The Department will oversee the administration of the New York State PFL Program for New York State employees and the Offeror selected through this RFP will be responsible for providing PFL coverage for up to 250,000 employees.

The New York State PFL Program is solely funded through employee contributions. The maximum employee contribution in 2018 is 0.126 percent of an employee's weekly wage capped at 0.126% of the annualized New York State Average Weekly Wage (NYSAWW), currently at \$1,305.92. The chart below outlines the duration of benefits in weeks, the percentage of weekly wages paid, and the weekly benefit maximums available under the PFL program.

Date	PFL Weeks Available	Benefit as a % of Weekly Wages	Maximum Weekly Benefit
January 1, 2018	8	50%	50% of NYSAWW
January 1, 2019	10	55%	55% of NYSAWW
January 1, 2020	10	60%	60% of NYSAWW
January 1, 2021	12	67%	67% of NYSAWW

While the Department shall hold the contract and administer certain elements of program operations, other agencies have administrative responsibilities pertaining to this Program. There are over 400 separate NYS agencies. These agencies provide certain functions such as hiring employees, administering payroll, approving use of accruals and approving leave in accordance with the Federal Family and Medical Leave Act (FMLA) and other tasks. If not performed by the agency, some tasks are performed by the Business Service Center (BSC) of the NYS Office of General Services. To perform their responsibilities, each agency must have access to various PFL claim reports for their specific employees.

The NYS Office of the State Comptroller will be responsible for calculating PFL premiums and taking associated payroll deductions for the employees covered under this contract. There are two biweekly payrolls administered by OSC. Each pay period begins on a Thursday and ends fourteen days later. Payrolls alternate every week between Administrative and Institutional. Premium deductions from each payroll shall be transmitted from OSC to the contracted vendor.

SECTION II: PROCUREMENT PROTOCOL AND PROCESS**A. Rules Governing Conduct of Competitive Procurement Process****1. Timeline/Key Events**

RFP Release Date	December 26, 2017
Exhibit I.K Offeror's Affirmation of Understanding & Agreement Due Date	See below*
Amended March 9, 2018	
Pre-Proposal Conference	March 15, April 25, 2018
Questions Due Date	March 22, May 2, 2018
Release Date of Official Responses to Questions	April 5, May 9, 2018
Exhibit I.J Notice of Bidding Intention Form Deadline	June 1, 2018
Proposals Due Date	June 15, 2018
Anticipated Contract Start Date	Upon OSC approval of the Agreement, with Program Services starting on or about October 18, 2018.

* Prior to the Offeror's initial contact with the Department, the Offeror must complete and submit **Exhibit I.K, "Procurement Lobbying Offeror's Affirmation of Understanding and Agreement"** to the PFL Program Procurement Manager.

2. Procurement Lobbying Limitations

- a. Pursuant to State Finance Law sections 139-j and 139-k, this Procurement imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the Procurement's "Restricted Period" (from the issuance of this RFP until the date of the Agreement's final approval by the OSC) to other than designated staff, unless the contact falls within certain statutory exceptions ("permissible contacts"). For purposes of this Section II.A.2 of this RFP, "Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids (i.e. Proposals) in response to this RFP. Staff is required to obtain certain information from Offerors and others whenever there is a contact about the Procurement during the Restricted Period, and is required to make a determination of the Offeror's responsibility that addresses the Offeror's compliance with the statutes' requirements. Findings of non-responsibility result in rejection for contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a Proposal on, or be awarded a Contract for four years from the date of the second non-responsibility finding. The Department's policy and associated procedures are included as **Exhibit I.L, "Procurement Lobbying Policy:**

Restrictions on Contacts During the Procurement Process” to this RFP. Further information about these requirements can be found at:

<http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

- b. In order to ensure public confidence and integrity in the Procurement process, the Department will strictly control all communications between any Offeror and participants in the evaluation process, from the date this RFP is released until the Agreement is approved by OSC. The Procurement Lobbying law applies to any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Department or any other State governmental entity about a governmental procurement during that procurement’s restricted period, whether or not the caller has a financial interest in the outcome of the governmental procurement; provided, however, that a governmental agency (or its employees) that communicates with the Department regarding a governmental procurement in the exercise of its oversight duties shall not be considered an Offeror. “Offeror” includes prospective Offerors prior to the due date for the submission of offers/bids in response to the solicitation document. All contacts, inquiries, questions, filings and submissions of Proposals in regard to this RFP must be directed, in writing, by mail, facsimile or e-mail, as applicable, solely to the PFL Program Procurement Manager. An Offeror’s failure to comply with this requirement may result in the Offeror’s disqualification from this Procurement.

If using the U.S. Postal Service, please use the following address:

PFL Program Procurement Manager
Employee Benefits Division, Room 1106
NYS Department of Civil Service
Albany, New York 12239

For all other carriers including couriers, UPS, and FedEx, please use the following address:

PFL Program Procurement Manager
NYS Department of Civil Service
Employee Benefits Division
Agency Building 1
Empire State Plaza
Albany NY 12239
Fax: 518-402-2835
E-mail: PFL2017RFP@cs.ny.gov

Additionally, Offerors and prospective Offerors are strictly prohibited from making any contacts or inquiries concerning the Procurement with any member, officer or employee of

any NYS governmental entity other than the Department from the date this RFP is released until the Agreement is approved by OSC subject only to the specific exceptions listed below. Further, any Offeror shall not attempt to influence the Procurement in any manner that would result in a violation or an attempted violation of Public Officers Law sections 73(5) or 74.

- c. The following contacts are exempted from the provisions of paragraph 3 of section 139-j and as such do not need to be directed to the PFL Program Procurement Manager pursuant to section 139-k:
- (1) The submission of written Proposals in response to this RFP;
 - (2) The submission of written questions by a method set forth in this RFP when all written questions and responses are to be distributed to all Offerors who have expressed an interest in the Procurement;
 - (3) Participation in a demonstration, conference or other means for exchange of information in a setting open to all potential bidders provided for in this RFP;
 - (4) Complaints by an Offeror regarding the failure of the PFL Program Procurement Manager to respond to an Offeror's authorized contacts, when such complaints are made in writing to the Department's Office of the General Counsel, provided that any such written complaints shall become a part of the procurement record;
 - (5) Communications by a successful Offeror(s) who has been tentatively awarded a contract and is engaged in communications with the Department solely for the purpose of negotiating the terms of the Agreement after having been notified of tentative award;
 - (6) Contact by an Offeror to request the review of a procurement award when done in accordance with the procedure specified in the solicitation document;
 - (a) Contacts by an Offeror in protests, appeals or other review proceedings (including the apparent successful Offeror and its representatives) before the Department seeking a final administrative determination, or in a subsequent judicial proceeding;or

- (b) Complaints of alleged improper conduct in the Procurement when such complaints are made to the NYS Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or
 - (c) Written protests, appeals or complaints to the NYS Comptroller's office during the process of contract approval, where the NYS Comptroller's approval is required provided that the NYS Comptroller shall make a record of such communications and any response thereto which shall be entered into the procurement record pursuant to State Finance Law Section 163; or
 - (d) Complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the NYS Comptroller's office; and
- (7) Communications between Offerors and governmental entities that solely address the determination of responsibility by a governmental entity of an Offeror.
- d. Each Offeror must complete Part 1 of **Exhibit I.K, "Procurement Lobbying Offeror's Affirmation of Understanding and Agreement"** affirming their understanding of, and agreement to, comply with the procurement lobbying requirements set forth in State Finance Law §139-k and §139-j. A completed **Exhibit I.K** must be submitted to the PFL Program Procurement Manager prior to a prospective Offeror making its initial contact with the Department (e.g., attendance at the Pre-Proposal Conference, submission of **Exhibit I.J, "Notice of Bidding Intention Form,"** submission of questions, etc. or concurrent with an Offeror's submission of its Proposal, whichever shall occur first). Offerors are advised that whenever any of the Offeror's officers, employees, agents or consultants contact the Department, they should be prepared to provide their name, address, telephone number, place of principal employment, occupation, and whether they were retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regard to this Procurement. To that end and to streamline the process, Offerors are requested to complete and submit Part 2 of **Exhibit I.K** entitled, "**Designated Offeror Contact**" for each officer, employee, agent or consultant authorized by the Offeror to appear before or contact the Department in regards to this Procurement before appearing or before or at the time such contact is initiated.

Additionally, at the time a Proposal is submitted to the Department, the Offeror is required to provide a completed “**Offeror’s Certification of Compliance Pursuant to State Finance Law §139-k**” form. This certification is included as **Exhibit I.P** of this RFP.

Amended March 9, 2018

3. Pre-Proposal Conference

A Pre-Proposal Conference will be held on ~~March 15~~ **April 25, 2018** at 10:00 a.m. in the OGS Meeting Room 125 - Concourse Level of the Empire State Plaza, Albany, NY. Attendance is not mandatory, but is strongly encouraged for Offerors intending to submit a Proposal. Each Offeror is requested to send no more than two (2) representatives to the Pre-Proposal Conference. If your organization plans to attend the Pre-Proposal Conference, please notify the PFL Program Procurement Manager via facsimile or e-mail at the address noted in Section II.A.2.b. at least five (5) business days before the conference with the name and affiliation of each person attending. Information regarding directions to the Empire State Plaza, available parking and security requirements, may be found at: <http://ogs.ny.gov/ESP/CT/plaza.asp>. On the date of the conference, visitors may be required to present photo identification. Prospective Offerors are advised to allow sufficient time to go through security.

4. Notice of Bidding Intention Form

- a. Filing of this notice is **not** mandatory; however, to assist the Department in better managing the procurement process, prospective Offerors, whether they intend to submit a Proposal in response to this RFP or not, are requested to complete a “**Notice of Bidding Intention Form**” (**Exhibit I.J**) and submit it to the PFL Program Procurement Manager by the Notice of Bidding Intention Deadline as set forth in Section II.A.1. The completed form may be submitted either in hardcopy, at the address provided in Section II.A.2.b. or electronically at: PFL2017RFP@cs.ny.gov.
- b. On the “MWBE Subcontracting Posting Request Form,” Exhibit I.J.1, New York State certified Minority and Women-Owned Businesses (M/WBE) may request that their firm’s contact information be included on a list of M/WBE firms interested in serving as a subcontractor for this Procurement. The listing will be publicly posted on the Procurement webpage at: www.cs.ny.gov/PFL2017RFP/index.cfm for reference by the bidding community. A firm requesting inclusion on this list should send a copy of its NYS MWBE certification with its completed MWBE Subcontracting Posting Request Form.

5. Submission of Errors or Omissions in this RFP Document

By participating in activities related to this RFP, and/or by submitting a Proposal in response to this RFP, an Offeror agrees to be bound by its terms, including, but not limited to, this process by which an Offeror may submit errors or omissions for consideration. If an Offeror believes there is an error or omission in this RFP, the Offeror may raise such issue as follows:

a. Process for Submitting Assertions of Errors or Omissions in RFP Document

- (1) **Time Frame:** Assertions of errors or omissions in the RFP process which are or should have been apparent prior to the Proposal Due Date must be received by the Department, in writing, five (5) Business Days after the Release Date of Official Responses to Questions specified in Section II.A.1.
- (2) **Content:** The submission alleging the error or omission must clearly and fully state the legal and/or factual grounds for the assertion and must include all relevant documentation.
- (3) **Format of Submission:** All submissions asserting an error or omission must be in writing and submitted to the PFL Program Procurement in hard copy at the address provided in Section II.A.2.b.

The envelope or package must clearly and prominently display the following statement:

**"Submission of Errors or Omissions for the Paid Family
Leave Program Request for Proposals #PFL-2017-1"**

Any assertion of an error or omission which does not conform to the requirements set forth in this section shall be deemed waived by the Offeror and the Offeror shall have no further recourse.

b. The Review Process for Assertions of Errors or Omissions in RFP

The Department shall conduct the review process for submission of errors or omissions. The Commissioner may appoint a designee who will review the submission and make a recommendation to the Commissioner as to the disposition of the matter. The Commissioner's designee may be an employee of the Department but, in any event, shall be someone who has not participated in the preparation of this RFP, the evaluation of Proposals, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the Offeror may be given the opportunity to meet with the

Commissioner or the Commissioner's designee to support its submission. The Offeror may, but need not, be represented by counsel at such a meeting. Any and all issues concerning the manner in which the review process is conducted shall be determined solely by the Commissioner or the Commissioner's designee.

The Commissioner or designee shall review the matter, and the Commissioner shall issue a written decision within twenty (20) business days after the close of the review process. If additional time for the issuance of the decision is necessary, the prospective Offeror shall be advised of the delay and of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the agency's final determination in the matter.

The Department reserves the right to determine and to act in the best interests of the State in resolving any assertion of error or omission in this RFP document. The Department may elect to extend the Proposal Due Date as may be appropriate. Notice of any such extension will be provided to all organizations who registered via mail, facsimile or e-mail. Notice of any extension will also be posted to: www.cs.ny.gov/PFL2017RFP/index.cfm

6. Submission of Questions

In the event a prospective Offeror has any substantive or procedural questions concerning the content of this RFP, those questions can be submitted to the Procurement Manager at the address provided in Section II.A.2.b or via email to PFL2017RFP@cs.ny.gov.

The Department strongly urges prospective Offerors to submit the questions via e-mail. Each question should cite the particular RFP section, page number and paragraph number to which it refers. All responses will be considered unofficial until issued or confirmed in writing by the Department on the procurement website. Only those questions due prior to 5:00 p.m. Eastern Time (ET), on the Questions Due Date as shown in Section II.A.1. of this RFP, will be accepted.

To expedite its responses, the Department has provided a question template form which prospective Offerors are requested to use in submitting questions regarding this RFP (see **Exhibit I.R, "Question Template"**).

After the Questions Due Date, the Department will provide to all organizations who have registered, an e-mail notification of the posting of all questions received and the Department's Official Responses to said questions. To register, Offerors must complete the **Procurement Registration Form** attached to the notice of this RFP in the New York State Contract Reporter and return it to the Procurement Manager. The questions and answers will be posted to: www.cs.ny.gov/PFL2017RFP/index.cfm and all registered Offerors will be notified of the posting to this site. Firms who do not complete the **Registration Form** will not be automatically notified of amendments to the RFP or of the Department's response to questions.

7. Submission of Proposal

a. Submission Requirements

The Offeror's Proposal must be organized and separated into two (2) separate parts: Administrative Proposal; and Technical Proposal. To facilitate the evaluation process, an Offeror must submit twelve (12) separately bound hard copies (two (2) ORIGINALS and ten (10) copies) and one (1) electronic copy (CD) of each of the two (2) parts of the Offeror's Proposal. These twenty-four (24) hard copy documents and two (2) CDs are collectively hereafter referred to as "Submissions."

Each ORIGINAL hard copy of each part must be marked "ORIGINAL," contain original signatures of an official(s) authorized to bind the Offeror to its provisions on all forms submitted that require the Offeror's signature and numbered sequentially, i.e. Original #1, Original #2. The remaining ten (10) hard copies of each section may contain a copy of the official's signature and numbered sequentially (e.g. Copy #1, Copy #2, etc.). Please note that, for each of the two (2) sections, that hard copy marked "Original #1" will be deemed controlling by the Department when viewing the Proposal.

Proposals should be placed and packaged in sealed boxes/envelopes. Each sealed box/envelope should contain a label on the outside which contains the information below.

<p style="text-align: center;">New York State Department of Civil Service Request for Proposals #PFL-2017-1 <u>“Paid Family Leave Program”</u></p> <p style="text-align: center;">OFFEROR NAME OFFEROR ADDRESS</p> <p style="text-align: center;">Indicate content, as applicable ADMINISTRATIVE or TECHNICAL PROPOSAL There must be no cost information included in the Offeror’s Administrative Proposal or Technical Proposal.</p>

All Proposals must be sent to the address provided in Section II.A.2.b.

If an Offeror plans to have the Proposal hand delivered, arrangements for acceptance of the packages must be made in accordance with procurement security procedures. **To make such arrangements, the Offeror must notify the PFL Program Procurement Manager forty-eight (48) hours prior to delivery. All Proposals must be received by 3:00 p.m. ET on the Proposal Due Date as set forth in Section II.A.1 of the RFP.** If the Proposal is delivered by mail or courier, the Department recommends that it be sent "return receipt requested," so the Offeror obtains proof of timely delivery.

Any proposal received after 3:00 p.m. ET on the Proposal Due Date will not be accepted by the Department and may be returned to the submitting entity at the Department’s discretion.

All Proposals submitted become the property of the Department.

The Department will accept amendments and/or additions to an Offeror's Proposal if the amendment and/or addition is received by the Department **prior** to 3:00 p.m. ET on the Proposal Due Date. All amendments to an Offeror’s Proposal must be submitted in writing, in accordance with the format set forth in Section II.A.6. of this RFP, and will be included as part of the Offeror's Proposal, if accepted by the Department as provided above.

Offerors are cautioned to verify the content of their Proposal before submission. Except for material received from an Offeror in response to a request by the Department, the Department will not accept amendments or additions to a Proposal if such material is

received after 3:00 p.m. ET on the Proposal Due Date. Offerors are encouraged to submit the “**Proposal Submission Checklist**” (**Exhibit I.A**) to facilitate verification of Proposal contents. An Offeror's request to withdraw a Proposal after the Proposal Due Date may be considered at the sole discretion of the Department.

b. Formatting Requirements

The Administrative Proposal and Technical Proposal should comply with the following formatting requirements. Failure to comply with the formatting requirements may result in the Proposal being deemed non-responsive and may result in rejection of the Proposal.

- (1) **Binding of Proposal:** The Administrative and Technical Proposal must be separate, clearly labeled, and delivered in one package. The official name of the organization(s), the Proposal Due Date and “Paid Family Leave Program RFP #PFL-2017-1” must appear on the outside front cover of each copy of the package containing the Offeror's Administrative, and Technical Proposals. If the Proposals are submitted in loose-leaf binders, the official name(s) of the organization(s) and Paid Family Leave Program RFP #PFL-2017-1” also must appear on the spine of the binders;
- (2) **Table of Contents:** Each Proposal must include a table of contents;
- (3) **Index Tabs:** Each major Section of the Proposal, each subsection in the Technical Proposal and each Exhibit must be labeled with an index tab that correctly identifies Section, subsection or Exhibit as named in the table of contents;
- (4) **Pagination:** Each page of the Proposal, including Exhibits, must be labeled on the upper right with the Section title and Section reference, page number, and date. Pages within each Section and Exhibit must be numbered consecutively;
- (5) **Proposal Updates/Corrections:** Each Offeror must submit its Proposal so that update pages required by the Department, if any, can be easily incorporated into the Proposal. Should it be necessary for an Offeror to submit additional information prior to bid opening, it must be submitted in accordance with the following: upon written notification by the Offeror, new or replacement pages may be placed in the Proposal. All new or replacement pages will show the date of the revision and indicate the portion of the page being changed. This latter requirement will be fulfilled by drawing vertical lines down both margins of all affected passages. All new/ replacement pages will be noted

by the Department on the errata sheet to be placed at the front of the Proposal copy;
and,

- (6) **Required Content of Proposals:** The Proposal must consist of two parts: 1) the Administrative Proposal, which must respond to the requirements set forth in Section III of this RFP; and 2) the Technical Proposal, which must respond to the requirements set forth in Section IV of this RFP.

c. Material Deviations

New York State Law prohibits NYS from awarding a contract based upon material deviations from the specifications, terms, and conditions set forth in the RFP. Consequently, each Offeror's Proposal must conform to the specifications, terms, and conditions set forth in this RFP and prospective Offerors are strongly advised to raise issues and/or concerns relating to this Procurement during the question and answer phase rather than taking exceptions within their Proposals. Material deviations from the specifications, terms, and conditions set forth in the RFP may render the Proposal non-responsive and may result in rejection of the Proposal.

In general, a material deviation is one that would (i) impair the interests of NYS, (ii) place the successful Offeror in a position of unfair economic advantage, (iii) place other Offerors at a competitive disadvantage, or (iv) which, if it had been included in the original RFP, could have formed a reasonable basis for an otherwise qualified Offeror to change its determination concerning the submission of a Proposal.

An Offeror is advised that Offeror's standard, pre-printed material (including but not limited to: product literature, order forms, manufacturer's license agreements, standard contracts or other pre-printed documents), which are physically attached or summarily referenced in the Offeror's Proposal, unless specifically required by the RFP to be submitted as part of the Offeror's Proposal, will not be considered as having been submitted with or intended to be incorporated as part of the official offer contained in the Proposal, but rather will be deemed by the State to have been included by Offeror for informational or promotional purposes only.

8. Notification of Award

A tentative award letter will be sent to the selected Offeror indicating a conditional award subject to successful contract negotiations. The remaining Offerors will be notified of the conditional award and the possibility that failed negotiations could result in an alternative award. No public discussion or news releases relating to this RFP, the associated Procurement process, including but not limited to the bid solicitation, proposal evaluation and award and contract negotiation processes or the Agreement shall be made by any Offeror or its agent without the prior written approval of the Department.

9. Debriefing

The tentative award letter will be sent to the selected and non-selected Offerors. At that time, Offerors will be advised of the opportunity to request a Debriefing and the timeframe by which such requests must be made, dependent upon the nature of the Debriefing, i.e., pre-award or post-award. Debriefings are subject to the Department's Debriefing Guidelines which are set forth in **Exhibit I.H.** entitled, "**NYS Department of Civil Service Debriefing Guidelines.**" An unsuccessful Offeror's written request for a debriefing shall be submitted to the address provided Section II.A.2.b

10. Submission of Award Protests

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to this RFP, an Offeror agrees to be bound by its terms including, but not limited to, the process by which an Offeror may submit protests of the selection award for consideration. In the event that an Offeror decides to protest the selection decision, the Offeror may raise such issue according to the following provisions.

a. Process for Submitting Post Award Protests of the Tentative Award

- (1) **Time Frame:** Any protest of the tentative award must be received no later than ten (10) Business Days after an Offeror's receipt of written notification by the Department of a conditional award.
- (2) **Content:** The protest must fully state the legal and factual grounds for the protest and must include all relevant documentation.

- (3) **Format of Submission:** The protest must be in writing and submitted to the PFL Program Procurement Manager at the address provided in Section II.A.2.b.

A protest of the selection decision must have the following statement clearly and prominently displayed on the envelope or package:

**“Submission of Tentative Award Protest for
Paid Family Leave Program RFP #PFL-2017-1”**

b. Process for Protesting a Non-Responsive Determination

- (1) **Time Frame:** Any protest of a determination that a proposal is non-responsive must be received no later than ten (10) Business Days after an Offeror’s receipt of written notification by the Department.
- (2) **Content:** The protest must fully state the legal and factual grounds for the protest and must include all relevant documentation.
- (3) **Format of Submission:** All protests must be in writing and submitted to the PFL Program Procurement Manager at the address provided in Section II.A.2.b

A protest of the non-responsive proposal must have the following statement clearly and prominently displayed on the envelope or package:

**“Submission of Protest of a Non-Responsive Determination for Paid Family
Leave Program RFP #PFL-2017-1”**

Any assertion of protest which does not conform to the requirements set forth in this section shall be deemed waived by the Offeror, and the Offeror shall have no further recourse.

c. Review of Submitted Protests

The Department shall conduct the review process of submitted protests. The Department’s Commissioner may appoint a designee to review the submission and to make a recommendation to the Commissioner as to the disposition of the matter. The Commissioner’s designee may be an employee of the Department but, in any event, shall be someone who has not participated in the preparation of this RFP, the evaluation of Proposals, the determination of non-responsiveness, or the selection decision. At the discretion of the Commissioner, or the Commissioner’s designee, the Offeror may be given

the opportunity to meet with the Commissioner or the Commissioner's designee, to support its submission. The Offeror may, but need not, be represented by counsel at such a meeting. The Department shall be represented by counsel at such meeting. Any issues concerning the way the review process is conducted shall be determined solely by the Commissioner, or the Commissioner's designee. The Commissioner, or the Commissioner's designee, shall review the matter, and shall issue a written decision within twenty (20) business days after the close of the review process. If additional time is necessary for the issuance of the decision, the Offeror shall be advised of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the Department's final determination in the matter.

If an Offeror protests the selection decision or the non-responsive determination, the Department shall continue contract negotiations regarding the terms and conditions of the agreement with the selected Offeror.

11. Department of Civil Service Reservation of Rights

In addition to any rights articulated elsewhere in this RFP, the Department reserves the right to:

- a. Make or not make an award under the RFP, either in whole or in part.
- b. Prior to the bid opening, amend the RFP. If the Department elects to amend any part of this RFP I. Any amendments will also be posted to:
www.cs.ny.gov/PFL2017RFP/index.cfm
- c. Prior to the bid opening, direct Offerors to submit Proposal modifications addressing subsequent RFP amendments;
- d. Withdraw this RFP, at any time, in whole or in part, prior to OSC approval of award of the contract.
- e. Waive any requirements that are not material;
- f. Disqualify any Offeror whose conduct and/or Proposal fails to conform to any of the mandatory requirements of this RFP;

- g. Require clarification at any time during the Procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offeror's Proposal and/or to determine an Offeror's compliance with the requirements of this RFP;
- h. Reject any or all Proposals received in response to this RFP;
- i. Change any of the scheduled dates stated in this RFP;
- j. Seek clarifications and revisions of Proposals;
- k. Establish programmatic and legal requirements to meet the Department's needs, and to modify, correct, and/or clarify such requirements at any time during the Procurement, provided that any such modifications would not materially benefit or disadvantage any particular Offeror;
- l. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the Offerors;
- m. For the purposes of ensuring completeness and comparability of the Proposals, analyze submissions and make adjustments or normalize submissions in the Proposal(s), including the Offeror's technical assumptions, and underlying calculations and assumptions used to support the Offeror's computation of costs, or to apply such other methods it deems necessary to make level comparisons across Proposals;
- n. Use the Proposal, information obtained through any site visits, and the Department's own investigation of an Offeror's qualifications, experience, ability or financial standing, and any other material or information submitted by the Offeror in response to the Department's request for clarifying information, if any, in the course of evaluation and selection under this RFP;
- o. Negotiate with the successful Offeror within the scope of this RFP in the best interests of the Department;
- p. Utilize any and all ideas submitted in the Proposal(s) received;
- q. Conduct contract negotiations with the next responsible bidder, should the Department be unsuccessful in negotiating with the selected Offeror; and

- r. Unless otherwise specified in this RFP, every offer is firm and not revocable for a minimum period of three hundred sixty- five (365) days from the Proposal Due Date as set forth in the RFP.
- s. Any Offeror whose Proposal might become eligible for a conditional award in the event that the intended selection is disqualified may be asked to extend the time for which its Proposal shall remain valid.

12. Disclaimer

The Department is not liable for any cost incurred by any Offeror prior to approval of the Agreement by OSC. Additionally, no cost will be incurred by the Department for any prospective Offeror or Offeror's participation in any Procurement related activities. The Department has taken care in preparing the data accompanying this RFP (hard copy exhibits, website exhibits, and sample document exhibits). However, the Department does not warrant the accuracy of the data; the numbers or statistics which appear in hardcopy exhibits, website exhibits, and sample document exhibits referenced throughout this RFP which are for informational purposes only and should not be used or viewed by prospective Offerors as guarantees or representations of any levels of past or future performance or participation. Accordingly, prospective Offerors should rely upon and use such numbers or statistics in preparing their Proposals at their own discretion.

B. Compliance with Applicable Laws, Rules and Regulations, and Executive Orders

This Procurement is being conducted in accordance with, and is subject to, the competitive bidding laws of the State of New York (New York State Finance Law, Article 11) and it is governed by, at a minimum, the legal authorities referenced below. An Offeror must fully comply with the provisions set forth in this Section. The Department will consider for evaluation and selection purposes only those Offerors who agree to comply with these provisions, and whose Proposal contains the Statements, Formal Certifications, and Exhibits submissions required.

1. Public Officers Law

All Offerors and Offerors' employees and agents must be aware of and comply with the requirements of the New York State Public Officers Law ("POL"), particularly POL sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishing ethical standards for current and former State employees. In signing its Proposal,

each Offeror guarantees knowledge and full compliance with such provisions for purposes of this RFP and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification from the Procurement process, termination, suspension or cancellation of the Agreement and criminal proceedings as may be required by law. Per Section III.C of this RFP, Offerors must submit an affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror because of prior, current, or proposed contracts, engagements, or affiliations, by submitting a completed **Exhibit I.M, “Compliance with Public Officers Law Requirement”** in the Offeror’s Administrative Proposal.

2. Omnibus Procurement Act of 1994 and its 2000 Amendment

Offerors are hereby notified that, if their principal place of business is located in a foreign or domestic jurisdiction that penalizes New York State vendors, and if the goods or services they offer would be produced or performed substantially outside New York State, the Omnibus Procurement Act of 1994 and its 2000 amendments require that they be denied contracts which they otherwise could obtain. The list of jurisdictions subject to this provision is set forth in Article 20 of Appendix A.

3. Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority-and-Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

New York State Law

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations the Department is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of the Department contracts.

Amended January 9, 2018

Business Participation Opportunities for MWBEs

For purposes of this solicitation, the Department hereby establishes an overall goal of 0 percent for MWBE participation, 0 percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 0 percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs

and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that the Department may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how the Department will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and the Department may withhold payment as liquidated damages.

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

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the PFL Program Procurement Manager.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the

Contract must be reported on a revised MWBE Utilization Plan and submitted to the Department for review and approval. (Exhibit I.O)

The Department will review the submitted MWBE Utilization Plan and advise the respondent of the Department's acceptance or issue a notice of deficiency within 30 days of receipt

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Department via the address outlined previously in Section II.A.2.b of this document, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

The Department may disqualify a respondent as being non-responsive under the following circumstances:

- a. If a respondent fails to submit an MWBE Utilization Plan;
- b. If a respondent fails to submit a written remedy to a notice of deficiency;
- c. If a respondent fails to submit a request for waiver; or
- d. If the Department determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to the Department, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to the Department, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of [Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women OR Authority equivalent to Appendix A]. The respondent is required to ensure that it and any subcontractors awarded a subcontract 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 respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Appendix D-1, to the Department with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by the Department on a **quarterly** basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

4. Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Business

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. The Department recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of the Departments’ contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Offeror are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, the Department conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, an Offeror is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at:

<http://ogs.ny.gov/Core/SDVOBA.asp>

Offeror is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

5. Americans with Disabilities Act

The Contractor will be required to assure its compliance with the Americans with Disabilities Act (42 USC§12101 et. seq.), in that any services and programs provided during the course of performance of the Agreement shall be accessible under Title II of the Americans with Disabilities Act, and as otherwise may be required under the Americans with Disabilities Act by submitting a completed “**Compliance with Americans with Disabilities Act**” form, **Exhibit I.N** in the Offeror’s Administrative Proposal.

6. MacBride Fair Employment Principles Act & Non-Collusive Bidding Certification

In accordance with Chapter 807 of the Laws of 1992, Offerors must certify whether they or any individual or legal entity in which the Offeror holds a ten percent (10%) or greater ownership interest, or any individual or legal entity that holds a ten percent (10%) or greater ownership in the Offeror have business operations in Northern Ireland. If an Offeror does have business operations in Northern Ireland, they must certify that they are taking lawful steps in good faith to conduct such business operations in accordance with the MacBride Fair Employment Opportunity Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such principles.

The Department also requires that Offerors certify that prices in their Proposal have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition with any other Offeror or competitor. In addition, that unless required by law, the prices quoted in the Offeror’s Proposal have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, directly, indirectly, to any other Offeror or to any competitor. Offerors must also certify that no attempt has been made or will be made by the Offeror to induce any person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition. An executed copy of the combined “**MacBride Act Statement Form**” and “**Non-Collusive Bidding Certification**,” **Exhibit I.D** is required to be submitted in the Offeror’s Administrative Proposal.

7. Vendor Responsibility Requirements – State Finance Law §163

New York State Finance Law §163 requires contracts for services and commodities be awarded on the basis of lowest price or best value “to a responsive and responsible Offeror.” Furthermore, §163(9)f requires the Department to make a determination of responsibility of the proposed Contractor prior to making an award.

To assist the Department in evaluating the responsibility of Offerors, a completed “**New York State Standard Vendor Responsibility Questionnaire**” must be submitted in the Offeror’s Administrative Proposal. A person legally authorized to represent the Offeror must execute the questionnaire. To the extent that the Contractor is proposing the use of Key Subcontractors or Affiliates (i.e., part of the Offeror’s proposed Account Team) and expected to receive more than \$100,000 in payments during the term of the Agreement, the Offeror must submit a completed “**New York State Standard Vendor Responsibility Questionnaire**” for each Key Subcontractor or Affiliate completed by a person legally authorized to represent the Key Subcontractor or Affiliate.

The Department recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System; however, vendors may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at: http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at: <https://portal.osc.state.ny.us>.

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

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Office of the State Comptroller’s Help Desk for a copy of the paper form.

8. Tax Law Section 5-a Certification Regarding Sales and Compensating Use Taxes

Section 5-a of the New York Tax Law requires that any contract valued at more than \$100,000 entered into by a State agency shall not be valid, effective, or binding against the agency unless the Contractor certifies to the Tax Department that it is registered to collect New York State and local sales and compensating use taxes, if the Contractor made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, the Contractor must certify to the Tax Department that each affiliate and subcontractor of such Contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. For the

purpose of this requirement, “affiliate” means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent. The Contractor also must certify to the procuring state entity that it filed the certification with the Tax Department and that the certification is correct and complete. Accordingly, in the event the value of the Agreement exceeds \$100,000, the Contractor must file a properly completed “**Form ST-220-CA,**” **Exhibit I.E** with the Department and a properly completed “**Form ST-220-TD,**” **Exhibit I.F** with the Department of Taxation & Finance before the Agreement may take effect. In addition, after the Agreement has taken effect, the Contractor must file a properly completed “**Form ST-220-CA**” with the Department if the Agreement’s term is renewed. Further, a new “**Form ST-220-TD**” must be filed with the Department of Taxation & Finance if no “**Form ST-220-TD**” has been filed by the Contractor or if a previously filed “**Form ST-220-TD**” is no longer correct and complete.

Submission of these forms (“**ST-220-CA**” and “**ST-220-TD**”) is **NOT** required at time of Proposal submission however, the selected Offeror will be required to complete and submit these forms as a condition of contract award. These forms may also be found at:

http://www.tax.ny.gov/forms/sales_cur_forms.htm

9. Disclosure of Proposal Contents – Freedom of Information Law (FOIL)

NOTICE TO OFFEROR AND ITS LEGAL COUNSEL

All materials submitted by an Offeror in response to this RFP shall become the property of the Department and may be returned to the Offeror at the sole discretion of the Department. Proposals may be reviewed or evaluated by any person, other than one associated with a competing Offeror, designated by the Department. Offerors may anticipate that Proposals will be evaluated by staff and consultants retained by the Department and may also be evaluated by staff of other NYS agencies interested in the provision of the subject services including, but not limited to, the Governor’s Office of Employee Relations and the Division of the Budget, unless otherwise expressly indicated in this RFP. The Department has the right to adopt, modify, or reject any or all ideas presented in any material submitted in response to this RFP.

To request that materials be protected from FOIL disclosure, the Offeror must follow the procedures below regarding the New York State Freedom of Information Law (FOIL). If an Offeror believes that any information in its Proposal or supplemental submission(s) constitutes

proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law, the Offeror must make that assertion by completing **Exhibit I.C, “Freedom of Information Law – Request for Redaction Chart.”** The Offeror must complete the form specifically identifying by page number, line, or other appropriate designation, the specific information requested to be protected from FOIL disclosure and the specific reason why such information should not be disclosed. Page 2 of Exhibit I.C contains information regarding appropriate justification for protection from FOIL disclosure. Vague, non-specific, summary allegations that material is proprietary or trade-secret are inadequate and will not result in protection from FOIL disclosure.

The completed **Exhibit I.C** must be submitted to the Department at the time of its Proposal submission; it should be included with the Requested Redactions (CD and Hard Copy), described below. It should not be included in the Offeror’s Proposal. If the Offeror chooses not to assert that any Proposal material and/or supplemental submission should be protected from FOIL disclosure, the Offeror should so advise the Department by checking the applicable box on **Exhibit I.C** and submitting it to the Department at the time of its Proposal submission, but separately from its Proposal. If a completed **Exhibit I.C** form is not submitted, the Department will assume that the Offeror chooses not to assert that any proposal material or supplemental submission, as applicable should be protected from FOIL disclosure.

The FOIL-related materials described herein will not be considered part of the Offeror’s Proposal and will not be reviewed as a part of the Procurement’s evaluation process.

Requested Redactions (CD and Hard Copy):

At the time of Proposal submission, the Offeror is required to identify the portions of its Proposal that it is requesting to be redacted, in accordance with the instructions below, to be used in the event that its Proposal is the subject of a Freedom of Information Law (FOIL) request received by the Department:

The Offeror must provide an electronic copy of the Administrative Proposal and the Technical Proposal, each on a separate CD, which reflect the Offeror’s requested redactions. Additionally, the Offeror must provide a separately bound hardcopy of each of the three (3) Proposal documents with redactions marked that are included on the CDs. The electronic documents must be prepared in PDF format using the Redaction Function in Adobe Acrobat Professional software, version 8 or higher. Each specific portion of the Proposal documents requested to be

protected from FOIL disclosure must be identified using the Adobe **“Mark for Redaction” function; do not use the “Apply Redactions” function.** The resulting documents must show the Offeror’s requested redactions as outlined, while the content remains visible. This will allow the Department to either apply or remove requested redactions when responding to FOIL requests. The documents included on the CD and in hard copy must be complete Proposals, including all Exhibits and Attachments. No section may be omitted from the CD or hard copy even if the entire section is requested to be redacted; such sections should be marked for redaction, not removed. For forms, exhibits and charts please mark for redaction only those cells/fields/entries that meet the criteria for protection from FOIL, not the entire page.

During the Proposal evaluation process, the Department may request additional information through clarifying letters. Any requested redactions for additional written material provided by the Offeror in response to the Department’s requests also must be submitted following the instructions, above.

10. Compliance with New York State Workers’ Compensation Law

Sections 57 and 220 of the New York State Workers’ Compensation Law (WCL) provide that the Department shall not enter into any contract unless proof of workers’ compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with the Department, the selected Offeror and Key Subcontractor(s) or Affiliates, with more than \$100,000 in expected expenses over the life of the contract, if any, will be required to verify for the Department, on forms authorized by the New York State Workers’ Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed in **Exhibit I.W, “Compliance with NYS Workers’ Compensation Law.”** Any questions relating to either workers’ compensation or disability benefits coverage should be directed to the State of New York Workers’ Compensation Board, Bureau of Compliance at 518-486-6307. You may also find useful information at their website: <http://www.wcb.ny.gov>.

Submission of the proof of workers’ compensation and disability benefits insurance coverage is required at the time of Proposal submission. Failure to provide verification of either of these types of insurance coverage with the Offeror’s Administrative Proposal may be grounds for disqualification of an otherwise successful Proposal.

To the extent that the Offeror is proposing the use of Key Subcontractors or Affiliates (i.e., part of the Offeror’s proposed Program Team), the Offeror must verify for the Department, on forms

authorized by the New York State Workers' Compensation Board, the fact that the Key Subcontractors or Affiliates are properly insured or are otherwise in compliance with the insurance provisions of the WCL.

11. Iran Divestment Act

By submitting a Proposal in response to this solicitation or by assuming the responsibility of a contract awarded hereunder, Offeror/Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Offeror/Contractor is advised that should it seek to renew or extend an Agreement awarded in response to the solicitation, it must provide the same certification at the time the Agreement is renewed or extended.

During the term of the Agreement, should the Department of Civil Service receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the Department of Civil Service 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 Department of Civil Service shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

The Department of Civil Service reserves the right to reject any Proposal, 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.

12. New York Subcontractors and Suppliers

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, Offerors for this contract for Paid Family Leave program services or 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.

Offerors 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 utilizing services and technology. Furthermore, Offerors 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 Offerors 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. Offerors are required to complete **Exhibit I.U.2, "NYS Subcontractors and Supplies."**

SECTION III: ADMINISTRATIVE PROPOSAL

This section of the RFP sets forth the requirements for the Offeror's Administrative Proposal submission, including the Minimum Mandatory Requirements. Mandatory Minimum Requirements must be satisfied by an Offeror to be evaluated. The Department shall reject as non-responsive those proposals that do not meet the Mandatory Minimum Requirements. The Department will consider for evaluation and selection purposes only those Proposals the Department determines to be in compliance with the Minimum Mandatory Requirements set forth in this Section III of this RFP.

The Offeror's Administrative Proposal must respond to the following below items in the specified order and format, using the designated forms. Additional details pertaining to the required forms are found in Section II.B Compliance with Applicable Laws, Rules and Regulations & Executive Orders.

The Administrative Proposal must contain the following information, in the order enumerated below:

A. Formal Offer Letter

At this part of its Administrative Proposal, the Offeror must submit a formal offer letter as set forth in **Exhibit I.S**. The formal offer letter must be signed and executed by an individual with the capacity and legal authority to bind the Offeror. Each of the two copies of the Offeror's Administrative Proposal marked "ORIGINAL" requires a letter with an original signature; the remaining copies of the Offeror's Administrative Proposal may contain photocopies of the signature.

In the formal offer letter, the Offeror must accept the terms and conditions as set forth in:

- The RFP, including Section VI;
- Appendix A, which is non-negotiable; and
- Appendices B, C, C-1, D, D-1 and D-2

The Offeror must agree to enter into an Agreement with the Department containing, at a minimum, the terms and conditions identified in this RFP section and appendices as cited herein. (**Note:** Appendix A, "Standard Clauses for New York State Contracts" is a compilation of statutory requirements applicable to all persons and entities contracting with the State and therefore has been deemed to be non-negotiable by the Offices of the Attorney General and the State

Comptroller). Appendix B, “Standard Clauses for All Department Contracts”, Appendix C, “Third Party Connection and Data Exchange Agreement”, Appendix C-1 “Information Security Standards”, Appendix D, “Participation by Minority Group Members and Women With Respect to State Contracts: Requirements and Procedures”, Appendix D-1 “Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement” and Appendix D-2 – MWBE Utilization Reporting Responsibilities under Article 15-A are compilations of standard clauses/ requirements used by the Department.)

If an Offeror proposes to include the services of a Key Subcontractor(s) or Affiliate(s), the Offeror must assume responsibility for those services as “Prime Contractor.” The Department considers the Prime Contractor solely responsible for contractual matters.

B. Minimum Mandatory Requirements

The Department will only evaluate proposals from Offerors that attest and demonstrate through current valid documentation to the satisfaction of the Department that the Offeror meets the RFP’s Minimum Mandatory Requirements. At this part of its Administrative Proposal, the Offeror must submit a completed **Exhibit I.T “Offeror Attestations Form”** representing and warranting that:

1. The Offeror, at time of Proposal Due Date and throughout the term of the Agreement, must be authorized to conduct business in New York State, or, if the Offeror is not so authorized at time of Proposal Due Date, then the Offeror must, at time of Proposal Due Date, have filed an application for authority to do business in New York State with the New York State Secretary of State. Such application must be approved prior to contract award. (For details concerning this requirement, refer to: http://www.dos.ny.gov/corps/forms_listing.html.)

To register with the Secretary of State, contact: <https://www.dos.ny.gov/corps/index.html>.
The Contractor shall notify the Department immediately if there is any change in the above corporate status.

2. The Offeror understands and agrees to comply with all specific duties and responsibilities set forth in Section IV of this RFP.
3. The Offeror represents and warrants that, at time the contract is approved by the Attorney General and Office of the State Comptroller, it has completed, obtained or performed all registrations, filings, approvals, authorizations, consents and examinations required by any

governmental authority for the provision of the delivery of Program Services and agree that it will, during the term of the Agreement, comply with any requirements imposed upon it by law.

4. The Offeror agrees and acknowledges that:
 - i. all claims, enrollment, eligibility, and other data (i.e., materials) provided by the Department or the Department's agents and/or contractors is being provided to the Offeror solely for the purpose of allowing the Offeror to fulfill its duties and responsibilities under the Agreement;
 - ii. said materials are and remain the sole property of NYS; and
 - iii. the Offeror represents and warrants that it will not share, sell, release, or make the data available to third parties in any manner without the written consent of the Department, except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law.
5. The Offeror represents and warrants that, at time of Proposal submission, it possesses adequate staffing resources, financial resources and organizational capacity to perform the type, magnitude and quality of work specified in the RFP.
6. The Offeror has filed a stand-alone Paid Family Leave policy with the New York State Department of Financial Services as provided under Title 11 NYCRR Parts 363.4(c) and 363.6 (b)(1), no later than the proposal due date for this RFP.
7. The Offeror has an Insurer Financing Strength Rating from A.M. Best Company of "A" or better at the time of Proposal submission.

Note: Any Offeror which fails to satisfy any of the above Minimum Mandatory Requirements shall be eliminated from further consideration.

C. Exhibits

At this part of its Administrative Proposal, the Offeror must complete and submit the various Exhibits specified in Section II.B and Section III of this RFP, in satisfaction of the regulatory requirements described therein. A listing of the required Exhibits is set forth below:

Exhibit Name	Exhibit
Proposal Submission Requirement Checklist	Exhibit I.A
MacBride Statement and Non-Collusive Bidding Certification	Exhibit I.D
Offeror’s Affirmation of Understanding and Agreement	Exhibit I.K*
Compliance with Public Officer’s Law Requirements	Exhibit I.M
Compliance with Americans with Disabilities Act	Exhibit I.N
MWBE Utilization Plan (Form MWBE-100)	Exhibit I.O
Offeror’s Certificate of Compliance Pursuant to State Finance Law §139-k	Exhibit I.P
Formal Offer Letter	Exhibit I.S
Offeror Attestations Form	Exhibit I.T
Key Subcontractors or Affiliates	Exhibit I.U.1
NYS Supplier and Subcontractor	Exhibit I.U.2
Compliance with NYS Workers’ Compensation Law	Exhibit I.W

***Note: If not already provided to the Department by the time of Proposal submission, the Offeror must enclose a completed Exhibit I.K - Offeror’s Affirmation of Understanding and Agreement with their Administrative Proposal.**

D. Key Subcontractors or Affiliates

At this part of its Administrative Proposal, the Offeror must provide a statement identifying all Key Subcontractors or Affiliates, if any, that the Offeror will be contracting with to provide Program Services. For each such Key Subcontractor or Affiliate identified, the Offeror must complete and submit **Exhibit I.U.1**; “Key Subcontractors or Affiliates” If the Offeror will not be subcontracting with any Key Subcontractor(s) or Affiliate(s) to provide Program Services, the Offeror must provide a statement to that effect.

1. Provide a brief description of the services to be provided by the Key Subcontractor or Affiliate;
and

2. Provide a description of any current relationships with such Key Subcontractor or Affiliate and the clients/projects that the Offeror and Key Subcontractor or Affiliate are currently servicing under a formal legal agreement or arrangement, the date when such services began and the status of the Project.

The Offeror must indicate whether or not, a subcontract (or shared services agreement) has been executed between the Offeror and the Key Subcontractor or Affiliate for services to be provided by the Key Subcontractor or Affiliate relating to this RFP.

SECTION IV: TECHNICAL PROPOSAL REQUIREMENTS

The Department is seeking to award the Agreement to a qualified Offeror to provide the New York State statutory PFL benefit to New York State employees. This section of the RFP sets forth the expected programmatic duties and responsibilities and includes questions concerning those duties and responsibilities for response by an Offeror. The Offeror's Technical Proposal must contain responses to all questions (i.e. Required Submissions) in the format requested. Each Offeror may submit only one Technical Proposal. Technical Proposals will be evaluated based on the Offeror's responses to the questions contained in this Section. Therefore, it is critical that Offerors fully respond to each of the questions presented in this Section IV.

Note: Numbers, data, or statistics which may appear in the Exhibits referenced throughout this RFP are for informational purposes only and should not be used or viewed by Offerors as guarantees or representations of any levels of past or future performance or participation.

The Department will only evaluate Proposals from qualified Offerors that meet the Minimum Mandatory Requirements in Section III and are responsive to the duties and responsibilities set forth in Section IV of this RFP.

A. Program Administration**1. Firm and Account Team Qualifications**

The Offeror must describe its capacity to administer the PFL Program.

a. Required Submission

The Offeror must submit an executive summary that describes its capacity to administer the PFL Program for New York State employees. The executive summary must include:

(1) An organizational chart and description illustrating how the Offeror proposes to administer, manage, and oversee all aspects of the PFL Program. Include the following:

(a) The name and address of the Offeror's main and branch offices and the name of the account leader who will be responsible for this account;

- (b) Reporting relationships, job descriptions, and responsibilities of each key position of the account team and describe how the account team interfaces with senior management and ultimate decision makers within the Offeror's organization;
 - (c) Qualifications of those individuals selected to comprise the account team for the Offeror. Complete **Exhibit I.B** of this RFP, Biographical Sketch Form, for all key members of the proposed account team. Where individuals are not named, include qualifications of the individuals that the Offeror would seek to fill the positions.
- (2) A statement explaining the Offeror's and the Offeror's Key Subcontractors' previous experience managing paid family leave programs or disability insurance programs. Detail how this experience qualifies the Offeror and, if applicable, the experience of its Key Subcontractors to undertake the functions and activities required by this RFP; and
- (3) An explanation of how the following administrative and operational components will be performed by the Offeror. Include an organizational chart detailing responsibility for the following functions:
- (a) Firm and Account Team
 - (b) Implementation
 - (c) Customer Service
 - (d) Employee Communication Support
 - (e) Eligibility Management
 - (f) Claims Submission and Processing
 - (g) Reporting
 - (h) Transition and Termination of Agreement
- (4) What resources will the Offeror utilize to ensure the PFL Program is in compliance with State regulations and how will the Offeror communicate the impact of any future statutory or regulatory changes to the Department?

- (5) Please confirm the Offeror will assist the Department with recommendations and evaluation of proposed changes and implement any changes necessary to accommodate PFL Program modifications resulting from legislation or within the statutory discretion of the State.

2. Implementation

The Offeror must ensure that the PFL Program is fully functional no later than 75 days after the Office of the State Comptroller approves the Agreement. The implementation plan must be detailed and comprehensive and demonstrate a firm commitment by the Offeror to complete all implementation activities within the said time period.

a. Duties and Responsibilities

- (1) During the implementation period, the Offeror must undertake and complete all implementation activities provided below. Such implementation activities must be completed within the implementation period proposed by the Offeror.
- (a) A fully operational call center, providing all aspects of customer support as set forth in Section IV.B.1 of this RFP. The call center must be open and operational on the first day following the implementation period. Telephonic communications must have resources for members who are hearing impaired and meet Language Access Requirements for Employees;
 - (b) A fully functioning, customized PFL Program website available on the first day following the implementation period, with a secure dedicated link from the Department's website;
 - (c) A fully functioning claims processing system that adheres to the PFL Program's State regulations; and
 - (d) The ability to accept and maintain an eligibility file, whose format is mutually agreed to by the State and the Offeror.

b. Required Submission

- (1) Provide an implementation plan (via a detailed narrative, diagram, and timeline) that results in each of the duties and responsibilities in this section being completed on the first day following the implementation period. The implementation plan should explicitly state the number of days needed to complete all of the necessary tasks. Note that Offerors who can implement the PFL Program in fewer than 75 days will receive a higher score on this requirement.

B. Proposed PFL Program Services

In this section, the Offeror must demonstrate its capacity to provide the required services for administration of the PFL Program.

1. Customer Service**a. Duties and Responsibilities**

The Offeror will be responsible for all customer support and services including, but not limited to:

- (1) Maintaining a call center for the PFL Program that provides Employee access to fully trained customer service representatives and supervisors on the first day following the implementation period between the hours of 8:00AM to 11:00PM, Monday through Friday, except for business holidays. Customer service representatives must be able to provide employees with the status of submitted claims during these hours; The call center must be located in the United States to ensure information, privacy and protection practices are in accordance with state and federal law. Telephonic communications must have resources for members who are hearing impaired and Language Access Requirements for Employees whose primary language is not English. The call center must continue in operation for four (4) months after termination of the Agreement;
- (2) Trained customer service representatives capable of responding to inquiries and complaints related to PFL Program benefits, eligibility and claim status and must track all Employee calls and create a record of call details;

- (3) Maintaining a backup customer service staff located in the United States with PFL Program training to handle any calls in the event the main call center becomes unavailable; and

b. Required Submission

- (1) Confirm you will maintain access to a call center located in the United States that provides access to fully trained customer service representatives and supervisors on the first day following the implementation period between the hours of 8:00AM to 11:00PM, Monday through Friday, except business holidays. If additional hours are proposed, please state. Confirm telephonic communications will have resources for Employees who are hearing impaired and translation services for Employees whose primary language is not English. Confirm the call center will continue in operation for four (4) months after termination of the Agreement;
- (2) Describe the information, resources and system capabilities that are available for the customer service representatives to address and resolve member inquiries. Include:
 - (a) Whether any Interactive Voice Response (IVR) system is proposed and, if so, provide a sample of the IVR script and a description of customizable options, if any, you propose for the PFL Program; and
 - (b) A description of the capabilities of your phone system to record calls, and track call types, reasons and resolutions.
- (3) Describe the training including the amount of time training is provided to customer service representative staff before they go “live” on the phone with Employees.
- (4) Describe the back-up system for your primary telephone system to be used if the primary telephone system fails, is unavailable or at maximum capacity. If a back-up system is deployed, explain how, and in what order, calls from Employees will be handled. Confirm that back-up staff will have PFL Program-specific training. Indicate the number of times the back-up system has been utilized over the past two (2) years. Confirm that calls will be handled exclusively by your call center and that the back-up call center would only be used in case of system failure or call overflow.

2. Employee Communication Support

The Department provides information regarding PFL Program benefits to Employees through various publications.

a. Duties and Responsibilities

- (1) The Offeror must consult with the Department on all PFL Program promotional and communications materials prior to sending to Employees; and
- (2) The Offeror is responsible for producing the PFL Program policy certificate for the Department.

b. Required Submission

- (1) Describe the resources that will be available to the Department to support the Department's development of various Employee communications and the Offeror's ability to provide input into such communications.
- (2) Please confirm that the Offeror will produce the PFL Program policy certificate.

3. Eligibility Management

The Offeror will be responsible for the maintenance of accurate, complete, and up-to-date enrollment records based on information provided by the Department. The enrollment records must be maintained in the United States to ensure information privacy and protection practices are in accordance with state and federal law. These enrollment records shall be used by the Offeror to process claims, provide customer service, and produce management reports and data files. Offeror must provide enrollment management services including but not limited to:

a. Duties and Responsibilities

- (1) Initial Testing: Performing an initial enrollment load to commence upon receipt of the enrollment file from the Department during PFL Program implementation. The file may be a fixed length American Standard Code for Information Interchange (ASCII) text file, or a custom file format, which will be determined by the Department;

- (2) Testing to determine if the initial enrollment file and weekly enrollment file updates are loaded correctly and that the enrollment system interfaces with the claims processing system to accurately adjudicate claims. The Offeror shall submit enrollment test files to the Department for auditing, provide the Department with secure, online access required to ensure accurate loading of the PFL Program enrollment data, and promptly correct any identified issues to the satisfaction of the Department;
- (3) Providing an enrollment system capable of receiving secure enrollment transactions on a weekly basis and having all transactions fully loaded to the claims processing system twenty-four (24) hours after the Department sends an enrollment file. The Offeror shall manually review and load any transactions which did not process correctly from the daily file by reviewing the correct enrollment date maintained by the Department. The Offeror shall immediately notify the Department of any delay in loading enrollment transactions. If the Offeror cannot load the enrollment file due to the quality of the data supplied by the Department, the Offeror shall immediately notify the Department. Once the Department provides the Offeror with file that meets the requisite quality standards for loading, the Offeror must load all records received within twenty-four (24) hours. If for any reason, the Department needs to send more than one enrollment file within a week, the Offeror must be capable of loading all files within the twenty-four (24) hour performance standard.

The format of these transactions will be in a format specified by the Department. The latest transaction format is contained in Exhibit II.A of the Agreement. The Offeror must also have the capability to receive alternate identification numbers and any special update files from the Department containing eligibility additions and deletions, including emergency updates, if required;

- (4) Ensuring the security of all enrollment information in order to protect the confidentiality of Employee data contained in the enrollment file. Any transfers of enrollment data within the Offeror's system or to external parties must be completed via a secured process, (e.g. Secure File Transfer Protocol (SFTP));

- (5) The Offeror must be able to provide electronic reporting back to Department in a similar format as to what was sent in the Department's submission of the enrollment file. That file must be able to be sent to Department via SFTP along with Pretty Good Privacy (PGP) encryption using the Department's public PGP Key;
- (6) Cooperating fully with any State initiatives to use new technologies, processes, and methods to improve the efficiencies of maintaining enrollment data including any enrollment file conformance testing requested during the course of the Agreement; and
- (7) The Offeror will have a back-up system in the event the primary eligibility file fails or cannot be accessed.

b. Required Submission

- (1) Describe the Offeror's testing plan to ensure that the initial enrollment load and daily enrollment transition files for the PFL Program are accurately updated to the Offeror's system and that they interface correctly with the Offeror's claims system.
 - (a) Explain what quality controls are performed before the initial and ongoing enrollment transactions are loaded into the claims adjudication system?
 - (b) How does your system identify transactions that will not load into the Offeror's enrollment system? What exceptions will cause enrollment transactions to fail to load into the Offeror's enrollment system? What steps are taken to resolve the exceptions, and what is the turnaround time for the exception records to be added to the Offeror's enrollment file?
- (2) Describe the Offeror's system capabilities for retrieving and maintaining enrollment information within twenty-four (24) hours of its release by the Department as well as:
 - (a) How the Offeror's system maintains a history of enrollment transactions and how long enrollment history is kept online and if there is a limit to the quantity of history transactions that can be kept on-line;

- (b) How the Offeror's system handles retroactive changes and corrections to enrollment data; and
- (c) Confirm the Offeror's enrollment and claims processing system has the capacity to administer a social security number, alternative identification number, and unique claim number. Does the Offeror's system have any special requirements to accommodate these three identification numbers?
- (d) Describe how the backup system, process or policy that will be used ensures that Employees receive PFL Program benefits in the event that enrollment information is not available.

4. Claims Submission and Processing

The Offeror must process all claims within the time frames outlined in State regulations. The claims submission and processing system should be able to accept paper claim forms at a minimum. Proposals that include electronic and telephonic claims submission capabilities will be scored more favorably.

a. Duties and Responsibilities

- (1) The Offeror must provide all aspects of claims submission and processing. Such responsibility shall include but not be limited to:
 - (a) Accurate and timely processing of all claims submitted under the PFL Program in accordance with State regulations;
 - (b) Verifying that the PFL Program provisions have been loaded into the system appropriately to calculate claim payments and maintaining a back-up system and disaster recovery system for processing claims in the event that the primary claims payment system fails or is not accessible;
 - (c) Providing NYS agency-specific PFL claim information;

(d) To ensure information privacy and protection practices are in accordance with state and federal law, all aspects of claims submission and processing must be located only in the United States staffed by fully trained claims processors and supervisors; and

(e) Upon termination of this Agreement, all claims initiated prior to the termination of this Agreement will be the responsibility of the Offeror until the end of the leave.

b. Required Submission

All payable claims must be processed in the time frames outlined in State regulations and PFL Program provisions.

- (1) Provide a flow chart and step-by-step description of the Offeror's proposed claims process for receiving and adjudicating claims submitted electronically, telephonically, and via paper submission. The ability to accept electronically and telephonically submitted claims is not required. However, proposals that include such capabilities will be evaluated more favorably.
- (2) Describe the Offeror's process to ensure all claims are paid accurately and timely in accordance with State regulations and PFL provisions.
- (3) Confirm the Offeror is able to provide NYS agency-specific PFL claim information.
- (4) Describe the Offeror's claims processing system platform including any back-up system utilized. Describe your disaster recovery plan.
- (5) Confirm that the Offeror will analyze and monitor claim submissions to promptly identify errors, fraud and abuse and report such information in a timely manner to the Department.
- (6) Confirm that all aspects of claims submission and processing are located only in the United States and staffed by fully trained claims processors and supervisors.

- (7) Confirm upon termination of this Agreement that all claims initiated prior to the termination of this Agreement will be the responsibility of the Offeror until the end of the leave.

5. Reporting

The Offeror must provide PFL Program reports as required by State regulations and to the Department for its use in the review and management of the PFL Program. The exact format, frequency and due dates for such reports shall be negotiated with the selected Offeror.

a. Duties and Responsibilities

In addition to providing the reports to the Department of Financial Services (DFS) that are mandated by regulation, the Offeror will be responsible for reporting services including, but not limited to:

- (1) Providing claim status reports to the Department on a weekly basis via SFTP which include, at a minimum, distribution by leave type, duration of leave, employee agency, salary and total days and weeks used by Employee; and
- (2) Providing management reports which may be requested by the Department.

b. Required Submission

- (1) The Offeror must confirm that claim status reports as specified in Section IV B.5.a. of this RFP will be delivered electronically via SFTP on a weekly basis. Any other reports requested by the Department will be delivered as soon as practicable.
- (2) The Offeror must submit examples of possible claim status reports and describe the value of each example. Provide an overview of the Offeror's reporting capabilities and the value the Offeror believes it will bring to the Program.
- (3) Confirm your ability and willingness to provide management reports and other data analysis. Provide examples of management reports that you have provided for other clients and/or propose to provide to the Department.

6. Transition and Termination of Agreement

The Offeror shall ensure that, upon termination of the Agreement, any transition to another organization shall provide Employees with uninterrupted access to their PFL Program benefits and associated customer service through the termination of the Agreement. This includes, but is not limited to: the processing of all claims; providing sufficient staffing to ensure members continue to receive good customer service through the call center for four (4) months after the termination date of the Agreement. It is also imperative that the Department continue to have dialogue with key personnel of the Offeror's account team, maintain access to online systems and receive data/reports and other information regarding the PFL Program after the termination date of the Agreement. In addition, the Offeror shall fully cooperate with the successor organization and the Department to create and implement a transition plan in a timely manner.

a. Duties and Responsibilities

- (1) The Offeror must commit to fully cooperate with the successor Offeror to ensure the timely receipt of all information necessary to transfer administration of the PFL Program;
- (2) The Offeror must, within ninety (90) Days prior to the end of the Agreement, or within forty-five (45) Days of notification of termination, if the Agreement is terminated prior to the end of its term, submit to the Department for approval a detailed written transition plan;
- (3) The Offeror must provide a test file to the successor organization at least ninety (90) days in advance of the Implementation Date to allow the successor organization to address any potential formatting issues;
- (4) The Offeror must provide a second production file prior to the successor organization's implementation;
- (5) Within ninety (90) calendar days from receipt of the transition plan, the Department shall either approve the transition plan or notify the Offeror, in writing, of the changes required to the transition plan so as to make it acceptable to the Department;

- (6) Within thirty (30) calendar days from the Offeror's receipt of the required changes, the Offeror shall incorporate said changes into the transition plan and submit such revised transition plan to the Department for approval; and
- (7) The Offeror must receive and apply enrollment updates, keep call center phone lines open with adequate staffing to provide customer service at the same level provided prior to the termination of the Agreement, adjust phone scripts, and transfer calls to the successor organization's telephone lines during the transition period.

b. Required Submission

- (1) Confirm that the Offeror will commit to fully cooperate with the successor organization to ensure the timely receipt of all information necessary to transfer administration of the PFL Program.
- (2) Provide an outline of the key elements and tasks that would be included in the transition plan to ensure that all the required duties and responsibilities are completed if the Offeror were the incumbent Contractor transferring duties to a successor Offeror. Include a brief explanation on how the Offeror would accomplish this with the successor organization.

SECTION V: EVALUATION AND SELECTION CRITERIA

Proposals determined by the Department to satisfy the Minimum Mandatory Requirements (MMR) set forth in Section III of this RFP will be evaluated by the Department or its agent. An Offeror's Proposal may be removed from the evaluation process and not be considered should it be determined that the Offeror did not demonstrate it met one or more of the MMR set forth in Section III of this RFP, despite any attestation made by the Offeror regarding the MMR.

During the evaluation process, the Department may require clarifying information from an Offeror to assure the Department's full understanding of the Offeror's proposal. This clarifying information must be submitted in writing in accordance with formats set forth in Section II of this RFP and, if submitted timely, shall be included as a formal part of the Offeror's Proposal. Failure to provide required information by the due date set forth in the Department's request for clarification may result in rejection of the Offeror's Proposal. Nothing in the foregoing shall mean or imply that the Department is obligated to seek or allow clarifications. The Department may, at its discretion, elect to perform site visits of Offerors' facilities and have all Offerors provide oral presentations pertaining to their Proposal. The Procurement Manager will coordinate the necessary scheduling arrangements with Offerors.

The Department will consider for evaluation and selection purposes only those Proposals that, as determined by the State, meet the MMR specified in Section III of this RFP and are responsive to the duties and responsibilities set forth in the RFP. The evaluation will entail the review and scoring of the Offeror's Administrative and Technical Proposals. The Technical evaluation process is based on 1,000 available points, and is scored as described below.

The Department intends to select the responsive and responsible Offeror whose Proposal offers the best value to the Department and the State as specified in the following evaluation criteria for entering negotiations for the execution of a contract (i.e., the Agreement).

A. Technical Evaluation

The Technical Proposal of those Offerors that meet the MMR will be evaluated. Each Offeror's ability and willingness to deliver the Program Services described in this RFP will be evaluated and scored based on a weighted point system. The evaluation of the Offeror's Technical Proposal will be based on that Offeror's written Technical Proposal; and responses to clarifying questions, if any; information obtained through, oral presentation(s) conducted to amplify and/or clarify that Offeror's proposed Technical Proposal; and site visits.

1. Technical Score Ratings

Offerors' Technical Proposals will be evaluated based on the following rating scale and criteria as applied to the Offeror's response to each evaluated requirement, except in the case of Performance Guarantees. A rating of "excellent" equates to a score of 5 for each evaluated requirement. Each reduction in the ratings results in a one point reduction in the score such that a rating of "poor" equates to a score of 1.

EXCELLENT (5)

The Offeror far exceeds the requirement. The response provided indicates that the Offeror will provide very high quality services and is very pro-active and innovative.

GOOD (4)

The Offeror exceeds the requirement. The response provided indicates that the Offeror will exceed the Plan's needs. The Offeror demonstrates some innovative features not shown in typical proposals.

MEETS CRITERIA (3)

The Offeror meets but does not exceed the requirement. The response provided indicates that the Offeror will meet the Plan's needs.

FAIR (2)

The Offeror's answer is minimal; or the answer is very general and does not fully address the requirement; or the Offeror meets only some of the requirement.

POOR (1)

The Offeror misinterpreted or misunderstood the requirement; or the Offeror does not answer the requirement in a clear manner or the Offeror does not address or meet the requirement.

2. Allocation of Technical Score Points

The scores referenced above shall be applied to weighted point values associated with each evaluated requirement. The relative point value for each section of the Technical Proposal is as follows:

a. Program Administration - 30% of Total Technical Score

1. Firm and Account Team Qualifications – 15%
2. Implementation – 15%

b. Program Services - 70% of Total Technical Score

1. Customer Service – 10%
2. Employee Communication Support – 5%
3. Eligibility Management – 20%
4. Claims Submission and Processing – 20%
5. Reporting – 10%
6. Transition and Termination of Agreement – 5%

3. Technical Scoring

The Offeror's Technical Proposal will be evaluated independently by multiple evaluators based on pre-established Evaluation Criteria. Individual scores will then be averaged. The average score for each response shall be applied to the points associated with each evaluated requirement such that an average score of "Excellent" for each evaluated requirement will result in a maximum of 1,000 points. The awarded technical scores are calculated to the hundredth decimal place.

B. Best Value Determination

The Department shall issue a tentative award letter to the responsive and responsible Offeror with the highest technical score to enter into negotiations for executing a contract.

Please note: The terms in Appendix A, Standard Clauses for All New York State Contracts, are ***not*** subject to negotiation.

If the Department determines that contract negotiations between the Department and the selected Offeror are unsuccessful, the Department may invite the Offeror with the next highest Technical Score to enter negotiations for purposes of executing a contract. Prior to negotiating with the Offeror with the next highest technical score, the Department will notify the Offeror originally selected and provide the date when negotiations shall cease should an agreement not be reached. Scores will not be recalculated for any remaining Offerors should contract negotiations between the Department and the selected Offeror be unsuccessful because of material differences in key provision(s).

SECTION VI: CONTRACT PROVISIONS

The Department has identified the following provisions for inclusion in the resulting agreement. Additional provisions will be developed based on the selected Offeror's proposal.

1. AGREEMENT DURATION AND AMENDMENTS

- 1.1.0 This Agreement is subject to the approval of the New York State Attorney General's Office ("AG") and the NYS Office of the State Comptroller ("OSC"). Upon approval by the New York State Comptroller, the term of the Contract shall be for the implementation period plus five (5) years.
- 1.2.0 The Agreement may be amended only upon mutual consent of the Parties, reduced to writing and approved by the AG and OSC.

2. INTEGRATION

- 2.1.0 This Agreement, including all Appendices and Exhibits, copies of which are attached hereto and incorporated by reference, constitutes the entire Agreement between the Parties. All prior agreements, representations, statements, negotiations, and undertakings are superseded hereby.
- 2.2.0 All statements made by the Department shall be deemed to be representations and not warranties.

3. DOCUMENT INCORPORATION AND ORDER OF PRECEDENCE

- 3.1.0 The Agreement consists of:
 - 3.1.1 The body of the Agreement (that portion preceding the signatures of the Parties in execution), and any amendments thereto;
 - 3.1.2 Appendix A – Standard Clauses for All New York State Contracts;
 - 3.1.3 Appendix B – Standard Clauses for All Department Contracts;
 - 3.1.4 Appendix C – Third Party Connection and Data Sharing Agreement;
 - 3.1.5 Appendix C-1 - ITS-AGS: Information Security Standards;
 - 3.1.6 Appendix D – Participation by Minority Group Members and Women With Respect to State Contracts: Requirements and Procedures;

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- 3.1.7** Appendix D-1 - Minority and Women-Owned Business Enterprises-Equal Employment Opportunity Policy Statement;
- 3.1.8** Appendix D-2 –MWBE Utilization Reporting Responsibilities under Article 15-A;
- 3.1.9** The following Exhibits attached and incorporated by reference to the body of the Agreement:
- 3.1.9a** Exhibit A: which includes: the MacBride Act Statement; and the Non-Collusive Bidding Certification;
 - 3.1.9b** Exhibit B: RFP Amendments and the Request for Proposals entitled “Family Paid Leave Program“ dated December 26, 2017 and Exhibit B-1, the official Department response to questions raised concerning the RFP;
 - 3.1.9c** Exhibit C: the Contractor's Proposal; and, Exhibit C-1: Written responses to the Management Interview and related materials clarifying the Contractor’s Proposal.
- 3.1.10** In the event of any inconsistency in, or conflict among, the document elements of the Agreement identified above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the following order:
- 3.1.10a** First, Appendix A – Standard Clauses for All New York State Contracts;
 - 3.1.10b** Second, Appendix B – Standard Clauses for All Department of Civil Service Contracts;
 - 3.1.10c** Third, Appendix C –Third Party Data Connection and Data Exchange Agreement;
 - 3.1.10d** Fourth, Appendix C-1 - ITS-AGS: Information Security Standards;
 - 3.1.10e** Fifth, Appendix D – Participation by Minority Group Members and Women With Respect to State Contracts: Requirements and Procedures;
 - 3.1.10f** Sixth, Appendix D-1 - Minority and Women-Owned Business Enterprises-Equal Employment Opportunity Policy Statement;
 - 3.1.10g** Seventh, Appendix D-2 –MWBE Utilization Reporting Responsibilities under Article 15-A;

- 3.1.10h** Eighth, any Amendments to the body of the Agreement;
- 3.1.10i** Ninth, the body of the Agreement;
- 3.1.10j** Tenth, MacBride Act Statement and Non-Collusive Bidding Certification;
- 3.1.10k** Eleventh, Exhibit B, RFP Amendments and the Request for Proposals entitled "Family Paid Leave Program" dated December 26, 2017 and Exhibit B-1, the official Department response to questions raised concerning the RFP;
- 3.1.10l** Twelfth, Exhibit C: the Contractor's Proposal; and, Exhibit C-1: Written responses to the Management Interview; Exhibit C-2: Related Materials Clarifying the Contractor's Proposal which includes the Contractor's responses to the Department's inquiries dated x.

3.2.0 The terms, provisions, representations and warranties contained in the Agreement shall survive performance hereunder.

4. LEGAL AUTHORITY TO PERFORM

4.1.0 The Contractor shall maintain appropriate corporate and/or legal authority, which shall include but is not limited to the maintenance of an administrative organization capable of delivering the Program Services in accordance with the Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which the Program Services are to be delivered.

4.2.0 Contractor agrees that it shall perform its obligations under this Agreement in accordance with all applicable federal and NYS laws, rules and regulations, policies and/or guidelines now or hereafter in effect, including but not limited to the requirements set forth in NYS Workers' Compensation Law Article 9.

4.3.0 The Contractor shall provide the Department with immediate notice in writing of the initiation of any legal action or suit which relates in any way to the Agreement, or which may affect the performance of Contractor's duties under the Agreement.

5. PROGRAM SERVICES

5.1.0 The Contractor shall provide the Program Services for the entire term of the Agreement in accordance NYS and Federal Law as applicable. In addition, the Contractor shall deliver the Paid Family Leave Program RFP

Program Services in compliance with all provisions of this Agreement. While the Contractor may provide certain services through Key Subcontractors or Affiliates with the prior review and approval of the Department, the Contractor retains sole responsibility for performance. Each subcontract entered into with a corporate entity separate from the Contractor for the purpose of delivering Program Services must be maintained throughout the term of the Agreement unless such change is approved in writing by the Department. All Key Subcontracts shall expressly name the State of New York, through the Department, as the sole intended beneficiary of any such Key Subcontract. The Contractor must maintain significant financial, legal, and audit oversight of any of its Key Subcontractors or Affiliates. The Contractor remains fully responsible for all services and actions performed under this Agreement. The Contractor shall submit all Key Subcontracts to the Department for its approval. The Contractor shall submit all such Key Subcontracts with no redactions to the Department before execution for its review and approval.

5.1.1 Costs/Fees for all services required under this Agreement shall be included in the employee contributions remitted to the Contractor.

6. DATA SHARING AND OWNERSHIP

6.1.0 Upon the request of the Department, the Contractor will provide claims data to the Department in the format requested, subject to an appropriate authorization and applicable privacy laws.

6.2.0 Notwithstanding anything to the contrary, the Contractor may use non-individually and non-State identifiable information obtained from claims data for the purposes of data compilation, statistical analysis and other studies, and the Department recognizes that such compilations, analyses and studies are the exclusive property of Contractor and may be used in any way by The Contractor.

7. CONFIDENTIALITY

In addition to the Confidentiality requirements specified in Appendices A and B to this Agreement, the following provisions shall apply:

7.1.0 The Contractor may be provided with confidential information, which may include but is not limited to, personal, private or sensitive information (such a social security numbers or home addresses), or information pertinent to an Employee or family member's personal or medical information.

7.2.0 All claims and enrollment records relating to such confidential information and processed in accordance with the Agreement (hereinafter "Records") are confidential and subject to all applicable federal and state laws, rules and regulations regarding the limitation of disclosure

on confidential information and shall be used by the Contractor solely for the purpose of carrying out its obligations under the Agreement, for measuring the performance of the Contractor, and for providing the Department with material and information as may be specified elsewhere in this Agreement.

7.3.0 Except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or Federal law, or with the written consent of the Employee/family member, no Records may be otherwise used or released to any party other than the Department by the Contractor, its officers, employees, agents, consultants, subcontractors or affiliates either during the term of the Agreement or in perpetuity thereafter. Deliberate or repeated accidental breach of this provision may, at the sole discretion of the Department, be grounds for termination of the Agreement.

7.4.0 The Contractor, its officers, employees, agents, consultants and/or any Key Subcontractors or Affiliates agree to comply, during the performance of the Agreement, with all applicable Federal and State privacy, security and confidentiality statutes, including but not limited to the Personal Privacy Protection Law (New York Public Officer's Law Article 6-A, as amended), and its implementing regulations, policies and requirements, for all material and information obtained by the Contractor through its performance under the Agreement, with particular emphasis on such information relating to Employees;

7.5.0 The Contractor shall be responsible for assuring that any of its officers, employees, agents, consultants and/or subcontractors or affiliates comply with the various confidentiality provisions of this Agreement; and

8. BREACH NOTIFICATION FOR PERSONAL INFORMATION

8.1.0 *Breach Notification:*

8.1.1 *Reporting:* The Contractor shall report to the Department any breach of unsecured personal information. "Personal information" is defined as any information concerning a natural person which, because of name, number, symbol, mark or other identifier, can be used to identify that natural person, including any use or disclosure of the personal information other than as provided for by this Agreement, of which the Contractor becomes aware. Further, the Contractor shall report to the Department any security incident of which it becomes aware. "Security Incident" shall mean the successful unauthorized access, use, disclosure, modification, or destruction of information, or interference with system operations in an information system. The Contractor shall notify the Department within five (5)

Business Days of the date upon which the Contractor becomes aware of the Security Incident.

8.1.2 *Required Information:* The Contractor shall provide the following information to the Department within ten (10) Business Days of discovery except when, despite all reasonable efforts by the Contractor to obtain the information required, circumstances beyond the control of the Contractor necessitate additional time. Under such circumstances, the Contractor shall provide to the Department the following information as soon as possible and without unreasonable delay, but in no event later than twenty (20) Business Days from the date of discovery:

8.1.2a the date of the breach incident;

8.1.2b the date of the discovery of the breach;

8.1.2c a brief description of what happened;

8.1.2d a description of the types of unsecured personal information that were involved;

8.1.2e identification of each individual whose unsecured personal information has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the breach;

8.1.2f A brief description of what the Contractor is doing to investigate the breach, to mitigate harm to individuals and to protect against any further breaches; and

8.1.2g any other details necessary to complete an assessment of the risk of harm to the individual.

8.1.3 The Contractor will be responsible for providing notification to Employees and family members whose unsecured protected personal information has been or is reasonably believed to have been accessed, acquired or disclosed as a result of a breach.

8.1.4 The Contractor shall maintain procedures to sufficiently investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the specific findings of the investigation to the Department upon request; provided that such findings shall be treated as confidential by the Department

and its officers, employees and agents to the extent permitted by State law or as ordered by a court of competent jurisdiction.

8.1.5 For purposes of this Agreement, “Unsuccessful Security Incidents” include activity such as pings and other broadcast attacks on the Contractor’s firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of electronic personal information.

8.1.6 The Contractor shall mitigate, to the extent practicable, any harmful effects from any use or disclosure of personal information by the Contractor not permitted by this Agreement.

9. INDEMNIFICATION

9.1.0 *Indemnification:* The Contractor agrees to indemnify, defend and hold harmless the State, the Department and Department’s respective employees, officers, agents or other members of its workforce (each of the foregoing hereinafter referred to as “Indemnified Party”) against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Agreement or from any acts or omissions related to this Agreement by the Contractor or its employees, officers, subcontractors or affiliates, agents or other members of its workforce. Accordingly, the Contractor shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Contractor’s acts or omissions hereunder. The Contractor’s obligation to indemnify any Indemnified Party under this Section shall survive the expiration or termination of this Agreement.

10. NOTICES

10.1.0 All notices permitted or required hereunder shall be in writing and shall be transmitted either:

10.1.1 via certified or registered United States mail, return receipt requested;

10.1.2 by facsimile transmission;

10.1.3 by personal delivery;

10.1.4 by expedited delivery service; or

10.1.5 by e-mail.

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

State of New York

Name: James DeWan
Title: Acting Director, Employee Benefits Division
Address: Employee Benefits Division, Room 1106, Albany, NY 12239
Telephone Number: 518-473-4106
Facsimile Number: 518-473-3292
E-Mail Address: James.DeWan@cs.ny.gov

[Contractor Name]

Name: (TBD)
Title: (TBD)
Address: (TBD)
Telephone Number: (TBD)
Facsimile Number: (TBD)
E-Mail Address: (TBD)

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

10.3.0 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.

11. VENDOR RESPONSIBILITY

11.1.0 The Contractor is required to provide the Department with an updated Vendor Responsibility Questionnaire when requested to do so by the Department throughout the term of the Agreement. In addition, the Contractor is required to report to the Department any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

11.2.0 The Contractor shall remain responsible during the Agreement term. The Contractor agrees, if requested by the Commissioner 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.

- 11.3.0** Suspension of Work for Non-Responsibility: The Commissioner 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 call into question the responsibility of the Contractor. In the event of such suspension, the Contractor must comply with the terms of the suspension order. Agreement activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the Agreement.
- 11.4.0** Termination for Non-Responsibility: Upon written notice to the Contractor, a reasonable opportunity to be heard with the appropriate Department officials or staff, the Contract may be terminated by the Commissioner or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of the Department or his or her designee to be non-responsible. In such an event, the Commissioner or his or her designee may complete the requirements of the Agreement in any manner he or she may deem advisable and pursue legal or equitable remedies for breach.

If New York State law or regulations sets forth a different definition for any term, the definition in law or regulation shall govern.

Benefit means the duration and amount of money payable to an eligible employee during family leave.

Business Days means every Monday through Friday, except for those days which have been designated as business holidays by the State.

Business Hours means 8:30 AM until 5:00 PM, unless different hours are agreed upon between the parties.

Commissioner means the Commissioner of the New York State Department of Civil Service.

Contractor means the Offeror selected in response to this RFP with which the Department intends to enter an agreement to insure and administer the Program.

Days means calendar days unless otherwise noted.

Department or DCS means the New York State Department of Civil Service.

DFS means the New York State Department of Financial Services.

Employee means any person in the service of the Employer who is designated eligible to participate in this Program by the State.

Employer means the State of New York in all its branches, departments and agencies.

ET means prevailing Eastern Time.

Family Leave shall have the same meaning as set forth in Workers' Compensation Law section 201.

Family Member means a child, parent, grandparent, grandchild, spouse, or domestic partner as defined in Workers' Compensation Law section 4.

Key Subcontractor(s) means those vendors with whom the Contractor subcontracts to provide Program Services and incorporates as a part of the Contractor's Program Team. Key Subcontractors include all vendors who will provide \$100,000 or more in Program Services over the term of the Agreement that results from this RFP, as well as any vendor who will provide

Program Services in an amount lower than the \$100,000 threshold, and who is a part of the Contractor's account team.

Language Access Requirements means providing telephonic translation services for limited English proficiency individuals for whom English is not their primary language; translations service shall accommodate the primary language as requested by such individuals.

New York State Average Weekly Wage (NYSAWW) means the wage promulgated by the New York State Department of Labor used to determine maximum employee premium contributions and maximum weekly employee benefits for the purposes of the PFL Program.

NYS means New York State.

Offeror means any entity submitting a Proposal in response to this RFP.

PFL or PFL Program means the New York State PFL as described in this RFP.

Proposal means both the Administrative and Technical Proposals submitted by the Contractor in response to this RFP.

Services or Program Services means all the efforts, services, activities and deliverables to be performed by the Offeror.

State means New York State.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

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

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

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

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

any State approved sums due and owing for work done upon the project.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

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

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

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

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.

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

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

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

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

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

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

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

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS.

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

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.

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

the contract, the Department of Civil Service and the State Comptroller.

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

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

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

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

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

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

limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

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

APPENDIX B
STANDARD CLAUSES FOR ALL DEPARTMENT CONTRACTS

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1. INTEGRATION

The contract executed between the Department and the Contractor (or Purchase Order issued by the Department) is hereinafter referred to as the Agreement. The Agreement, including all Exhibits and Appendices, including this Appendix B, copies of which are attached thereto, and incorporated therein by reference, constitutes the entire agreement between the Parties for the purpose of the fulfillment of Program Services or Project Services. All prior agreements, representations, statements, negotiations and undertakings are superseded hereby.

All statements made by the Department shall be deemed to be representations and not warranties.

2. EXECUTORY PROVISION

Section 112 of the State Finance Law requires that any contract made by a State department which exceeds fifty thousand dollars (\$50,000) in amount be first approved by the Comptroller of the State of New York before becoming effective. The Parties recognize that, if the Agreement is for fifty thousand dollars or more, it is wholly executory until and unless approved by the Comptroller of the State of New York.

3. CHOICE OF LAW

The Parties agree that the Agreement shall be interpreted according to the laws of the State of New York, except where the federal supremacy clause requires otherwise. The Contractor shall be required to bring any legal proceeding against the Department arising from the Agreement in New York State courts located in Albany County.

4. DISPUTE RESOLUTION

Except as otherwise provided in the Agreement, any dispute raised by the Contractor concerning any question of fact or law arising under the Agreement which is not disposed of by mutual agreement of the Parties shall be decided initially by the designee of the President of the Civil Service Commission (President). A copy of the written decision shall be furnished to the Contractor. The Parties shall proceed diligently with the performance of the Agreement and shall comply with the provisions of such decision and continue to comply pending further resolution of any such dispute as provided herein. The decision of the designee of the President shall be final and conclusive unless, within ten (10) Days from the receipt of such decision, the Contractor furnishes the President a written appeal. In the event of an appeal, the President shall promptly review the initial decision, and confirm, annul, or modify it. The decision of the President shall be final and conclusive unless, as determined by a court of competent jurisdiction, it violates one of the provisions of section 7803 of the Civil Practice Law and Rules. Pending final decision of any Article 78 proceeding hereunder, both Parties shall proceed diligently with the performance of the Agreement in accordance with the President's decision.

5. WAIVER OF BREACH

No term or provision of the Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. No consent by a Party to, or waiver of, a breach under the Agreement shall constitute a consent to, a waiver of, or excuse for any other, different or subsequent breach.

6. NEW YORK STATE REQUIREMENTS

The Contractor acknowledges that it is bound by the terms of Appendix A, Standard Clauses For All New York State Contracts, which is attached and incorporated by reference to the Agreement.

7. OUTSIDE OF SCOPE

The Contractor agrees that any and all work performed outside the scope of the Agreement shall be deemed to be gratuitous and not subject to any charge, cost or payment of any kind.

8. NON-ASSIGNABILITY

Neither the rights nor the obligations of the Contractor under the Agreement may be conveyed, assigned, delegated, or otherwise transferred in any manner whatsoever by the Contractor, either in whole or in part, without the prior written approval of the Department.

9. NOTIFICATION

All notices permitted or required by the Agreement to be given by one Party to the other shall be in writing and shall be transmitted either (1) via certified or registered mail, return receipt requested; (2) by facsimile transmission; (3) by personal delivery; (4) by expedited delivery service; or (5) by e-mail.

10. INDEMNIFICATION

The Contractor agrees to indemnify, defend and save harmless the Department, the State, its officers, agents and employees, for any claims or losses the Department, the State or any individuals may suffer when such claims or losses result from the claims of any person or organization for any and all injuries or damages caused by the negligent acts or omissions of the Contractor, its officers, employees, agents, consultants and/or sub-contractors in performance of the Agreement. Furthermore, the Contractor agrees to indemnify, defend and save harmless the Department and the State, its officers, agents, and employees from any and all claims or losses caused by the acts or omissions of any and all contractors, sub-contractors, consultants and any other persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of the Agreement and from all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of the Agreement, and against any loss, damages or actions, including, but not limited to, costs and expenses, for violation of proprietary rights, copyrights, patents, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any material, information or data furnished under the Agreement, or based on any libelous or otherwise unlawful matter contained in such material, information or data, except as otherwise provided in the Article entitled "Patent Copyright or Proprietary Rights Infringement" of this Appendix B.

The Contractor also shall provide indemnification against all losses, and/or cost expenses (including reasonable counsel fees) that may be incurred by reason of the Contractor's breach of any term, provision, covenant, warranty, or representation contained herein and/or in connection with the enforcement of the Agreement or any provision hereof.

The Department does not agree to any indemnification provisions in any documents attached hereto that require the Department or the State of New York to indemnify or save harmless the Contractor or third parties.

Notwithstanding anything to the contrary in the Agreement, neither the Department nor the Contractor shall be liable to the other for any special, consequential, or punitive damages, or loss of profits or revenues, whether such damages are alleged as a result of tort (including strict liability), contract, warranty, or otherwise, arising out of or relating to either Party's acts or omissions under the Agreement.

11. PATENT, COPYRIGHT OR PROPRIETARY RIGHTS INFRINGEMENT

The Contractor, solely at its expense, shall defend any claim or suit which may be brought against the Department or the State for the infringement of United States patents, copyrights or proprietary rights arising from the Contractor's or the Department's use of any software, equipment, data, materials and/or information of any kind prepared, developed or furnished by the Contractor in connection with performance of the Agreement and, in any such suit, shall satisfy any final judgment for such infringement. The Department shall give the Contractor written notice for such claim or suit and full right and opportunity to conduct the defense thereof, together with full information and all reasonable cooperation.

If principles of governmental or public law are involved, the State of New York may participate in the defense of any action identified under this Article, but no costs or expenses shall be incurred upon the account of the Contractor without the Contractor's written consent.

If, in the Contractor's opinion, any software, equipment, data, materials and/or information prepared, developed or furnished by the Contractor is likely to or does become the subject of a claim of infringement of a United States patent, copyright or proprietary right, then, without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the Department's prior written approval, substitute other equally suitable software, equipment, materials, data and/or information. In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any software, equipment, materials and/or information under the Agreement infringes on any patent, copyright, or proprietary right, such action shall be forwarded by the Department to the Contractor for defense and indemnification under this Article and to the Office of the Attorney General of the State of New York together with a copy of the Agreement. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the defense and indemnification set forth herein, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York, in writing, and shall specify to what extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of the Agreement. The Contractor shall in such event protect the interests of the State of New York and shall take the steps necessary to secure a continuance to permit the State of New York to appear and defend its interest in cooperation with the Contractor, as is appropriate, including any jurisdictional defenses which the State shall have.

12. DATE/TIME WARRANTY

The Contractor warrants that products furnished pursuant to the Agreement shall be able to accurately process, date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific products and/or services must perform as a package or system, this warranty shall apply to the products and/or services as a system.

Where the Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g. billing, invoicing, claim processing), the Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure, or error due to the inaccuracy of the Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. The Contractor shall be responsible for damages resulting from any delays, errors, or untimely performance resulting there from, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of the Agreement through a) ninety (90) days or b) the Contractor's or product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under the Agreement for breach of warranty.

13. VIRUS WARRANTY

Product contains no viruses, either known to the Contractor or which reasonably should have been known to the Contractor exercising due diligence. The Contractor is not responsible for viruses introduced at the Department's site.

14. TITLE AND OWNERSHIP WARRANTY

The Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Product(s) transferred to the Department under the Agreement. The Contractor shall be solely liable for any costs of acquisition associated therewith. The Department may require the Contractor to furnish appropriate written documentation establishing the above rights and interests as a condition of payment. The Department's request or failure to request such documentation shall not relieve the Contractor of liability under this warranty.

15. USE RESTRICTIONS AND INTELLECTUAL PROPERTY

The Parties agree that all work by the Contractor for the Department is intended as work for hire. The Parties agree that the Contractor's work is specifically ordered and commissioned for use as contributions to a collective work, or is other such work as specified by section 101(2) of the U.S. Copyright Act [17 U.S.C. 101(2)], and is intended to be a work for hire that is made for the use and ownership of the State of New York and the Department. Furthermore, the Department and the Contractor agree that the State of New York and the Department are the owners of all copyrights regarding the work. The Contractor warrants to the State of New York and the Department that the Contractor, and all of its subcontractors and their employees, who have been, or may be used in regard to the Agreement, forfeits all past or future claims of title or ownership to the work produced.

Materials such as forms and publications used by the Contractor in the course of its performance under the Agreement which have been agreed upon by the Parties as generic materials are specifically excluded from this provision.

16. OWNERSHIP/TITLE TO PRODUCT DELIVERABLES

For purposes of this Article, the term "Department" is understood to mean the Department acting on behalf of the State.

(A) Definitions

1. Product(s):

A deliverable furnished under the Agreement by or through the Contractor, including existing and custom Product(s), including, but not limited to: a) components of the hardware environment; b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); c) third party software; d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

2. Existing Product(s):

Tangible Product(s) and intangible licensed Product(s) which exist prior to the commencement of work under the Agreement. The Contractor retains the burden of proving that a particular product existed before commencement of the Agreement.

3. Custom Product(s):
Product(s), preliminary, final or otherwise, which are created or developed by the Contractor, or its subcontractors, partners, employees, or agents under the Agreement for the benefit of the Department.

(B) Title to Project Deliverables

The Contractor acknowledges that it is commissioned by the Department to perform services detailed in the Agreement. Unless otherwise specified in writing in the Agreement, the Department shall have ownership and/or license rights as follows:

1. Existing Product(s):
 - a) Hardware - Title and ownership of Existing Hardware Product shall pass to Department upon acceptance.

- b) Software - Title and ownership to Existing Software Product(s) delivered by the Contractor under the Agreement which is normally commercially distributed on a license basis by the Contractor or other independent software vendor/proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with the Contractor or other independent software vendor/proprietary owner ("ISV"). Effective upon acceptance, such Product shall be licensed to the Department in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant the Department a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless the Contractor advises the Department as part of the Contractor's bid proposal that adaptation will violate existing agreements or statutes and the Contractor demonstrates such to the Department's satisfaction) and distribute Existing Licensed Product to the Department up to the license capacity stated in the work order with all license rights necessary to fully effect the general business purpose(s) stated in the Agreement and (b) recognize the State of New York as the licensee. Where these rights are not otherwise covered by the ISV's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Department shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph.

2. Custom Product(s):
Effective upon creation of Custom Product(s), the Contractor hereby conveys, assigns and transfers to State the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Product(s) are protected against unauthorized copying, reproduction and marketing by or through the Contractor, its agents, employees, or subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under the Agreement in the course of the Contractor's business.

Where payment for Custom Product does not involve Certificates of Participation (COPS) pursuant to Article 5-A of the State Finance Law or other third party

financing, the Department may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of State taking exclusive ownership and title to such Products. In such case, the Department shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated herein.

In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value as determined by the Parties at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the State which complies with the terms of this paragraph.

3. Documentation, Data & Reports

The Department shall own title to all documentation, drawings, (e.g., engineering drawings, system diagrams, logic/schematics, plans, reports, training, maintenance or operating manuals), including network design, equipment configurations and other documentation prepared or developed pursuant to the Agreement, whether preliminary, final or otherwise. The Contractor shall deliver to the possession of the Department all work-in-progress documentation as it becomes available, but in no case longer than thirty (30) days after creation.

17. FORCE MAJEURE

Neither Party to the Agreement shall be liable or deemed to be in default for any delay or failure in performance under the Agreement resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, wars, riots, civil disturbances, insurrections, accident, fire, explosions, earthquakes, floods, the elements, acts or omissions of public utilities or strikes, work stoppages, slowdowns or other labor interruptions due to labor/management disputes involving entities other than the Parties to the Agreement, or any other causes not reasonably foreseeable or beyond the control of a Party. The Parties are required to use best efforts to eliminate or minimize the effect of such events during performance of the Agreement and to resume performance of the Agreement upon termination or cessation of such events.

18. TIME OF THE ESSENCE

The Department and the Contractor acknowledge and agree that time is of the essence for the Contractor's performance under the Agreement.

19. RIGHTS AND REMEDIES

The rights, duties and remedies set forth in the Agreement shall be in addition to, and not in limitation of, rights and obligations otherwise available at law.

20. FEDERAL AND STATE COMPLIANCE

The Contractor shall ensure that its employment practices comply with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended.

The Contractor shall ensure compliance with the Americans With Disabilities Act (42 USC §2101 et. seq.) such that programs and services provided during the course of performance of the Agreement shall be accessible under Title II of the Americans With Disabilities Act and as otherwise applicable under the Americans With Disabilities Act.

21. TAXES

It shall be understood that the Department, as an agency of the State of New York, is not liable for the payment of any sales, use, excise, or other form of tax however designated, levied or imposed, and shall agree to reimburse the Contractor for same only if taxes would have been incurred through the Department's normal business operations.

22. INDEPENDENT CONTRACTOR

The Parties agree that the Contractor is an independent contractor, and the Contractor, its officers, employees, agents, consultants and/or sub-contractors in the performance of the Agreement shall act in an independent capacity and not as agents, officers or employees of the State or the Department. Neither the Contractor nor any sub-contractor shall thereby be deemed an agent, officer, or employee of the State. The Contractor agrees, during the term of the Agreement, to maintain at the Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Department with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, State, and local taxes, and all FICA contributions.

23. NO THIRD PARTY BENEFICIARIES

Nothing contained in the Agreement, expressed or implied, is intended to confer upon any person, corporation, other than the Parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of the Agreement.

24. HEADINGS OR CAPTIONS

The headings or captions contained within the Agreement are intended solely for convenience and reference purposes and shall in no way be deemed to define, limit or describe the scope or intent of the Agreement or any provisions thereof.

25. PARTIAL INVALIDITY

Each Party agrees that it shall perform its obligations under the Agreement in accordance with all applicable federal and State laws, rules, and regulations, policies and/or guidelines now or hereafter in effect. If any term or provision of the Agreement shall be found to be illegal or unenforceable, then, notwithstanding such term or provision, the Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken.

26. CONFLICT OF INTEREST

The Contractor shall ensure that its officers, employees, agents, consultants and/or sub-contractors comply with the requirements of the New York State Public Officers Law ("POL"), as amended, including but not limited to sections 73 and 74, as amended, with regard to ethical standards applicable to State employees, and particularly POL sections 73(8)(a)(i) and (ii) regarding post-employment restrictions affecting former State employees. Additionally, the Contractor shall ensure that no violation of these provisions will occur by reason of the Contractor's proposal for or negotiation and execution of the Agreement or in its delivery of services pursuant to the Agreement. If, during the term of the Agreement, the Contractor becomes aware of a relationship, actual or potential, which may be considered a violation of the POL or which may otherwise be considered a conflict of interest, the Contractor shall notify the Department in writing immediately. Should the Department thereafter determine that such employment is inconsistent with State law; the Department shall so advise the Contractor in writing, specifying its basis for so determining, and may require that the contractual or employment relationship be canceled. Failure to comply with these provisions may result in suspension or cancellation of the Agreement and criminal proceedings as may be required by law.

The Contractor is required to make full disclosure of any circumstances that could affect its ability to perform in complete compliance with the POL. Any questions as to the applicability of these provisions should be addressed by the Contractor to the New York State Ethics Commission, 540 Broadway, Albany, NY 12207 (518) 408-3976.

27. AUDIT AUTHORITY

The Contractor acknowledges that the Department and the Office of the State Comptroller have the authority to conduct financial and performance audits of the Contractor's delivery of Program Services (or Project Services) in accordance with the Agreement and any applicable State and federal statutory and regulatory authorities. Such audit activity may include, but not necessarily be limited to, the review of documentary evidence to determine the accuracy and fairness of all items on the Contractor's submission of claims for payment under the Agreement, and the review of any and all activities relating to the Contractor's performance and administration of the Agreement.

The Contractor shall make available documentary evidence necessary to perform such reviews. Documentation made available by the Contractor may include, but is not limited to, source documents, books of account, subsidiary records and supporting work papers, claim documentation and pertinent contracts and correspondence.

The audit provisions contained herein shall in no way be construed to limit the audit authority or audit scope of the Office of the State Comptroller as set forth in Appendix A of the Agreement - Standards Clauses for All New York State Contracts.

28. CONFIDENTIALITY

All records maintained by the Contractor and relating to the Agreement are confidential and shall be used by the Contractor and its officers, employees, and subcontractors or agents solely for the purpose of carrying out its obligations under the Agreement. Except as directed by a court of competent jurisdiction or as may be permitted or required by applicable New York State or federal law or regulations, no such records may be otherwise used or released to any person by the Contractor, its employees, subcontractors or agents, either during the term of the Agreement or in perpetuity thereafter. Deliberate or repeated accidental breach of this provision may, at the sole discretion of the Department, be grounds for termination of the Agreement.

The Contractor shall promptly advise the Department of all requests made to the Contractor for information regarding the performance of services under the Agreement, including any information provided by the Department, except as required by subcontractors or agents solely for the purpose of carrying out obligations under the Agreement or as required by law.

The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its officers, agents and employees or applicable subcontractors contains a provision that conforms strictly to the provisions of this Article.

29. INFORMATION SECURITY REQUIREMENTS

In accordance with the Information Security Breach and Notification Act (ISBNA) (General Business Law §889-aa, State Technology Law §208), Contractor shall be responsible for complying with provisions of the ISBNA and the following terms contained herein with respect to any private information (as defined in ISBNA) received by Contractor under the Agreement (Private Information) that is within the control of the Contractor either on the Department's information security systems or the Contractor's information security system (System). In the event of a breach of the security of the System (as defined by ISBNA),

Contractor shall immediately commence an investigation, in cooperation with the Department, to determine the scope of the breach and restore security of the System to prevent any further breaches. Contractor shall also notify the Department of any breach of the security of the System immediately following discovery of such breach.

Except as otherwise instructed by the Department, Contractor shall, to the fullest extent possible, first consult with and receive authorization from the Department prior to notifying any individuals, the State Office of Information Technology Services (ITS), the State Consumer Protection Board and the Office of the Attorney General (OAG) or any consumer reporting agencies of a breach of the security of the System or concerning any determination to delay notification due to law enforcement investigations. Contractor shall be responsible for providing the notice to all such required recipients and for all the costs associated with providing such notice. Contractor shall be liable for any other costs associated with noncompliance of ISBNA if caused by the Contractor or Contractor's agents, officers, employees, or subcontractors. Nothing herein shall in any way impair the authority of the OAG to bring an action against the Contractor to enforce the provisions of ISBNA or limit Contractor's liability for any violation of the ISBNA. Additional information relative to the law and the notification process is available at:

<http://www.cscic.state.ny.us/security/securitybreach>

Contemporaneous with the execution of the Agreement, the Contractor and its designees shall execute the Department's Third Party Connection and Data Exchange Agreement and any other protocol required by the Department, and shall ensure its employees, agents and designees complete the related Third Party Acceptable Use Policy and Agreement if applicable, to ensure the security of data transmissions and other information related to the administration of the Agreement. This request may be waived by the Department in its sole discretion.

30. NONDISCLOSURE OF CONFIDENTIAL INFORMATION

Except as may be required by applicable law or a court of competent jurisdiction, the Contractor, its officers, agents, employees, and subcontractors shall maintain strict confidence with respect to any Confidential Information to which the Contractor, its officers, agents, employees, and subcontractors have access in the course of the Contractor's performance under the Agreement. For purposes of the Agreement, all State information of which the Contractor, its officers, agents, employees and subcontractors becomes aware during the course of performing services for the Department shall be deemed to be Confidential Information (oral, visual or written). Notwithstanding the foregoing, information that falls into any of the following categories shall not be considered Confidential Information:

- (a) information that is previously rightfully known to the receiving party without restriction on disclosure;
- (b) information that becomes, from no act or failure to act on the part of the receiving party, generally known in the relevant industry or is in the public domain; and
- (c) information that is independently developed by the Contractor without use of confidential information of the State.

The Contractor shall hold the State and the Department harmless from any loss or damage to the State or the Department resulting from the disclosure by the Contractor, its officers, agents, employees, and subcontractors of such Confidential Information.

The Contractor shall provide for its officers, agents, employees, and subcontractors to acknowledge and execute a nondisclosure agreement containing substantially the terms described in this Article, if requested to do so by the Department or the State.

This representation shall survive termination of the Agreement.

31. FREEDOM OF INFORMATION LAW

Disclosure of information and material provided to the Department by the Contractor in the course of the Contractor's performance under the Agreement shall be permitted consistent with the laws of the State of New York, and specifically the Freedom of Information Law (FOIL), Article 6 of the Public Officers Law. The Department shall take reasonable steps to protect from public disclosure any of the records relating to the Contractor's performance under the Agreement that otherwise are exempt from disclosure under FOIL.

If the Contractor believes that any information or material provided to the Department constitutes trade secret information that should be exempted from FOIL disclosure, the Contractor must, at the time of the materials' submission, request the exemption in writing, specifically identifying the material by page number, line, or other appropriate designation, and provide a particularized explanation as to why the material constitutes trade secret information and how the disclosure of the identified information would cause substantial injury to the Contractor's competitive position. The material sought to be protected from disclosure must be clearly marked in yellow highlighter, on a duplicate copy of the submission and may be provided in hardcopy or on a CD. Generically marking all material as "Confidential" will not be considered adequate for the purpose of this Article.

The Department's receipt of the Contractor's submission of material and the Contractor's request for protection of the material from FOIL disclosure does not constitute a determination that the information is exempt from disclosure under FOIL. In the event any information or material is requested pursuant to FOIL, the Department will address each party's interests fully in accordance with the procedures required by Article 6 of the Public Officers Law.

32. TERMINATION OF AGREEMENT

In addition to any termination provisions specified elsewhere in the Agreement, the following provisions also shall apply:

The Agreement may be terminated by mutual written agreement of the Parties.

The Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of the Agreement, including any exhibits incorporated herein, provided that the Department shall give the Contractor written notice via registered or certified mail, return receipt requested, or hand delivery, such written notice to specify the Contractor's failure and the termination of the Agreement. Termination shall be effective ten (10) Business Days after receipt of such notice unless the Contractor, in the opinion of the Department, has cured such failure. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination. Upon termination for cause, the Department shall have the right to award a new contract to another contractor. Termination for cause shall create a liability upon the Contractor for actual damages incurred and for all reasonable additional costs incurred in reassigning the Agreement.

The Agreement may be terminated if the Department deems that termination would be in the best interest of the State provided that the Department shall give written notice to the Contractor not less than thirty (30) Days prior to the date upon which termination shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand delivered. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of hand delivery.

The Agreement may be terminated immediately in the event the Department determines that funds are unavailable. The Department agrees to provide notice to the Contractor as soon as it becomes aware that funds are unavailable in the event of termination under this paragraph. If the initial notice is via oral notification, the Department shall provide written notice immediately thereafter. The Department shall be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination or received either orally or in writing by the Contractor from the Department.

In the event of termination for any reason, the Contractor shall not incur new obligations for the terminated portion. The Contractor agrees, after consultation with the Department, to cancel such outstanding obligations as the Contractor deems appropriate in the exercise of sound business judgment.

Upon termination of the Agreement each Party shall, if applicable, return to the other all papers, materials, and other properties of the other Party held by each for purposes of performance under the Agreement. In addition, each Party shall assist the other Party in orderly termination of the Agreement and the transfer of all aspects hereof, tangible, and intangible, as may be necessary to ensure the orderly administration of the State program.

33. CONTRACTOR PERSONNEL

The Contractor shall designate an Account Executive, who shall be the contact person for all matters arising under the Agreement.

The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries, and management of its personnel. These functions shall be carried out by the Contractor in accordance with the provisions of the Agreement and with all applicable federal and State laws and regulations.

The Contractor is required to commit key personnel for the administration of all aspects of the Agreement. In the event that any of the key personnel will be or are unavailable for the performance of their duties, the Contractor will designate and propose to the Department an equally qualified alternate with full authority to act for the unavailable key person.

The Contractor shall notify the Department in writing of any changes in the key personnel designated for performance of the Agreement. This shall include any changes in the personnel designated to bind the Contractor.

The Department reserves the right to demand the reassignment or cancellation of assignment to duties under the Agreement of any Contractor personnel so assigned. The Department shall not exercise the authority unreasonably. The Contractor agrees to replace any employees so reassigned or canceled with an employee of equal or better qualifications. If the Department exercises its right under this provision, it agrees to provide written notice to the Contractor setting forth its reasons with specificity.

34. OPERATIONAL CONTACTS

The Contractor shall maintain appropriate corporate and/or legal authority, which shall include, but not be limited to, the maintenance of an organization capable of delivering Program Services in accordance with the Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which Program Services are to be delivered pursuant to the Agreement. The Contractor also shall maintain operations, financial and legal staff that shall be directly available to the Department's operations, financial and legal staff, respectively. For purposes of the Agreement, maintenance of such staff and staff availability by the Contractor shall in no way create any agency relationship between the Department and the Contractor.

The Contractor acknowledges and agrees that no aspect of the Contractor's performance under the Agreement is contingent upon Department personnel or the availability of Department resources, with the exception of all proposed actions of the Contractor specifically identified in the Agreement as requiring the Department approval. With respect to such approval, the Department shall act promptly and in good faith.

The Contractor must cooperate fully with any other contractors who may be engaged by the Department relative to the the Agreement.

The Contractor must ensure that all contacts by the Contractor personnel with other New York State agencies, external organizations (Federal Agencies, Unions, etc.) which result in any charge, cost or payment of any kind, must receive prior written authorization from the Department's Contract Manager.

35. SUBCONTRACTING

If allowed in the solicitation instrument (e.g., Request for Proposal, Invitation for Bids, etc.) that results in the Agreement, the Contractor may arrange for specified portion(s) of its responsibilities under the Agreement to be subcontracted to a Key Subcontractor(s). A "Key Subcontractor" means that vendor(s) with whom the Contractor subcontracts to provide any portion of Program Services. If the Contractor determines to subcontract a portion(s) of Program Services, the Key Subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under the Agreement must be fully explained by the Contractor to the Department. The Contractor retains ultimate responsibility for all Program 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 the Agreement including, but not be limited to, the body of the Agreement, Appendix A - Standard Clauses For All New York State Contracts, Appendix B - Standard Clauses for All Department Contracts and if applicable as determined by the Department, Appendix C - Third Party Connection and Data Exchange Agreement. Unless waived in writing by the Department, all subcontracts between the Contractor and a Key Subcontractor shall expressly name the State of New York, through the Department, as the sole intended third party beneficiary of such subcontract. The Department reserves the right to review and approve or reject any subcontract with a Key Subcontractor, as well as any amendments to said subcontract(s), and this right shall not make the Department or the State of New York a party to any subcontract or create any right, claim, or interest in the Key Subcontractor or proposed Key Subcontractor against the Department.

The Department reserves the right, at any time during the term of the Agreement, to verify that the written subcontract between the Contractor and Key Subcontractor(s) is in compliance with all of the provision of this Article and any subcontract provisions contained in the Agreement. In addition to other remedies allowed by law, the Department reserves the right to terminate the Agreement for cause if an executed subcontract does not contain all of the provisions/statements stipulated above. If during the term of the Agreement, any executed subcontract between the Contractor and a Key Subcontractor is amended, the Contractor shall, within 30 calendar days of such amendment, provide a copy to the Department.

The Contractor shall give the Department immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a Key Subcontractor or which may affect the performance of the Contractor's duties under the Agreement. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the Agreement.

36. PUBLICITY AND COMMUNICATIONS

The Contractor shall ensure that all requests for the Contractor's participation in events where the Contractor will be participating on behalf of the Department receive prior written authorization from the Department.

No public discussion or news releases relating to the Agreement shall be made or authorized by the Contractor or the Contractor's agent without the prior written approval of the Department, which written approval shall not be unreasonably withheld or delayed provided, however, that Contractor shall be authorized to provide copies of the Agreement and answer any questions relating thereto to any State or federal regulators or, in connection with its financial activities, to financial institutions for any private or public offering.

37. CONSULTANT DISCLOSURE REQUIREMENTS

Unless directed otherwise by the Department, the Contractor shall demonstrate its compliance with Chapter 10 of the Laws of 2006 throughout the term of the Agreement by submitting to the Department and to the Office of the State Comptroller a "State Consultant Services - Contractor's Annual Employment Report" for each State Fiscal Year. Such report shall be due no later than May 15th of each year following the end of the State Fiscal Year being reported. Such report shall be required of any contract that includes services for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health and mental health services, accounting, auditing, paralegal, legal, or similar services. Such report shall conform with Bulletin No. G-226 - Form B as issued by the Office of the State Comptroller. The report must be submitted to the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th floor, Albany, NY 12236, ATTN: Consultant Reporting; and to the Department's Contract Manager.

38. PROCUREMENT LOBBYING RESTRICTIONS UNDER STATE FINANCE LAW SECTIONS 139-j AND 139-k

The Contractor certifies that all information that it has provided or will provide to the Department pursuant to State Finance Law sections 139-j and 139-k is complete, true, and accurate, including but not limited to information regarding prior determinations of non-responsibility within the past four years based upon (i) impermissible contacts of other violations of SFL section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity.

The Department reserves the right to terminate the Agreement in the event it is found that the Contractor's certification of its compliance with SFL sections 139-j or 139-k was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its right to terminate the Agreement by providing written notification to the Contractor in accordance with Article 9 of this Appendix B.

39. VENDOR RESPONSIBILITY

The Contractor is required to provide the Department with an updated Vendor Responsibility Questionnaire when requested to do so by the Department throughout the term of the Agreement. Regardless, the Contractor is required to report to the Department any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

40. TAX LAW SECTION 5-A - CERTIFICATION REGARDING SALES AND COMPENSATING USE TAXES

In the event the value of the Agreement exceeds \$100,000, the Contractor must file a properly completed Form ST-220-CA with the Department and a properly completed Form ST-220-TD with the Department of Taxation & Finance before the Agreement may take effect.

In addition, after the Agreement has taken effect, the Contractor must file a properly completed Form ST-220-CA with the Department if the Agreement's term is renewed; further, a new Form ST-220-TD must be filed with the Department of Taxation & Finance if no ST-220-TD has been filed by the Contractor or if a previously filed Form ST-220-TD is no longer correct and complete.

41. CONTRACT PAYMENT

Contractor shall provide complete and accurate billing invoices to the Department in order to receive payment. Billing invoices submitted to the Department must contain all information and supporting documentation required by the Agreement, the Department and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the 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 Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by e-mail at epunit@osc.state.ny.us, or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under the Agreement 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.

May 2011



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

THIS AGREEMENT (the “Agreement”) by and between the NYS Department of Civil Service (“DCS”), with principal offices in Albany, NY 12239, and

with principal offices at

(hereinafter “Third Party”), is entered into as of the date last written below (“the Effective Date”).

This Agreement consists of this signature page and the following attachments incorporated by reference:

- 1. Attachment 1: Third Party Connection and Data Exchange Agreement Terms and Conditions
- 2. Attachment 2: Third Party Connection and Data Exchange Request Requirements Document
- 3. Attachment 3: Third Party Acceptable Use Policy and Agreement
- 4. Attachment 4: DCS Equipment Loan Agreement (Applicable: Yes No)

This Agreement may only be modified by a written document executed by the parties hereto. Any disputes arising out of or in connection with this Agreement shall be governed by New York State law without regard to choice of law provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed. Each party warrants and represents that its respective signatories whose signatures appear below have been and are on the date of signature duly authorized to execute this Agreement.

<i>Third Party Name:</i>	<i>NYS Department of Civil Service (DCS)</i>
Authorized Signature	Authorized Signature
Name (<i>Print</i>)	Name (<i>Print</i>)
Date	Date



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 1 – SECURITY REQUIREMENTS

1. *Right to Use Connection*

Third Party may only use the connection and the information obtained from DCS for business purposes as outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2).

2. *Data Exchange*

2.1 Third Party may only use the data obtained for purposes outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2) and the contract or Memoranda of Understanding, if any, that exists between DCS and Third Party for the provision of goods or services or governing conduct between DCS and Third Party with respect to the access to and use of DCS data.

2.2 Data exchange may be conducted only by methods and/or services outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2). Third Party should expect that access to information and services may be limited, as determined or required by DCS.

3. *Network Security*

3.1 Third Party will allow only its own employees approved in advance by DCS (“Third Party Users”) to access the Network Connection or any DCS-owned equipment. Third Party shall be solely responsible for ensuring that Third Party Users are not security risks, and upon DCS’ request, Third Party will provide DCS with any information reasonably necessary for DCS to evaluate security issues relating to any Third Party User.

3.2 Third Party will promptly notify DCS whenever any Third Party User leaves Third Party’s employ or no longer requires access to the connection or DCS-owned Equipment.

3.3 Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (a) such party’s use of the connection (and Third Party’s use of DCS-owned Equipment) is secure and is used only for authorized purposes, and (b) such Party’s business records and data are protected against improper access, use, loss alteration or destruction.

3.4 The preferred connectivity method is via the Internet to a DCS-approved or DCS-provided Virtual Private Network (VPN) device. If the device is DCS-provided, DCS will loan the Third Party, in accordance with the DCS Equipment Loan Agreement, the required client software for establishing VPN connections with DCS. Normal DCS perimeter security measures will control access to the internal network.

3.5 Extranet – Designated routers are used in combination with firewall rules to allow access to be managed. A second authentication may be required.



- 3.6 Remote Access - Using the DCS-provided remote access software, Third Party will connect via an Internet browser. The account may be disabled until usage is required and controls are placed and managed by DCS. Third Party will be required to follow procedures to enable the account for each use.
- 3.7 Third Party Connections will be audited. All remote access user accounts for Third Parties will be given an expiration time. Renewals must be requested by Third Party and approved by the Department Sponsor. Obsolete Third Party connections will be terminated.
- 3.8 Software versions on all Third Party computers that connect to the DCS network must be versions that are currently supported by the software manufacturer, and all available security updates and hot fixes for that software must be applied in a timely fashion. Software and firmware for all Third Party networking equipment that is part of the connection to the DCS network must be kept up to date, especially with patches that fix security vulnerabilities.
- 3.9 Anti-virus software and firewalls must be installed and enabled at all times on DCS-owned computers and on Third Party computers that connect to the DCS network. Additionally, virus definition files must be kept up to date.
- 3.10 In no case may a Third Party Connection to DCS be used as an Internet Connection for Third Party or for a Third Party User.

4. Notifications

- 4.1 Third Party shall notify DCS in writing promptly of any change in its Users for the work performed over the Network Connection or whenever Third Party believes a change in the connection and/or functional requirements of the connection is necessary.
- 4.2 Any notices required by this Agreement shall be given in hand, sent by first class mail, or via facsimile to the applicable address set forth below.

Third Party Name:	NYS Department of Civil Service Albany, New York 12239
Address:	
Attention:	Attention:



5. *Citizen Notifications*

If Third Party maintains "identifying personal information" on behalf of the Department and such information is compromised, Third Party shall notify the Department immediately that the information has been compromised, the circumstances under which the information was compromised, and the measures undertaken by Third Party to address those circumstances and to otherwise mitigate the effects of the compromise. If encrypted data is compromised along with the corresponding encryption key and encryption software, the data shall be considered unencrypted and the information will be considered compromised through unauthorized access. If the Department requests Third Party to do so, Third Party shall notify the persons whose identifying information was compromised. Such notification shall be communicated via postal service or email, as directed by the Department, and shall otherwise be executed in accordance with the Department's direction. Notification shall be delayed if a law enforcement agency determines that such notification may impede a criminal investigation. For the purpose of this section, "identifying personal information" shall be any information concerning an individual which, because of name, number, symbol, mark or other identifier in combination with any of the following, is unencrypted: (1) Social Security Number; or (2) driver's license number; or (3) financial account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account; or (4) password which would permit access to the individual's account.

6. *Payment of Costs*

Each Party will be responsible for all costs incurred by that Party under this Agreement, including, without limitation, costs for phone charges, telecommunications equipment and personnel for maintaining the connection.

7. *Confidentiality*

- 7.1 Information exchanged for the business purposes outlined in Attachment 2 will be held confidential by the Parties to the maximum extent permitted by law. Each Party may internally use the information received from the other Party hereunder in connection with and as specifically necessary to accomplish the Business Purpose set forth in Attachment 2 and for no other purposes. Each Party may otherwise share such information with other third parties (e.g. consultants, subcontractors, control agencies) as required or permitted by law in order to effect the business purposes outlined in Attachment 2 and for no other purposes, provided that such third parties agree to the confidentiality restrictions set forth herein and as may be required otherwise by State and federal law.
- 7.2 Third Party must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the sensitive information that it creates, receives, maintains, or transmits on behalf of DCS.
- 7.3 Unencrypted DCS information must not be transmitted over email.
- 7.4 Third Party must ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it and report to the ITS Enterprise Service Desk any security incident of which it becomes aware.



8. *Third Party Users*

- 8.1 Third Party must require that each Third Party User executes a Third Party Acceptable Use Policy and Agreement (Attachment 3). Third Party must ensure that DCS is notified by fax or mail when the user base changes, following the specifications in the Third Party Connection & Data Exchange Agreement.
- 8.2 All aspects of Third Party connections within DCS control may be monitored by the appropriate DCS support group and/or the DCS Information Security Officer. Any unauthorized use or change to devices will be investigated immediately.
- 8.3 All Third Party Connections will be reviewed on a regular basis and information regarding specific Third Party connection will be updated as necessary. Obsolete Third Party connections will be terminated.

9. *DCS-owned Equipment*

- 9.1 DCS may, in DCS' sole discretion, loan to Third Party certain equipment and/or software for use on Third Party premises (the DCS-owned Equipment) under the terms of the DCS Equipment Loan Agreement set forth in Attachment 4. DCS-owned equipment will only be configured for TCP/IP, and will be used solely by Third Party on Third Party's premises or other locations authorized by DCS for the purposes set forth in this Agreement. DCS is responsible for ensuring that it has the right under applicable software licenses to permit third party use.
- 9.2 Third Party may modify the configuration of the DCS-owned equipment only after notification and approval in writing by authorized DCS personnel.
- 9.3 Third Party will not change or delete any passwords set on DCS-owned equipment without prior approval by authorized DCS personnel. Promptly upon any such change, Third Party shall provide DCS with such changed password.

10. *Term, Termination and Survival*

- 10.1 This Agreement will remain in effect until terminated by either Party, but in no event prior to the termination or expiration of any contract or agreement between the Parties for the purchase of goods or services that provides the business purpose for the exchange of data between the Parties, unless both Parties mutually agree to so terminate this Agreement.
- 10.2 Upon termination, Third Party shall return all tangible DCS data to DCS within a timeframe specified by DCS for that purpose, and further shall certify in writing to DCS that all other DCS data in whatever form has been destroyed. Additionally, any DCS-owned equipment and/or software shall be promptly returned to DCS at Third Party's expense.
- 10.3 Notwithstanding the above, the Parties' obligations to safeguard the confidentiality of the data subject to this Agreement shall survive the termination of this Agreement, and shall bind the Parties' employees, subcontractors, agents, heirs, successors and assigns.



11. Severability

If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect.

12. Waiver

The failure of any Party to enforce any of the provisions of this Agreement will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions.

13. Assignment

Third Party may not assign this Agreement, in whole or in part, without the prior written consent from DCS. Any attempt to assign this Agreement, without such consent, will be null and of no effect. Subject to the foregoing, this Agreement is for the benefit of and will be binding upon the parties' respective successors and permitted assigns.

14. Force Majeure

Neither Party will be liable for any failure to perform its obligations if such failure results from any act of God or other cause beyond such Party's reasonable control (including, without limitation, any mechanical, electronic or communications failure) which prevents such party from transmitting or receiving any data.

15. Partial Invalidity

If this Agreement is entered into as a consequence of Third Party's provision of goods or services to DCS pursuant to a contract or other written agreement, that Agreement supersedes this Agreement to the extent the agreements' provisions may be inconsistent.



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 2 – REQUEST REQUIREMENTS

In accordance with the DCS *Third Party Connection and Data Exchange Policy*, all requests for Third Party connections and data exchanges must be accompanied by this completed requirements document. This document should be completed by the DCS person or group requesting the Third Party connection and/or data exchange. The DCS Department Sponsor must be the Director of the Division whose business requires the Third Party connection and/or data exchange. DCS Divisions are encouraged to work with their IRM Liaison to complete the information in this document.

Part 1 – Business Justification

A. DCS Sponsor (*Division Director*)

Name:

James DeWan

Division:

Employee Benefits Division

Office Location:

NYS Department of Civil Service
Albany, New York 12239

Phone Number:

518-473-4106

Email Address:

James.Dewan@cs.ny.gov

Back-up Point of Contact: (Data Custodian)

Name:

Barbara Vaughn

Division:

Employee Benefits Division

Office Location:

NYS Department of Civil Service
Albany, New York 12239

Phone Number:

518-549-2328

Email Address:

Barbara.Vaughn@cs.ny.gov

B. Business Reason for Connection (*To be completed by Sponsor*)

State the purpose of establishing the connection and the purpose of the data transmission. Specify the business needs of the proposed connection. Use additional sheets of paper if needed.



C. Specify the details of the work to be accomplished via the connection. What applications will be used? What information will be used? What transactions will be accomplished?

Enrollment files from NYBEAS will be transmitted to *[Insert Contractor Name]* via an SFTP connection. Limited *[Insert Contractor Name]* staff has inquiry access to NYBEAS to verify NYSHIP enrollment in *[Insert Contractor Name]*. The enrollment information is used by *[Insert Contractor Name]* to determine eligibility for benefits under the NYSHIP and to provide benefits to enrolled members.

D. Specify the Third Party Controls to be Implemented for Safeguarding DCS Data:

Access Controls:

Audit Controls:

Working procedures or practices for handling printed material and verbal exchanges:

Method of Disposal of media and paper:

User Account Management, including review of accounts:

Physical Security:

Other:

E. Estimated number of hours of use each week?

1 – 20

21 – 40

More than 40 hours per week

F. Anticipated normal hours of use?

M – F, 8:00 – 5:00 pm Eastern time

Other (specify):

G. What is the requested installation date? (Minimum lead-time is 30 days)

H. Approximately how long will the connection be needed?



- Up to 6 months
- 6 – 12 months
- More than 12 months
- Specific time period:

Note: If a connection is needed for more than a year, the Connection Agreement must be renewed annually.

I. Other useful information

J. Third Party Information

Name of Third Party: Main Phone Number:

Main Office Address:

Management Contact

Name: Department:

Address: Email Address:

Phone Number: Manager's Name:

Manager's Phone:

Backup Contact

Name: Department:

Address: Email Address:

Phone Number: Manager's Name:

Manager's Phone:

Technical Contact

Name: Department:

Address: Email Address:

Phone Number:

Manager's Name: Manager's Phone:

Technical Support Hours:



State of New York
Department of Civil Service
Albany, New York 12239

ADMINISTRATIVE SERVICES DIVISION
Third Party Connection and Data Exchange Agreement
Attachment 2 – Request Requirements

ADM-125 (4/06)

Escalation List:

Domain name(s):

Host name(s):



User Names and Contact Information. *(List all employees of the Third Party who will use this access.)*

User 1 *(name, phone, email):*

User 2 *(name, phone, email):*

User 3 *(name, phone, email):*

User 4 *(name, phone, email):*

User 5 *(name, phone, email):*

User 6 *(name, phone, email):*

User 7 *(name, phone, email):*

User 8 *(name, phone, email):*

User 9 *(name, phone, email):*

User 10 *(name, phone, email):*

K. Other information



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 3 – THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT

This Policy and Agreement applies to all forms of computer and networking use, including local access at the Department of Civil Service (DCS) premises, remote access via public or private networks, access using DCS equipment, access using individual or group accounts, and access via other methods.

A signed paper copy of this form must be submitted by any individual (1) for whom authorization of a new user account is requested, (2) who will use a shared third party account, and/or (3) who is requesting reauthorization of an existing use. Modifications to the terms and conditions of this agreement will not be accepted by DCS management.

Indicate here if this is a notification that the User named below no longer requires access:

User's Name (<i>print</i>):			
Organization:			
Telephone Number:	Area code	Number	Extension
Office Address:			

<i>The undersigned acknowledges that he or she has read, understands, and agrees to comply with this Third Party Acceptable Use Policy and Agreement governing the use of DCS computing resources.</i>	
User Signature:	Date:

You must sign this signature page and send it to DCS. Retain a copy of the signature page and the attached Policy for your records. This form must be delivered either by fax or mail to:

**MAIL: NYS Department of Civil Service, Albany, NY 12239
 Attention: ITS Enterprise Service Desk**



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 3 – THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT

I. *Protection of DCS Information*

All records and information maintained in DCS systems accessed by the User are confidential and shall be used by the User solely for the purpose of carrying out the User's official duties. Users may not use any such records and information for any other purpose. No such records or information may otherwise be used or released to any person by the User or by the User's employer or agent, except as may be required by applicable State or federal law or by a court of competent jurisdiction. All accounts and connections will be regularly reviewed.

II. *DCS Log-on Banner*

All users will follow the guidelines of the DCS Log-on Banner as stated below.

NOTICE * The contents of this banner have been recommended to all State agencies by the Office for Technology in the NYS Preferred Standards and Procedures for Information Security. * This electronic system, which includes hardware, software and network components and all data contained therein (the "system"), is the property of the New York State Department of Civil Service (DCS). * Unauthorized use or attempted unauthorized use of this system is not permitted and may constitute a federal or state crime. Such use may subject you to appropriate disciplinary and/or criminal action. Use of this system is only permitted to the extent authorized by DCS. * Use is limited to conducting official business of DCS. Under the Electronic Communications Privacy Act of 1986 (18 U.S.C. 2510, et seq.), notice is hereby given that there are NO facilities provided by this system for sending or receiving private confidential electronic communication. Any use, whether authorized or not, may be monitored, intercepted, recorded, read, copied, accessed or captured in any manner, and used or disclosed in any manner, by authorized DCS personnel without additional prior notice to users. In this regard, users have no legitimate expectation of privacy during any use of this system or in any data on this system. * Use, whether authorized or unauthorized, constitutes expressed consent for DCS to monitor, intercept, record, read, copy, access or capture and use or disclose such information. * DCS policy regarding this matter can be reviewed on the DCS internal website. Copies can also be obtained from the Office of Human Resources Management. Such policies are subject to revision. This notice is consistent with the Acceptable Use Policy issued to DCS employees regarding acceptable use, June 15, 2005. I have read and understand this notification and department policy.

III. *Passwords*

The User is not permitted to share his/her password with anyone. Passwords must never be written down. The User must not use the same password for multiple applications. The User must use passwords that are not easily guessed and must not use their email address as their password.



IV. *Shared Accounts*

All use of shared accounts must be authorized by DCS. Users of shared accounts must be identified to DCS via the completion and signing of this policy/agreement. Third Parties are responsible for notification to DCS when the user base changes. Passwords for shared accounts must not be provided to individuals who have not been identified by Third Party to DCS and who have not completed and signed this policy/agreement.

V. *Virus Protection*

Anti-virus software must be installed and enabled at all times on DCS-owned computers and on third party computers used to conduct DCS business. Virus definition files must be kept up to date. DCS Information Resource Management (IRM) provides anti-virus software and maintains the configuration of that software for all DCS-owned computers.

VI. *Acceptable Use*

DCS computers, computing systems and their associated communication systems are provided to support the official business of DCS. All uses inconsistent with DCS' business activities and administrative objectives are considered to be inappropriate use.

Examples of unacceptable behavior include, but are not limited to the following.

- Any illegal activities that could result in legal actions against and/or financial damage to DCS.
- Computer usage that reasonably harasses or offends other employees, users, or outsiders, or results in public embarrassment to DCS.
- Computer usage that is not specifically approved and which consumes significant amounts of computer resources not commensurate with its benefit to DCS' mission or which interferes with the performance of a worker's assigned job responsibilities.
- Use in connection with compensated outside work or unauthorized not-for-profit business activities.
- Use of sniffers, spyware, ad-ware or other related technology.

VII. *Software Protection*

The User is responsible for complying with copyright, licensing, trademark protection, and fair use restrictions.

VIII. *Reporting Incidents*

Users are required to report incidents of system errors, data discrepancies, application performance problems, to the ITS Enterprise Service Desk at 518-474-2433.



IX. *DCS Rights*

Pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 et seq.), notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. DCS has access to all access attempts, messages created and received, and information created or stored using DCS resources, and will monitor use as necessary to assure efficient performance and appropriate use. Information relating to or in support of illegal activities will be reported to the appropriate authorities.

DCS reserves the right to log and monitor use. DCS reserves the right to remove a user account from the network. DCS assumes no responsibility or liability for files or information deleted.

The DCS will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions, or caused by the way the user chooses to use DCS computing facilities.

DCS reserves the right to change its policies and rules at any time.

X. *Penalties*

The User shall hold the State and DCS harmless from any loss or damage to the State and/or DCS resulting from the User's inappropriate disclosure of information covered by this User Agreement. Further, the User's non-compliance with this Agreement may result in the revocation of system privileges, termination of employment or contract with DCS, and/or criminal and/or civil penalties.



Name And Address Of Borrower	DCS Business Unit (Loaning Organization)	
	Point Of Contact	
	Work Location	Telephone
Shipping Address (<i>If different from borrower's</i>)	Manager's Name	
	Date To Be Loaned	
	Date To Be Returned	
Equipment To Be Loaned		
Quantity	Description	Value
Purpose Of Loan		
CONDITIONS OF LOAN		
<ol style="list-style-type: none"> 1. The Borrower of the above equipment agrees to return same in like condition as received from DCS, normal wear and tear excepted, on or before the above return date, unless the loan period is formally extended. 2. Upon termination of this Agreement, Borrower shall uninstall all DCS software included in this Agreement from Borrower's computer and/or network equipment. 3. The Borrower shall not make any copies of DCS software included in this Agreement. 4. In case of loss or damage beyond repair, DCS shall be reimbursed by Borrower at the current price of replacement. 5. The equipment shall not be loaned or transferred to a third party without the written consent of DCS. 6. The right is reserved to cancel the loan or recall the equipment upon ____ days' notice. 7. The Borrower shall assume all shipping and/or transportation costs involved. 8. Other conditions: 		



State of New York
 Department of Civil Service
 The State Campus
 Albany, New York 12239

ADMINISTRATIVE SERVICES DIVISION
Third Party Connection and Data Exchange Agreement
Attachment 4 –Equipment Loan Agreement
 ADM-125 (4/06)

Appendix C
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Agreed (Borrower)	Approved (DCS)
Borrowing Organization	Loaning Organization
Signature Of Authorized Official	Signature Of Authorized Official
Title	Title
Date	Date
RECEIPT OF EQUIPMENT	
Borrower <i>(Upon initial receipt)</i>	DCS Lender <i>(Upon termination of Agreement)</i>
Borrowing Organization	Loaning Organization
Signature Of Authorized Official	Signature Of Authorized Official
Title	Title
Date	Date

APPENDIX C-1

ITS-AGS: INFORMATION SECURITY STANDARDS

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1. Secure System Development Life Cycle Standard

ITS has defined a Secure Systems Development Lifecycle (SSDLC) based on the NIST framework. These SSDLC security requirements and tasks must be considered and addressed within every system, project or application and sufficiently documented to demonstrate the extent to which each security activity is applied.

At a minimum, a SSDLC must contain the following security activities:

1. Define Security Roles and Responsibilities
2. Orient Staff to the SDLC Security Tasks
3. Establish a System Criticality Level
4. Classify Information
5. Establish System Identity Assurance Level Requirements
6. Establish System Security Profile Objectives
7. Create a System Profile
8. Decompose the System
9. Assess Vulnerabilities and Threats
10. Assess Risks
11. Select and Document Security Controls
12. Create Test Data
13. Test Security Controls
14. Perform Certification and Accreditation
15. Manage and Control Change
16. Measure Security Compliance
17. Perform System Disposal

Additional information is found in policy *NYS-S13-001 Secure System Development Life Cycle*, see Table 1 in section 2.

2. New York State Information Technology Security Policies

Every system, project or application must comply with the New York State Information Technology Security Policies, published by the NYS Enterprise Information Security Office (EISO) at its.ny.gov/eiso/policies/security, that are applicable to it. These policies are listed in the table below.

Table 1

NYS-P03-002	Information Security Policy
NYS-P10-006	Identity Assurance Policy

NYS-P13-001	Information Security Exception Policy
NYS-P14-001	Acceptable Use of Information Technology (IT) Resources Policy
NYS-S10-001	CPE Requirements for ISOs/Designated Security Representatives Standard
NYS-S13-001	Secure System Development Life Cycle (SSDLC) Standard
NYS-S13-002	Secure Coding Standard
NYS-S13-003	Sanitization/Secure Disposal Standard
NYS-S13-004	Identity Assurance Standard
NYS-S13-005	Cyber Incident Response Standard
NYS-S14-001	Information Security Risk Management Standard
NYS-S14-002	Information Classification Standard
NYS-S14-003	Information Security Controls Standard
NYS-S14-005	Security Logging Standard
NYS-S14-006	Authentication Tokens Standard
NYS-S14-007	Encryption Standard
NYS-S14-008	Secure Configuration Standard
NYS-S14-009	Mobile Device Security Standard
NYS-S14-010	Remote Access Standard
NYS-S14-013	Account Management / Access Control Standard
NYS-S15-001	Patch Management Standard
NYS-S15-002	Vulnerability Scanning Standard
NYS-S15-003	Wireless Technology Standard
NYS-G10-001	Secure Use of Social Media Guideline

3. Information Security and Emergency Procedures

New York State considers the security and protection of State information to be a critical aspect of this engagement.

Contractor agrees to comply with the following requirements:

- Comply with all federal and state security policies in relation to providing services to ensure the confidentiality, integrity and availability (CIA) of NYS data.
- NYS follows NIST 800-53 guidelines for implementing system security and privacy controls. Vendors should also be aware of the FedRAMP program when implementing systems for NYS.
- Run NYS Enterprise Information Security Office (EISO) approved security scans specified in policy *NYS-S15-002 Vulnerability Scanning Standard* prior to the launch of any major changes to the [enter project name], as well as follow policy *NYS-S13-001 Secure System Development Life Cycle*.
- Undergo a data classification in conjunction with [enter agency name] to identify the criticality of the data being collected and stored.
- Share all vendor's third party audit reports with the State.
- Allow the State to verify implementation of recommendations resulting from the third party audits.
- In the event of a security breach, as defined by State Technology law Section 208, the Contractor shall act in accordance with New York State Breach Notification Law.
- Contractor is required to submit, as part of its overall security plan, a Protection and Risk Assessment Plan for the management of the State's confidential information. The Protection and Risk Assessment Plan is expected to include Contractor's technology- and non-technology-based process for securing the State's confidential information. At a minimum, the Protection and Risk Assessment Plan must address the areas listed below.
 - Ensuring and certifying that employees, subcontractors, and business partners are aware of and comply with NYS information security and confidentiality requirements.
 - Documentation to detail the extent to which each security activity listed in section 1. *Secure System Development Life Cycle Standard* is followed.
 - Security reviews and audits, including third-party reviews, audits, and facility audits.
 - Use of security tools and standards (e.g., security software, encryption standards, etc.).

- Maintaining and enhancing the bidder's information security environment and business practices with procedures and policies for a security environment aligning with industry best practices.

Contractor is expected to provide copies of Continuity of Operations Plan (COOP) and Disaster Recovery Plan (DRP) plans for all data, records, forms, and data processing operations associated with [enter project name]. **The following areas should be addressed as part of the security documentation:**

- Establish procedures to ensure its data processing system will be back in at least minimal operation within [insert time constraint].
- Ensure complete, accurate and up-to-date documentation of all systems and procedures used to operate [enter project name]. This documentation shall include a back-up copy stored encrypted, where appropriate, off premises (New York State data should not reside outside of the continental United States).
- Redundant architectures, based on the criticality of data, e.g. Tier III data center; regular file back-ups; and continuous 24-hour monitoring required for hosted environments.
- Provide recovery procedure training for all personnel and refresher training at least annually.

4. Cloud Security Requirements

If cloud based services are a component of the solution or services to be provided by Contractor, Contractor must comply with FedRAMP (<https://www.fedramp.gov>) standards for cloud services, and other applicable federal and New York State laws, regulations and requirements.

Appendix D

PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The Department of Civil Service (the “Department”) 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 (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the Department, to fully comply and cooperate with the Department 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 Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 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 and such other remedies are available to the Department pursuant to the Contract and applicable law.

II. Contract Goals

- A. For purposes of this Contract, the Department hereby establishes an overall goal of 0 percent for MWBE participation, 0 percent for New York State-certified minority-owned business enterprise (“MBE”) participation and 0 percent for New York State-certified women-owned business enterprise (“WBE”) participation (collectively, “MWBE Contract Goals”) based on the current availability of MBEs and WBEs.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>.

Additionally, the Contractor is encouraged to contact the Division of Minority and Women’s Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

Appendix D

- C. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.
- D. The Contractor must document “good faith efforts,” pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:
 - 1. Evidence of outreach to MWBEs;
 - 2. Any responses by MWBEs to the Contractor’s outreach;
 - 3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
 - 4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the Department with MWBEs; and,
 - 5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

III. Equal Employment Opportunity (“EEO”)

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
- B. In performing the Contract, the Contractor shall:
 - 1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - 2. The Contractor shall submit an EEO policy statement to the Department within seventy-two (72) hours after the date of the notice by the Department to award the Contract to the Contractor.
 - 3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, the Department may require the Contractor or subcontractor to adopt a model statement (see Appendix D-1 Equal Employment Opportunity Policy Statement).
 - 4. The Contractor’s EEO policy statement shall include the following language:

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- a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
- b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
- c. 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.
- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Form EEO-100 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the staffing plan form and submit it as part of their bid or proposal or within a reasonable time, as directed by the Department.

Amended January 9, 2018

D. Form EEO-101 - Workforce Utilization Report

1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the Department on a Quarterly basis during the term of the Contract.
 2. Separate forms shall be completed by the Contractor and any subcontractors.
 3. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.
- E. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant

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for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that the Contractor has submitted an MWBE Utilization Plan, or shall submit an MWBE Utilization Plan at such time as shall be required by the Department, through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to the Department, either prior to, or at the time of, the execution of the contract.
- B. The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.
- C. The Contractor 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 a material breach, the Department shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

V. Waivers

- A. If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver through the NYSCS, or a non-electronic method provided by the Department. Such waiver request must be supported by evidence of the Contractor’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, the Department shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.
- B. If the Department, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor 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 MWBE Contract Goals.

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VI. Quarterly MWBE Contractor Compliance Report

The Contractor is required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS, provided, however, that the Contractor may arrange to provide such report via a non-electronic method to the Department by the 10th day following the end of each quarter during the term of the Contract.

VII. Liquidated Damages - MWBE Participation

- A. Where the Department determines that the Contractor is not in compliance with the requirements of this Appendix and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to the Department liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor 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 the Department, the Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

Appendix D-1

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

M/WBE

EEO

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that, if legally permissible, bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and 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.

(b) This organization shall state in all solicitation 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 disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized 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 this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

_____ is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

_____percent Minority and Women’s Business Enterprise Participation

_____percent Minority Business Enterprise Participation

_____percent Women’s Business Enterprise Participation

(Authorized Representative)

Title: _____

Date: _____



Your MWBE Utilization and Reporting Responsibilities Under Article 15-A

The New York State Contract System (“NYSCS”) is your one stop tool compliance with New York State’s MWBE Program. It is also the platform New York State uses to monitor state contracts and MWBE participation.

GETTING STARTED

To access the system, you will need to login or create a user name and password at <https://ny.newnycontracts.com>. If you are uncertain whether you already have an account set up or still need to register, please send an email to the customer service contact listed on the Contact Us & Support page, or reach out to your contract’s project manager. For verification, in the email, include your business name and contact information.

VENDOR RESPONSIBILITIES

As a vendor conducting business with New York State, you have a responsibility to utilize minority- and/or women-owned businesses in the execution of your contracts, per the MWBE percentage goals stated in your solicitation, incentive proposal or contract documents. NYSCS is the tool that New York State uses to monitor MWBE participation in state contracting. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

There are several reference materials available to assist you in this process, but to access them, you need to first be registered within the NYSCS. Once you log onto the website, click on the **Help & Support** >> link on the lower left hand corner of the Menu Bar to find recorded trainings and manuals on

all features of the NYSCS. You may also click on the  icon at the top right of your screen to find videos tailored to primes and subcontractors. There are also opportunities available to join live trainings, read up on the “Knowledge Base” through the Forum link, and submit feedback to help improve future enhancements to the system. Technical assistance is always available through the **Contact Us & Support** link on the NYSCS website (<https://ny.newnycontracts.com>).

For more information, contact your project manager.

Exhibit I.A - Proposal Submission Requirement Checklist

Please indicate by checkmark that your Proposal meets **each** of the following submission requirements:

- 1. TIMELY SUBMISSION:** Proposal submitted to assure receipt by the Department no later than 3:00 p.m. ET on the Proposal Due Date as indicated in RFP Section II.A.1.
- 2. FORMATTING REQUIREMENTS:** The Offeror's Proposal must be organized in two parts: Administrative Proposal and Technical Proposal and each part must each comply with the formatting requirements stated in Section II.A.7.a and II.A.7.b of this RFP.
- a. Twelve (12) separately bound hardcopies – **two (2) Originals each of the Administrative Proposal and Technical Proposal** containing original documents (i.e., original signatures, no photocopies) and marked and numbered (i.e., "ORIGINAL #1" and "ORIGINAL #2."), **Ten (10) copies of each Administrative Proposal and Technical Proposal** marked and numbered (i.e., "COPY #1," "COPY #2," etc.) and a separate CD for the Administrative and Technical Proposals.
 - b. Proposals must be prepared in Adobe Acrobat.
 - c. Each Administrative and Technical Proposal must be separately bound and clearly labeled with "Paid Family Leave Program #PFL-2017-1" and Offeror's name(s).
 - d. Table of Contents
 - e. Index Tabs
 - f. Pagination
 - g. Updates/Corrections
 - h. Required Content of Proposals - The Proposal shall consist of two parts: the Administrative Proposal must contain the documentation required in Section III of this RFP. The Technical Proposal must be responsive to the programmatic duties and responsibilities set forth in Section IV of this RFP.
- 3. REQUIRED CONTENT OF THE ADMINISTRATIVE PROPOSAL:** The Administrative Proposal must contain the following information, in the order enumerated below:
- A. **Formal Offeror Letter:** The Offeror must submit a formal offer in the form of the "Formal Offer Letter" as set forth in RFP, Exhibit I.S in accordance with the requirements set forth in RFP, Section III.A
 - B. **Minimum Mandatory Requirements:** The Offeror must submit a completed Exhibit I.T "Offeror Attestations Form" containing the representations and warranties set forth therein.
 - C. **Exhibits:** The Offeror must complete and submit the Exhibits specified in Section III.C as follows:
 - Exhibit I.A Proposal Submission Requirement Checklist
 - Exhibit I.D MacBride Statement and Non-Collusive Bidding Certification
 - Exhibit I.K Offeror's Affirmation of Understanding & Agreement
 - Exhibit I.M Compliance with Public Officers Law Requirements
 - Exhibit I.N Compliance with Americans with Disabilities Act
 - Exhibit I.O MWBE Utilization Plan (form MWBE-100)
 - Exhibit I.P Offeror's Certification of Compliance Pursuant to State Finance Law §139-k
 - Exhibit I.S Formal Offer Letter
 - Exhibit I.T. Offeror Attestations Form
 - Exhibit I.U.1 Key Subcontractors or Affiliates
 - Exhibit I.U.2 NYS Supplier & Subcontractor

Exhibit I.A - Proposal Submission Requirement Checklist

___ Exhibit I.W Compliance with NYS Workers' Compensation Law

- ___ D. **Key Subcontractors:** The Offeror must provide a statement identifying all Key Subcontractors, if any, that the Offeror will be contracting with to provide project services and must, for each such Key Subcontractor identified, complete and submit **Exhibit I.U.1 "Key Subcontractors"**:
1. provide a brief description of the services to be provided by the Key Subcontractor; and
 2. provide a description of any current relationships with such Key Subcontractor and the clients/projects that the Offeror and Key Subcontractor are currently servicing under a formal legal agreement or arrangement, the date when such services began and the status of the project.

The Offeror must indicate whether or not, as of the date of the Offeror's Proposal, a subcontract has been executed between the Offeror and the Key Subcontractor for services to be provided by the Key Subcontractor relating to this RFP. If the Offeror will not be subcontracting with any Key Subcontractor(s) to provide project services, the Offeror must provide a statement to that effect.

- ___ E. **Vendor Responsibility Questionnaire:** The Offeror must complete and execute a NYS Vendor Responsibility Questionnaire for itself and all Key Subcontractors.
1. If the Offeror or Key Subcontractor, if any, is incorporated outside the State of New York, a recent certificate of Good Standing must be submitted for each.
 2. If the Offeror or Key Subcontractor, if any, has any employees in NYS, a confirmation of NYC's Worker's Compensation and NYS Disability coverage must be submitted for each.

- ___ 4. **REQUIRED CONTENT OF THE TECHNICAL PROPOSAL:** The Technical Proposal shall be responsive to the duties and responsibilities and submission requirements set forth in Section IV of this RFP and it shall contain the following information, in accordance with the submissions associated requirements, and in the order enumerated below:

Technical Proposal Submission Requirements

___ A. **Program Administration**

- ___ 1. Firm and Account Team Qualifications
___ Exhibit I.B
___ 2. Implementation

___ B. Proposed PFL **Program Services**

- ___ 1. Customer Service
___ 2. Employee Communication Support
___ 3. Eligibility Management
___ 4. Claims Submission and Processing
___ 5. Reporting
___ 6. Transition and Termination of Agreement

- ___ 5. **REQUESTED REDACTIONS CD and HARD COPY:** The FOIL-related materials described herein which the Offeror is requested to provide per RFP, Section II.B.9 will not be considered part of the Offeror's Proposal and will not be reviewed as a part of the Procurement's evaluation

Exhibit I.A - Proposal Submission Requirement Checklist

process. Notwithstanding this they have been identified in this Checklist as a reminder to Offerors of the need to provide the requested items.

At the time of Proposal submission, the Offeror is requested to submit:

- A.** Exhibit I.C Freedom of Information Law – Request for Redaction Chart
- B.** Separately bound hardcopy of each of the two (2) Proposal documents with redactions marked that are included on the CDs..
- C.** Electronic copy of each of the three (3) Proposal documents prepared in PDF format on separate CDs in Adobe Acrobat Professional software, version 8 or higher using the Adobe “Mark for Redaction” function, **do not** use the “Apply Redactions.”

Exhibit I.B - BIOGRAPHICAL SKETCH FORM

INSTRUCTION: Prepare this form for each key staff individual, including subcontractor provided key staff, if any.

Name: _____

Job Title: _____

Relationship to Project: _____

EDUCATION

<u>Institution & Location</u>	<u>Degree</u>	<u>Year Conferred</u>	<u>Discipline</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

PROFESSIONAL EMPLOYMENT (Start with most recent.)

<u>Dates From - To</u>	<u>Employer</u>	<u>Title</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

PROFESSIONAL EXPERIENCE (Significant experience/education relevant to program)

Exhibit I.C - Freedom of Information Law – Request for Redaction Chart

 (Name of Company) Proposal Dated _____

In Response to the Request for Proposals entitled **Paid Family Leave Program #PFL-2017-1**.

- Offeror asserts that the information noted in the table below constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law.
- Offeror makes **NO** assertion that any information in its Proposal, in whole or in part, should be protected from FOIL disclosure.

Administrative Proposal:		
Requested Redaction Page #'s and Proposal Sections or	Description	Offeror Rationale for Proposed Redaction
<i>Insert rows above as necessary</i>		
Technical Proposal:		
Requested Redaction Page #'s and Proposal Sections or	Description	Offeror Rationale for Proposed Redaction
<i>Insert rows above as necessary</i>		

REDACTION CHART

Please provide specific justification for each item for which you seek protection from FOIL disclosure. An appropriate justification may any one or more of the following considerations by which to demonstrate reasonably whether the item for which you seek protection may be excepted from disclosure:

- a) the confidential nature of the specific item, including a description of the nature and extent of the injury to the Offeror's competitive position, such as unfair economic or competitive damage, which would be incurred were the information/record to be disclosed;
- b) whether the specific information/record is treated as confidential by the Offeror, including whether it ever has been made available to any person or entity;

Exhibit I.C - Freedom of Information Law – Request for Redaction Chart

- c) whether any patent, copyright, or similar legal protection exists for the specific item of information;
- d) whether the public disclosure of the information/record is otherwise restricted by law, and the specific source and content of such restriction;
- e) the date upon which the information/record no longer will need to be kept confidential, if applicable;
- f) whether the item of information is known by anyone outside the Offeror's business or organization;
- g) the extent to which the information is known by Offeror's employees and others involved in the Offeror's business;
- h) the value of the specific information/record to the Offeror and to its competitors;
- i) the amount of effort or money expended by the Offeror in developing the information/record; and
- j) the ease or difficulty with which the information could be properly acquired or duplicated (not merely copied) for use by others.

NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND
MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with Chapter 807 of the Laws of 1992 the Offeror, by submission of this bid, certifies that it or any individual or legal entity in which the Offeror holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Offeror, either (answer “yes” or “no” to one or both of the following, as applicable):

Have business operations in Northern Ireland. Yes _____ or No _____

If yes:

Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles. Yes _____ or No _____

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each Offeror and each person signing on behalf of any Offeror certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

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



New York State Department of Taxation and Finance

Contractor Certification to Covered Agency
 (Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA
 (6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back*).

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		\$
Contractor's telephone number	Covered agency name		
Covered agency address		Covered agency telephone number	

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name) *(title)*

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

- The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.
- The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)
 and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ___ day of _____, 20 ____

(sign before a notary public) *(title)*

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned on or after April 26, 2006 (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ___ day of _____ in the year 20___, before me personally appeared _____,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
_he resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): _he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): _he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public
Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law, and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.
Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.
This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?
Internet access: www.nystax.gov (for information, forms, and publications)
Fax-on-demand forms: 1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.



Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a (see Need help? below)*.

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number ()
Covered agency or state agency	Contract number or description		Estimated contract value over the full term of contract (but not including renewals) \$	
Covered agency address			Covered agency telephone number	

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*, available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227.

Need help?

	Internet access: www.nystax.gov (for information, forms, and publications)	
	Fax-on-demand forms:	1 800 748-3676
	Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.	
	To order forms and publications:	1 800 462-8100
	Sales Tax Information Center:	1 800 698-2909
	From areas outside the U.S. and outside Canada:	(518) 485-6800
	Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only):	1 800 634-2110
	Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.	

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make only one entry in each section.

Section 1 — Contractor registration status

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF _____ }
 : SS.:
COUNTY OF _____ }

On the ____ day of _____ in the year 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
_he resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

[Mark an **X** in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
- (If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- (If a partnership): _he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- (If a limited liability company): _he is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No. _____

This Exhibit has been intentionally
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Exhibit I.H - NYS Department of Civil Service Debriefing Guidelines

NYS State Finance Law §163(9)(c), as amended by Section 3 of Chapter 137 of the Laws of 2008, requires that:

“A state agency shall, upon request, provide a debriefing to any unsuccessful offerer¹ that responded to a request for proposal or an invitation for bids, regarding the reasons that the proposal or bid submitted by the unsuccessful offerer was not selected for an award. The opportunity for an unsuccessful offerer to seek a debriefing shall be stated in the solicitation, which shall provide a reasonable time for requesting a debriefing.”

The Procurement Council Guidelines define “Debriefing” as:

The practice whereby, upon the request of a bidder, the state agency advises such bidder of the reasons why its bid was not selected for an award. It is viewed as a learning process for the bidder to be better prepared to participate in future procurements.

In accordance with the law, the Department shall make a Debriefing available to any entity that submitted a proposal or bid in response to a given solicitation (“Offeror”), including the selected Offeror after notice award is made by the Department. All Offerors shall be given written notice of award, via email with hardcopy to follow.

Timeframes associated with requesting/conducting Debriefings:

Debriefing must be requested by Offerors in writing to the designated individual or email address as set forth in the notice of award.

- **Pre-Award Debriefings:**
Any Offeror, upon request, will be afforded an opportunity for a pre-award Debriefing at least five business days prior to the date by which any protest must be filed. An Offeror’s failure to timely request a pre-award Debriefing shall not cause an extension of the time period within which a protest must be filed. In those cases where the Offeror fails to make a timely request for a pre-award Debriefing, the Department will schedule the Debriefing as soon after the time the request is made as it deems practicable.
- **Post-Award Debriefings:**
In the case of requests made by an Offeror(s) for a post-award Debriefing, the request must be received by the Department not more than twenty calendar days after final approval of the contract is received or the date the award is posted on OSC’ website at the address set forth below and the Department will schedule the Debriefing as soon after the time the request is made as it deems practicable.

<http://wwe2.osc.state.ny.us/transparency/contracts/contractsearch.cfm>

¹ For purposes of this policy, the terms Offeror, Offerer and Bidder are understood to have same meaning.

How Debriefings shall be conducted by the Department:

A Debriefing may be requested by any unsuccessful Offeror after a contract award is made regarding the reasons that the proposal or bid submitted by the unsuccessful Offeror was not selected for award. While a Debriefing is typically conducted in person, it may be conducted by video conference, over the phone, or through written summaries, if agreed to by the Offeror.

Since Debriefings are intended to make the procurement process open and transparent and to help the vendor community become more viable competitors for New York State goods and services, when conducting a Debriefing, the Department will, at a minimum, discuss the strengths and weaknesses of the Offeror's proposal and provide information as to the relative rating of the Offeror's proposal in each of the major evaluation categories as provided for in the solicitation document. Typically such a debriefing will include information as to the rating of the Offeror's proposal in both the technical and cost components of the evaluation and an identification of any areas in the proposal deemed deficient. The Department will not provide any documents/materials at a Debriefing as their release is subject to NYS FOIL laws.

During a **pre-award** Debriefing, the Department:

- will limit the discussion to the reasons why the Offeror's proposal/bid was unsuccessful;
- will not provide information concerning any other Offerors' proposals, including the winning proposal; will not discuss any other aspects of the Procurement Record, including but not limited to the detailed scoring and evaluation criteria as such information is subject to NYS FOIL laws; and
- may, but is not required to, offer general advice and guidance to the Offeror for the Offeror's consideration as regards future bidding opportunities.

During a **post-award** Debriefing, the Department:

- will provide information as to the reasons why the Offeror's proposal/bid was unsuccessful;
- will provide information concerning the other Offerors' proposals, including the winning proposal, but only in the context of the bid evaluation scoring;
- will not discuss specific details of other Offerors' proposals, including their individual strengths and weakness as such information is subject to NYS FOIL laws
- will not discuss any other aspects of the Procurement Record, including but not limited to the detailed scoring and evaluation criteria as such information is subject to NYS FOIL laws and
- may offer advice and guidance to the Offeror for the Offeror's consideration as regards future bidding opportunities, including those services which were the subject matter of the procurement.

General:

- ✓ The Department will schedule the same amount of time for each Offeror who requests a debriefing.
- ✓ Debriefing will not be scheduled for more than one hour.
- ✓ Debriefings will be held individually with a requesting Offeror.
- ✓ The Department's Designated Agency Contact (i.e., the Procurement Manager) is the sole person authorized to schedule a Debriefing.
- ✓ The Offeror must provide a list of intended attendees prior to the Debriefing, including their titles or relationship to the Offeror and notify the Department if the Offeror is intending to bring legal counsel, so that the Department can notify agency legal counsel.

Exhibit I.H - NYS Department of Civil Service Debriefing Guidelines

- ✓ At a minimum at least two agency employees must be present at each Debriefing.
- ✓ Debriefings will not be taped or transcribed by the Department, and Offerors are prohibited from taping the Debriefing.
- ✓ Any discussion of a proposal's strengths and weaknesses will relate to scoring of that bid submission against the RFP requirements, not against a competitor's proposal. The Department will not discuss the relative merits of one Offeror's submission against its competitors as that is not how proposals are evaluated and scored.
- ✓ Requests for copies of documents made by an Offeror at the Debriefing must be handled in accordance with the Department's FOIL procedures.

April 2011

This Exhibit has been intentionally
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Exhibit I.J – Notice of Bidding Intention Form

**NYS Department of Civil Service
RFP No. PFL-2017-1
entitled
“Paid Family Leave Program”**

Notice of Bidding Intention Form

(Please PRINT Firm’s Name Above)

With regard to this RFP, (check one of the following boxes applicable):

- We **ARE INTERESTED & MAY** submit a bid response.
- We **ARE NOT INTERESTED & WILL NOT** be submitting a bid response because:

Name of Contact at Firm

Title

Email Address

_____/_____/_____
Date

Complete the tables above and submit it to the PFL Program Procurement Manager specified in this RFP, Section II.A.2.b. The completed table may be emailed, faxed and/or mailed (see addresses provided in this RFP, Section II.A.2.b.).

Exhibit I.J.1 – M/WBE Subcontracting Posting Request Form

**NYS Department of Civil Service
RFP No. PFL-2017-1
entitled
“Paid Family Leave Program”**

M/WBE Subcontracting Posting Request Form

(Please PRINT Firm's Name Above)

INTEREST IN M/WBE SUBCONTRACTING POSTING:

(Check box if applicable)

- Our firm is a NYS certified M/WBE interested in a subcontracting opportunity. Please add our firm's contact information, indicated below, to the list of certified M/WBE subcontractors that have expressed interest in this Procurement. The list will be posted on the Department's web page for this Procurement only.

- The NYS M/WBE certification documentation for our firm is attached.

Name of Contact at Firm

Title

Email Address

_____/_____/_____

Date

Complete the table above and submit it to the PFL Procurement Manager specified in RFP, Section II.A.2.b. The completed table may be emailed, faxed and/or mailed (see addresses provided in RFP, Section II.A.2.b.).

Exhibit I.K – Offeror’s Affirmation of Understanding and Agreement

Part 1 of this Exhibit I.K, as contained on the following page, should be completed by the Offeror and emailed, faxed and/or mailed to the PFL Program Procurement Manager as set forth in RFP, Section II.A.2.b.

Part 2 of this Exhibit I.K should, prior to initiating any contact with the Department, be completed for each Offeror officer, employee, agent or consultant retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regards to this Procurement and submit it to the PFL Program Procurement Manager specified in this RFP, Section II.A.2.b.

Part 1

Offeror’s Affirmation of Understanding and Agreement

Instructions:

Pursuant to State Finance Law §§139-j and 139-k, this solicitation imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the procurement’s “Restricted Period” (from the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerors intending to result in a procurement contract with a governmental entity and ending with the final contract award and approval by the governmental entity and, where applicable, approval by the State Comptroller) to other than designated staff, unless the contact falls within certain statutory exceptions (“permissible contacts”). the Department’s employees are required to obtain certain information from Offerors and others whenever there is a contact about the procurement during the Restricted Period, and are required to make a determination of the Offeror’s responsibility that addresses the Offeror’s compliance with the statutes’ requirements. Findings of non-responsibility result in rejection for contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding.

Further information about these requirements can be found at:

<http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>.

As a prerequisite for participating in this procurement, an Offeror must provide the following Affirmation of Understanding and Agreement to comply with these procurement lobbying restrictions in accordance with State Finance Law §§139-j and 139-k.

Offeror Affirmation and Agreement	
The Offeror affirms that it understands the procurement lobbying requirements set forth in State Finance Law §§139-j and 139-k, and agrees to comply with the Department’s procedures regarding permissible contacts as required thereby.	
Name of Offeror:	<input type="text"/>
By:	<input type="text"/>
	(Signature)
Name:	<input type="text"/>
Title:	<input type="text"/>
Address:	<input type="text"/>
	<input type="text"/>
Date:	<input type="text"/>

Exhibit I.K – Offeror’s Affirmation of Understanding and Agreement

Part 2

Offeror Designated Contact	
First Name	
Last Name	
Company Name	
Company Address:	
Street Address	
City	
State	
Zip	
Individual's Business Telephone # (xxx) xxx-xxxx	
Principal Place of Business (1)	
Individual's Occupation	

(1) Enter the location of the individual's Principal Place of Business (e.g. Albany, NY)

Complete the table above for each Offeror officer, employee, agent or consultant retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regards to this Procurement, prior to the individual initiating any contact with the Department, and submit it to the PFL Program Procurement Manager specified in Section II.A.2.b. of this RFP.



State of New York
Department of Civil Service
Albany, NY 12239

ADMINISTRATION DIVISION

Procurement Lobbying Policy: Restrictions
on Contacts During the Procurement Process

Policy on Restrictions on Contacts During the Procurement Process
Procurement Lobbying, Ch.4, L. 2010 State Finance Law (SFL)
Sections 139-j and 139-k

I. Definitions

For the purpose of this policy as it regards RFP #PFL-2017-1, the following definitions apply:

"Article of procurement" means a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property that is the subject of a Department governmental procurement.

"Contacts" means any oral, written, or electronic communication with DCS or any other State governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental entity's conduct or decision regarding the governmental procurement. However, any communications received by the Department from members of the State legislature or legislative staff, when acting in his or her official capacity, shall not be considered to be a "contact" and shall not be recorded by the Department's staff pursuant to this policy.

"Procurement Contract" means any contract or other agreement, including an amendment, extension, renewal, or change order to an existing contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the contract as it was finally awarded or approved by the comptroller, as applicable), for an article of procurement involving an estimated annualized expenditure in excess of \$15,000. Grants, contracts entered into under SFL Article 11-B, and intergovernmental agreements shall not be deemed "procurement contracts" for the purpose of this policy.

"Governmental entity" means: (1) any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary, including the Department; (2) each house of the state legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; (7) a subsidiary or affiliate of such a public authority.

"Offeror" means any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Department or any other State governmental entity about a governmental procurement during that procurement's restricted period of such governmental procurement whether or not the caller has a financial interest in the outcome of the procurement; provided, however, that a governmental agency or its employees that communicates with the Department regarding a governmental procurement in the exercise of its oversight duties shall not be considered an Offeror. "Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids in response to the solicitation document.

Exhibit I.L – Procurement Lobbying Policy

"Proposal" means any bid, quotation, offer or response to the Department's solicitation of submissions relating to procurement.

"Governmental procurement" means:

- a) the public announcement, public notice, or public communication to any potential vendor of a determination of need for a procurement, which shall include, but not be limited to, the public notification of the specifications, bid documents, request for proposals or evaluation criteria for a procurement contract;
- b) the solicitation for a procurement contract;
- c) the evaluation of a procurement contract;
- d) the award, approval, denial, or disapproval of a procurement contract; or
- e) the 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 State 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/Contractor.

"Restricted period" means the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, or invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerors intending to result in a procurement contract, and ending with the final contract award and approval of the Department and, where applicable, the State Comptroller.

"Revenue contract" means any written agreement between the Department and an Offeror whereby the Department gives or grants a concession or a franchise.

II. Designated Contacts

For each governmental procurement, the Department shall at the same time that a restricted period is imposed, designate, with regard to each governmental procurement, a person or person(s) who are knowledgeable about the procurement and who may be contacted by Offerors relating to the governmental procurement. Each Offeror who contacts the Department during procurement's restricted period is permitted to make permissible contacts only the person(s) designated by the Department for that purpose (i.e., Designated Contact). Such contacts must comply with the requirements established by SFL sections 139-j and 139-k, and with the requirements set forth by the Department in the solicitation document.

III. Offeror Affirmation of Understanding and Agreement to Comply

As a threshold requirement to participating in a procurement, the Department shall require each Offeror to provide written affirmation of its understanding of and agreement to comply with the Department's policy and procedures relating to permissible contacts during the governmental procurement's restricted period. Such a written affirmation by an Offeror shall be deemed to apply to any amendments to a procurement submitted by the Department after an initial affirmation is received with an initial bid.

Exhibit I.L – Procurement Lobbying Policy

IV. Contact Documentation

Upon any contact during the procurement's restricted period, the Department's staff shall obtain the name, address, telephone number, place of principal employment, and occupation of the person or organization making the contact, and also shall inquire whether the person or organization making the contact was the Offeror or was retained, employed, or designated by or on behalf of the Offeror to appear before or contact the Department about the procurement. All recorded contacts shall be recorded on the appropriate form(s) and included in the procurement record.

V. Non-responsibility Disclosure

The Procuring Agencies' staff shall ensure that all solicitation documents require Offerors to disclose findings of non-responsibility made within the previous four years by any State governmental entity where such prior finding of non-responsibility was due to:

- a) a violation of the procurement lobbying requirements established at SFL section 139-j; or
- b) the intentional provision of false or incomplete information to a government entity.

VI. Non-responsibility Determination

The failure of an Offeror to timely disclose accurate or complete information to the Department regarding the above shall be considered by the Department in their determination of the Offeror's responsibility. No procurement contract shall be awarded to any such Offeror, its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders unless the Department finds that the award of the contract to that entity is necessary to protect public property or public health or safety, and that the entity is the only source capable of supplying the required article of procurement within the necessary timeframe, provided however, that the Department shall include in the procurement record a statement describing the basis for such finding.

VII. Contractor Certification

A contract award subject to SFL sections 139-j and 139-k shall contain a certification by the successful Offeror that all information provided to the Department with respect to the procurement lobbying requirements established by those sections is complete, true and accurate.

Each contract shall contain a provision authorizing the Department to terminate such contract in the event such certification is found to be intentionally false or intentionally incomplete. The Department shall include in the procurement record a statement describing the basis for such termination.

Any employee of the Department who becomes aware that an Offeror has made an impermissible contact(s) during the procurement shall immediately notify the DCS Ethics Officer or the DCS Director of Internal Audit. If an Offeror violates these requirements with regard to permissible contacts at a governmental entity other than the Department, the employee of that entity who becomes aware of the violation shall notify that entity's Ethics Officer, Inspector General, if any, or other official of that entity responsible for reviewing or investigating such matters, who shall in turn notify the DCS Ethics Officer or the DCS Director of Internal Audit.

VIII. DCS Review of Alleged Violations and the Imposition of Sanctions

- a) If the DCS Ethics Officer or the DCS Director of Internal Audit receives notification of an allegation that an Offeror has made an impermissible contact during the procurement's restricted period as described above, the DCS Director of Internal Audit shall immediately investigate such allegation. If the position of Director of Internal Audit is vacant, the Ethics Officer shall conduct the investigation, or the Commissioner may appoint a designee to investigate the allegation. In no event shall the person conducting the investigation be someone who has participated in the preparation of the solicitation document, the evaluation of Proposals, or the selection decision.
- b) If the investigation indicates that sufficient cause exists to believe that the allegation is true, the Department shall give the Offeror reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation. At the Department's discretion, such opportunity to be heard may be provided by giving the Offeror the opportunity to meet with the Department staff conducting the investigation or by the Offeror's submission of a written statement, or both. The Offeror may, but need not, be represented by counsel during the investigation. Any and all issues concerning the manner in which the investigation process is conducted shall be determined solely by the Department staff conducting the investigation.
- c) If it is found that an Offeror has knowingly and willfully made an impermissible contact in violation of these requirements, then the Department staff making such findings shall report to the President of the Civil Service Commission related instances, if any, of any Department employee's violation of Public Officers Law sections 73(5) and 74.

IX. Sanctions

- a) A finding that an Offeror has knowingly and willfully made an impermissible contact shall result in a determination of non-responsibility for such Offeror. Concomitantly, such Offeror and its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders, shall not be awarded the procurement contract, unless the Department finds that the award of the procurement contract to that entity is necessary to protect public property or public health or safety, and that the entity is the only source capable of supplying the required article of procurement within the necessary timeframe. If such is the case, the Department shall include in the procurement record a statement describing the basis for such a finding.
- b) Any subsequent determination of an Offeror's non-responsibility due to violation of these requirements within four years of a prior determination of non-responsibility due to a violation of these requirements shall result in the Offeror being rendered ineligible to submit a proposal or be awarded any procurement contract for a period of four years from the date of the second non-responsibility determination.

X. Model Language For Solicitation Documents

The Department's staff shall ensure that the model language set forth below is included in all solicitation documents issued by the Department, subject to final review by their Offices of Counsel:

**Restrictions on Contacts Between
Offerors and State Staff During the Procurement Process**

- a) Pursuant to State Finance Law sections 139-j and 139-k, this procurement imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the procurement’s “Restricted Period” to other than designated staff of the Department and the Executive Branch of New York State government, unless the contact falls within certain statutory exceptions (“permissible contacts”). Staff is required to obtain certain information from Offerors and others whenever there is a contact about the procurement during the Restricted Period, and are required to make a determination of the Offeror’s responsibility that addresses the Offeror’s compliance with the statutes’ requirements. Findings of non-responsibility result in rejection for contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding. The Department’s policy and procedures are attached as Exhibit I.K to this RFP. Further information about these requirements can be found at:

<http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

- b) In order to ensure public confidence and integrity in the procurement process, the Department will control strictly all communications between any Offeror and participants in the evaluation process from the earliest notice of intent to solicit offers in this procurement through the final award and approval of the procurement contract by the Department and OSC, if applicable. “Offeror” means any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Department or any other State governmental entity about a governmental procurement during that procurement’s restricted period whether or not the caller has a financial interest in the outcome of the governmental procurement; provided, however, that a governmental agency or its employees that communicates with the Department regarding a governmental procurement in the exercise of its oversight duties shall not be considered an Offeror. “Offeror” includes prospective Offerors prior to the due date for the submission of offers/bids in response to the solicitation document. All contacts and inquiries concerning this procurement must be made to the Procurement Manager. The Department shall disqualify any Offeror who fails to comply with this requirement.

PFL Program Procurement Manager
Attn: Seth Johnson
NYS Civil Service
Agency Bldg. 1
Empire State Plaza
Albany, NY 12239
Fax: **(518) 402-2835**
E-mail: **PFL2017RFP@cs.ny.gov**

Additionally, any Offeror is strictly prohibited from making any contacts or inquiries concerning the procurement with any member, officer or employee of any governmental entity other than the Department from the date the public announcement, public notice, or public communication to any potential vendor of a determination of need for a procurement, which shall include, but not be limited to, the date the RFP is released until the end of the procurement, subject only to the specific exceptions listed below. Further, any Offeror shall not attempt to influence the procurement in any

Exhibit I.L – Procurement Lobbying Policy

manner that would result in a violation or an attempted violation of Public Officers Law sections 73(5) or 74.

- c) The following contacts are exempted from the provisions of paragraph 3 of section 139-j and as such do not need to be directed to the Procurement Manager pursuant to section 139-k:
- (1) the submission of written proposals in response to the solicitation document;
 - (2) the submission of written questions by a method set forth in the solicitation document when all written questions and responses are to be distributed to all Offerors who have expressed an interest in the procurement;
 - (3) participation in a demonstration, conference or other means for exchange of information in a setting open to all potential bidders provided for in the solicitation document;
 - (4) complaints by an Offeror regarding the failure of the Department's Procurement Manager to respond to an Offeror's authorized contacts, when such complaints are made in writing to the Department's Office of the General Counsel, provided that any such written complaints shall become a part of the procurement record;
 - (5) communications by a successful Offeror(s) who has been tentatively awarded a contract and is engaged in communications with the Department solely for the purpose of negotiating the terms of the contracts after having been notified of tentative award;
 - (6) contact by an Offeror to request the review of a procurement award when done in accordance with the procedure specified in the solicitation document;
 - (7)
 - A. contacts by an Offeror in protests, appeals or other review proceedings (including the apparent successful Offeror and its representatives) before the Department seeking a final administrative determination, or in a subsequent judicial proceeding; or
 - B. complaints of alleged improper conduct in the procurement when such complaints are made to the State Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or
 - C. protests, appeals or complaints to the State Comptroller's office during the process of contract approval, where the State Comptroller's approval is required provided that the state comptroller shall make a record of such communications and any response thereto which shall be entered into the procurement record pursuant to State Finance Law section 163; or
 - D. complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office; and
 - (8) communications between Offerors and governmental entities that solely address the determination of responsibility by a governmental entity of an Offeror.

Exhibit I.M - Compliance with Public Officers Law Requirements



State of New York
Department of Civil Service
Alfred E. Smith State Office Building
Albany, NY 12239

Compliance with Public Officers Law Requirements

ADM-992 (1/07)

The New York State Public Officers Law ("POL"), particularly POL Sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishes ethical standards for current and former State employees. In submitting its Proposal, the Offeror must guarantee knowledge and full compliance with such provisions for purposes of this RFP and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification from the procurement process, termination, suspension or cancellation of the contract and criminal proceedings as may be required by law.

The Offeror hereby submits its affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror because of prior, current, or proposed contracts, engagements, or affiliations.

Please provide below an affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror because of prior, current, or proposed contracts, engagements, or affiliations. Please attach additional pieces of paper as necessary.

Name of Offeror: _____

Name & Title of Representative: _____

Signature: _____

Date: _____

Exhibit I.N - Compliance with Americans with Disabilities Act



State of New York
Department of Civil Service
Albany, NY 12239

Compliance with Americans with Disabilities Act

ADM-987 (1/07)

The Offeror hereby provides assurance of its compliance with the Americans With Disabilities Act (42 USC§12101 et. seq.), in that any services and programs provided during the course of performance of the Agreement resultant from this RFP shall be accessible under Title II of the Americans With Disabilities Act, and as otherwise may be required under the Americans With Disabilities Act.

Name of Offeror: _____

Name & Title of Representative: _____

Signature: _____

Date: _____



State of New York
 Department of Civil Service
 Albany, NY 12239

MWBE UTILIZATION PLAN

OFFICE OF FINANCIAL ADMINISTRATION

MWBE-100 (9/2011)

INSTRUCTIONS: All Offerors must complete this MWBE Utilization Plan and submit it as part of their Proposal. The Plan must contain a detailed description of the services to be provided by each Minority and/or Woman-Owned Business Enterprise (M/WBE) identified by the Offeror.

Offeror Name:			Federal Identification No.:			
Address:			Solicitation No.:			
City, State, Zip Code:			M/WBE Goals for the Solicitation: MBE: % WBE: %			
1. M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary.)	5. Dollar Value of Subcontracts/Supplies		
A.	NYS ESD Certified <input type="checkbox"/> MBE <input type="checkbox"/> WBE					
B.	NYS ESD Certified <input type="checkbox"/> MBE <input type="checkbox"/> WBE					
6. WAIVER REQUESTED: MBE: <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, submit form MWBE101 / WBE: <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, submit form MWBE101						
PREPARED BY (Signature):			TELEPHONE NO.:	EMAIL ADDRESS:		
NAME AND TITLE OF PREPARER (Print or Type):						
DATE: Offeror's Certification Status: <input type="checkbox"/> MBE <input type="checkbox"/> WBE						
<p>SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FIUNDING OF NONCOMPLIANCE AND/OR PROPOSAL DISQUALIFICATION.</p>			*****FOR DEPARTMENT USE ONLY*****			
			REVIEWED BY:		DATE:	
			UTILIZATION PLAN APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____			
			MBE CERTIFIED: <input type="checkbox"/> YES <input type="checkbox"/> NO			
			WBE CERTIFIED: <input type="checkbox"/> YES <input type="checkbox"/> NO			
WAIVER GRANTED: <input type="checkbox"/> YES <input type="checkbox"/> NO						
<input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver						
NOTICE OF DEFICIENCY ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO						
Date: _____						

Exhibit I.P – Offeror’s Certification of Compliance Pursuant to State Finance Law

Offeror’s Certification of Compliance Pursuant to State Finance Law §139-k(5)

Instructions:

New York State Finance Law (SFL) §139-k(5) requires that every contract award subject to the provisions of SFL §§139-k or 139-j shall contain a certification by the Offeror that all information provided to the Department with respect to SFL §139-k is complete, true and accurate.

At the time an Offer or Bid is submitted to the Department, the Offeror must provide the following certification that the information it has and will provide to the Department pursuant to SFL §139-k is complete, true and accurate including, but not limited to, disclosures of findings of non-responsibility made within the previous four years by any State governmental entity where such finding of non-responsibility was due to a violation of SFL §139-j or due to the intentional provision of false or incomplete information to a State governmental entity.

Offeror Certification

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

Name of Offeror: _____

By: _____
(Signature)

Name: _____

Title: _____

Address: _____

Date: _____

This Exhibit has been intentionally
left blank

[TO BE COMPLETED ON OFFEROR'S LETTERHEAD]

Date

Mr. Seth Johnson
Procurement Manager
Employee Benefits Division – Room 1106
NYS Department of Civil Service
Albany, NY 12239

**RE: Request for Proposals #PFL-2017-1 entitled:
“Paid Family Leave Program,”
Firm Offer to the State of New York**

[INSERT OFFEROR NAME] hereby submits this firm and binding offer to the State of New York in response to the Department’s Request for Proposals #PFL-2017-1, entitled “**Paid Family Leave Program**,” (RFP). The Proposal hereby submitted meets or exceeds all terms, conditions, and requirements set forth in the above-referenced RFP and in the manner set forth in this RFP.

[INSERT OFFEROR NAME] accepts the terms and conditions as set forth in RFP, Section VI and Appendices A, B, C, and D and agrees to satisfy the comprehensive programmatic duties and responsibilities outlined in this RFP in the manner set forth in this RFP.

[INSERT OFFEROR NAME] agrees to execute a contractual agreement composed substantially of the terms and conditions set forth in the draft contract included in the RFP, and accepts as non-negotiable the terms and conditions set forth in Appendices A, B, C, C-1, D, D-1, and D-2 to the draft contract.

[INSERT OFFEROR NAME] further agrees, if selected as a result of the RFP, to comply with 1) the provisions of Tax Law Section 5-a, Certification Regarding Sales and Compensating Use Tax; and 2) the Workers’ Compensation Law as set forth in Section II.B.10 of the RFP.

This formal offer will remain firm and non-revocable for a minimum period of 365 days from the Proposal Due Date as set forth in the RFP. In the event that a contract is not approved by the NYS Comptroller within the 365 day period, this offer shall remain firm and binding beyond the 365 day period and until a contract is approved by the NYS Comptroller, unless [INSERT OFFEROR NAME] delivers to the Department of Civil Service written notice of withdrawal of its Proposal.

[INSERT OFFEROR NAME]’s complete offer is set forth as follows:

Administrative Proposal: Total of twelve (12) hard copy volumes [two (2) original and ten (10) copies] and one (1) electronic copy on CD.

Technical Proposal: Total of twelve (12) hard copy volumes [two (2) original and ten (10) copies] and one (1) electronic copy on CD.

The undersigned affirms and swears s/he has the legal authority and capacity to sign and make this offer on behalf of, [INSERT OFFEROR NAME] and possesses the legal authority and capacity to act on behalf of [INSERT OFFEROR NAME] to execute a contract with the State of New York.

Exhibit I.S - Formal Offer Letter

The undersigned affirms and swears as to the truth and veracity of all documents included in this offer.

Date: _____

[INSERT OFFEROR NAME]

By: _____
(signature)

(name)

(title)

(phone number)

(email address)

CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }
: SS.:

COUNTY OF _____ }

On the ____ day of _____ in the year 2018, before me personally appeared:
_____, known to me to be
the person who executed the foregoing instrument, who, being duly sworn by me did depose
and say that _he resides at

_____, Town of

County of _____, State of _____; and further that:

[Check One]

(___ If a corporation): _he is the _____ of
_____, the corporation described in said
instrument; that, by authority of the Board of Directors of said corporation, _he is
authorized to execute the foregoing instrument on behalf of the corporation for purposes set
forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in
the name of and on behalf of said corporation as the act and deed of said corporation.

(___ If a partnership): _he is the _____ of
_____, the partnership described in said
instrument; that, by the terms of said partnership, _he is authorized to execute the
foregoing instrument on behalf of the partnership for the purposes set forth therein; and
that, pursuant to that authority, _he executed the foregoing instrument in the name and on
behalf of said partnership as the act and deed of said partnership.

Notary Public

Exhibit I.T - Offeror Attestations Form

An authorized representative of the Offeror who is legally authorized to certify the information requested in the name of and on behalf of the Offeror is required to complete and sign the Offeror Attestations and provide all requested information. Offeror's authorized representative must certify as to the truth of the representations made by signing where indicated, below.

CERTIFICATION:

The Offeror (1) recognizes that the following representations are submitted for the express purpose of assisting the State of New York in making a determination to award a contract; (2) acknowledges and agrees by submitting the Attestation, that the State may at its discretion, verify the truth and accuracy of all statements made herein; (3) certifies that the information submitted in this certification and any attached documentation is true, accurate and complete.

Name of Business Entity Submitting Bid:		
Entity's Legal Form:		<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other _____
No.	RFP Ref.	RFP Requirement:
1.	Section III.B.1	At time of Proposal Due Date and throughout the term of the Contract, Offeror represents and warrants that it: <input type="checkbox"/> is <input type="checkbox"/> is not Authorized to conduct business in New York State. If not authorized to conduct business in New York State at time of Proposal Due Date, the Offeror represents and warrants that it: <input type="checkbox"/> has <input type="checkbox"/> has not Filed an application for authority to do business in New York State with the New York State Secretary of State.
2.	Section III.B.2	At time of Proposal Due Date, Offeror represents and warrants that it: <input type="checkbox"/> does <input type="checkbox"/> does not understand and agrees to comply with all specific duties and responsibilities set forth in Section IV of this RFP
3.	Section III.B.3	At time of Proposal Due Date, Offeror represents and warrants that it: <input type="checkbox"/> has <input type="checkbox"/> has not completed, obtained or performed all registrations, filings, approvals, authorizations, consents and examinations required by any governmental authority for the provision of the delivery of Program Services and agree that it will, during the term of the Contract, comply with any requirements imposed upon it by law.

Exhibit I.T - Offeror Attestations Form

4.	Section III.B.4	<p>At time of Proposal Due Date, Offeror represents and warrants that it:</p> <ul style="list-style-type: none"><input type="checkbox"/> agrees and acknowledges<input type="checkbox"/> does not agree and acknowledge<ul style="list-style-type: none">i. all claims, enrollment, and other data (i.e., materials) provided by the Department or the Department’s agents and/or contractors is being provided to the Offeror (“Contractor”) solely for the purpose of allowing the Contractor to fulfill its duties and responsibilities under the Contract;ii. said materials are and remain the sole property of NYS; andiii. that it will not share, sell, release, or make the data available to third parties in any manner without the written consent of the Department, except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law.
5.	Section III.B.5	<p>At time of Proposal Due Date, Offeror represents and warrants that it:</p> <ul style="list-style-type: none"><input type="checkbox"/> does<input type="checkbox"/> does not <p>possess adequate staffing resources, financial resources and organizational capacity to perform the type, magnitude and quality of work specified in the RFP.</p>
6.	Section III.B.6	<p>At time of Proposal Due Date, Offeror represents and warrants that it:</p> <ul style="list-style-type: none"><input type="checkbox"/> has<input type="checkbox"/> has not <p>filed and been approved to issue a stand-alone Paid Family Leave policy with the New York State Department of Finance as provided under Title 11 NYCRR Parts 363.4(c) and 363.6 (b)(1), no later than the proposal due date for this RFP.</p>
7.	Section III.B.7	<p>At time of Proposal Due Date, Offeror represents and warrants that it:</p> <ul style="list-style-type: none"><input type="checkbox"/> has<input type="checkbox"/> has not <p>has an Insurer Financing Strength Rating from A.M. Best Company of “A” or better at the time of Proposal submission.</p>

Exhibit I.T - Offeror Attestations Form

Date: _____

Signature

[INSERT OFFEROR NAME]
[INSERT TITLE]
[INSERT COMPANY NAME]

CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } : SS.:

On the ____ day of _____ in the year 2018, before me personally appeared:
_____, known to me to be the person who executed the foregoing
instrument, who, being duly sworn by me did depose and say that _he resides at
_____, Town of _____,
County of _____, State of _____; and further that:

[Check One]

(___ **If a corporation**): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(___ **If a partnership**): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

Exhibit I.U.1 - Key Subcontractors or Affiliates

The Offeror must complete and submit this Exhibit as part of its Administrative Proposal. A separate form should be completed for each Key Subcontractor or Affiliate, if any. If the Offeror will not be subcontracting with any Key Subcontractor(s) or Affiliate(s) to provide any of the services required under this RFP, the Offeror must complete and submit a single Exhibit I.U.1 to that affect.

INSTRUCTION: Prepare this form for each Key Subcontractor or Affiliate	
Offeror's Name:	
The Offeror: <input type="checkbox"/> is <input type="checkbox"/> is not proposing to utilize the services of a Key Subcontractor(s) or Affiliate(s) to provide Program Services <input type="checkbox"/> is <input type="checkbox"/> is not proposing to utilize the services of a subcontractor(s) to provide Program Services totaling \$100,000 or more during the term of the 5 year agreement	
Subcontractor's Legal Name:	
Business Address:	
Subcontractor's Legal Form:	<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other
As of the date of the Offeror's Proposal, a subcontract <input type="checkbox"/> has <input type="checkbox"/> has not been executed between the Offeror and the subcontractor(s) for services to be provided by such subcontractor(s) relating to Paid Family Leave Program services.	
In the space provided below, describe the Key Subcontractor's or Affiliate's role(s) and responsibilities regarding Program Services to be provided.	
Relationship between Offeror and Key Subcontractor or Affiliate for Current Engagements: (Complete items 1 through 5 for each client engagement identified)	
1. Client:	
2. Client Reference Name and Phone #	
3. Program Title:	
4. Program Start Date:	
5. In the space provided below, Program Status:	
6. In the space provided below, describe the roles and responsibilities of the Offeror and subcontractor in regard to the program identified in 3, above:	

This Exhibit has been intentionally
left blank

Exhibit I.W - Compliance with NYS Workers' Compensation Law

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the Department shall not enter into any contracts unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into contracts with DCS, the selected Offeror will be required to verify for DCS, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. DCS requests the Offeror submit this insurance verification information with their Proposals. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518)486-6307. You may also find useful information at their website <http://www.wcb.ny.gov>. Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the Contract is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

Workers' Compensation Requirements under WCL § 57:

To comply with coverage provisions of the WCL, businesses must:

- A) be legally exempt from obtaining workers' compensation insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer or participate in an authorized group self-insurance plan.

To assist State and municipal entities in enforcing WCL Section 57, businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the government entity issuing the permit or entering into a contract:

- A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage ⁽¹⁾; **OR**
- B) C-105.2 -- Certificate of Workers' Compensation Insurance (the business's insurance carrier will send this form to the government entity upon request) **PLEASE NOTE:** The State Insurance Fund provides its own version of this form, the U-26.3; **OR**
- C) SI-12 -- Certificate of Workers' Compensation Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247), **OR** GSI-105.2 -- Certificate of Participation in Worker's Compensation Group Self-Insurance (the business's Group Self-Insurance Administrator will send this form to the government entity upon request).

Disability Benefits Requirements under Workers' Compensation Law §220(8)

To comply with coverage provisions of the WCL regarding disability benefits, businesses may:

- A) be legally exempt from obtaining disability benefits insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer.

Accordingly, to assist State and municipal entities in enforcing WCL Section 220(8), businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the entity issuing the permit or entering into a contract:

- A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage⁽¹⁾; **OR**
- B) DB-120.1 -- Certificate of Disability Benefits Insurance (the business's insurance carrier will send this form to the government entity upon request); **OR**
- C) DB-155 -- Certificate of Disability Benefits Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247).

⁽¹⁾ *Starting December 1, 2008, Form CE-200 can be filled out electronically on the Board's website, www.wcb.state.ny.us, under the heading "Forms." Applicants filing electronically are able to print a finished Form CE-200 immediately upon completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract.*

**Paid Family Leave RFP 2017
Transaction File**

Exhibit II.A

START POSITION	START POSITION	START POSITION	START POSITIO N	START POSITION	START POSITION	START POSITION	START POSITION
EMPLOYEE DETAIL RECORD							
1	Record Type	Y	1	E = Employee Record	alpha	Record type of 'E' = Employee Record	For disability, only employee records are accepted.
2	Customer Number	Y	7	N/A	numeric	Customer Number is a unique seven-digit number assigned to you by vendor. If your customer number is fewer than seven digits, add leading zeros. This number should be right justified. This entry will be the same for all records.	Customer Number is the highest level of reporting for a policyholder. Each group policyholder has only one customer number.
9	[Employee] Social Security Number	Y	11	N/A	numeric	This field must always contain the employee's Social Security Number. This number is right justified with two leading zeros. Example: 123-45-6789 appears as 00123456789.	The Employee Social Security Number is used to identify an individual in the Disability applications. It is always required. Also, used for tax reporting.
20	Personnel ID	N	9	N/A	alphanumeric	PID is a unique alphanumeric code assigned by the Employer to identify their Employee. This field is used if the Employer assigns each Employee a unique identification number. The field is left justified.	PID is an additional identifier for the Customer's tracking or reporting purposes only. In most cases the Employee is identified by their Social Security number.
43	[Employee] Last Name	Y	20	N/A	alpha	The Employee's Last Name. Any titles, such as JR or SR, are included in this field. These suffixes are separated from the last name by a space. This entire entry is left justified. No punctuation included.	Last Name is used for tracking, reporting and correspondence purposes.
63	[Employee] First Name	Y	12	N/A	alpha	The Employee's First Name. It is acceptable to have double names which are separated with a space. If the member uses his/her middle name, you may have the first initial followed by the middle name. The entire entry is left justified.	First Name is used for tracking, reporting and correspondence purposes.
75	[Employee] Middle Initial	N	1	N/A	alpha	The Employee's Middle Initial. This data is requested, but it is not required.	Middle Initial is used for tracking, reporting and correspondence purposes.
76	[Employee] Birth Date	Y	8	MMDDYYYY	numeric	The Employee's Date of Birth in month-month-day-day-year-year-year format.	Birth Date is used when determining eligibility for disability benefits.
84	[Employee] Marital Status	N	1	S = Single M = Married U = Unknown (default)	alpha	The employee's marital status.	Marital Status is used for tax reporting and other tracking purposes. This information is required for customers with mandatory tax withholding when Vendor issues or calculates the benefit payment or FMLA has spousal time limits for childcare bonding. If other status types are available, and cannot be mapped to a status included on this list, default to "U" for unknown.
85	[Employee] Sex	N	1	M = Male F = Female U = Unknown	alpha	The Employee's Gender.	Employee's Gender is used for tracking and reporting purposes. It is required for TAM if the leave being administered has gender specific rules.
86	[Employee's] Employment Date	Y	8	MMDDYYYY	numeric	This can be an original hire date, adjusted "start date" or net credited service date if credited service dates are applicable.	This date is used to calculate 12 months for FMLA eligibility. It is also used when the customer's plan benefit amounts and/or durations are based on length of service.

102	[Employee] Home Phone Number	N	10	N/A	numeric	Home Phone Number includes an area code and seven digit telephone number. No punctuation should be used.	Home Phone Number is used for contact purposes.
EMPLOYEE CONTACT INFORMATION							
112	Foreign Address Indicator	N	1	D or blank = Domestic F = Foreign	alpha	Foreign Address Indicator shows if the employee's address is domestic or foreign.	Foreign Address Indicator is used for correspondence purposes.
113	[Employee] Mailing Address 1	Y	32	N/A	alphanumeric	The mailing address where the employee receives correspondence. This is a required field for a domestic address. No punctuation should be used. The entry should be left justified.	Mailing Address is used for correspondence purposes.
145	[Employee] Mailing Address 2	N	32	N/A	alphanumeric	Optional address field which may be used for a "care of" name, foreign address, post office box or apartment number. No punctuation should be used and the entry should be left justified.	Mailing Address is used for correspondence purposes.
177	[Employee] Mailing Address -City	Y	21	N/A	alpha	The name of the city where the employee receives correspondence. This is a required field for a domestic address. No punctuation should be used. The entry should be left justified.	Mailing Address is used for correspondence purposes.
198	[Employee] Mailing Address -State	Y	2	Postal Abbreviations	alpha	Identifies the state where the employee receives correspondence. This is a required field for a domestic address. This field contains the standard postal abbreviations.	Mailing Address is used for correspondence purposes.
200	[Employee] Mailing Address -Zip Code	Y	9	N/A	numeric	The postal zip code where the employee receives correspondence. If for a domestic address, the field includes 5 digit zip code and 4 digit postal routing number. A 5 digit zip code is required for a domestic address. No punctuation should be used. This entry should be left justified.	Mailing Address is used for correspondence purposes.
209	[Employee] Work State	Y	2	provided upon request	alpha	The name of the state where the employee physically performs the functions of their job. If the employee does not work in an employer's location, then this value should be the state where the home base is located, from which they receive their work assignments, or to which they report. If this data is missing from a record, the applicable FMLA state programs will not be applied correctly. This field uses standard postal abbreviations. If the employee work state is foreign, please leave blank.	Work State is required to determine if the employee works in a state with a state disability plan (ie NY PFL) or if a FMLA state leave applies. For TAM, some policies are driven by work state.
EMPLOYEE INFORMATION							
211	Location Code	N	12	N/A	alphanumeric	A unique code assigned by the customer to track their physical business sites. Left justified.	The Location Code is used to determine eligibility based on lives thresholds. If the 50 employee within 75 miles rule is being enforced or if this data is needed for reporting purposes.
224	Federal Marital Tax Code	N	1	S = Single M = Married E = Exempt	alpha	Indicates the employee's marital status for tax withholding purposes	Marital Tax Status is used for tax reporting and other tracking purposes. This information is required for customers with mandatory tax withholding when Vendor issues or calculates the benefit payment.
225	Number of Federal Exemptions	N	2	N/A	numeric	The number of exemptions claimed. Example: 4 exemptions would be entered as 04.	Number of Exemptions is required for customers with mandatory tax withholding when Vendor issues or calculates the benefit payment.

227	[Work] Status Code	N	1	See Code Map	alpha	Indicates the employee's employment status. See Code Map tab for list of status codes.	Work Status Code determines if the employee is active or terminated. This field works hand in hand with the "AM Stop Date" in position 562. If the value in this field is T (terminated), L (leave of absence), or N (not employed) the AM Stop Date field should contain a corresponding stop date.
228	[Work] Status as of Date	N	8	MMDYYYY	numeric	The date the current status became effective.	Work Status as of Date is used to determine employee eligibility for benefits.
236	Salary Amount	Y	9	N/A	numeric, implied decimal 9(7)v99	This is the claimant's salary amount from which disability benefits should be calculated. For example, if the STD disability benefit is 60% of the employee's salary - this will show the amount that will be used to calculate the 60%. The amount passed in this field may be the base salary amount, the base salary amount plus an average of 12 month's commissions, the base salary amount plus an average of 12 month's overtime, etc. The amount should be based on disability policy documentation of 'salary'. This field contains an implied decimal. Example: \$29,344.29 would appear as 002934429.	Salary is only required when Vendor issues or calculates the benefit payment.
245	MD (Salary Mode)	Y	1	Y ' - Yearly (annual) 'B ' - Bi-Weekly 'H ' - Hourly 'M ' - Monthly 'W ' - Weekly	alpha	Indicates the frequency of the claimant's salary. This field should directly correlate with the Salary Amount field in position 236.	Salary Mode is used in the calculation of the base benefit. This information is only required when Vendor issues or calculates the benefit payment.
246	Salary Effective Date	Y	8	MMDYYYY	numeric	Indicates the date the employee's current salary went into effect.	Salary Effective Date is used to determine salary in effect on the employee's last date worked. This information is only required when Vendor issues or calculates the benefit payment.
254	Average Weekly Scheduled Work Hours	N	3	99v9	numeric	Work Schedule - 1 of 3 options for work schedule is mandatory. The number of hours the employee works in a single work week. Example: 40 hours would appear as 400 or 37 1/2 hours would appear as 375. The value in this field has to be "010" or greater ("000" will cause the record to fail). Option 1 - Average number of hours the employee works in a single work week is provided on the file. If position 257 Wrk Wk Schedule is unavailable, default of Monday through Friday will be used. (Options 2 and 3 can be found in psn 1024 - 1058)	A roster (combination of hours worked and days of the week worked) is needed to calculate the amount of time the employee will be out of work.
257	Wrk Wk Schedule	N	2	See Code Map	numeric	Work Schedule Option 1 (with psn 254) - This specifies the days of the week that the employee works. It is used in conjunction with Average Weekly Scheduled Work Hours. 1 of the 3 options for work schedule is mandatory. Enter leading zero when wrk wk schedule is one digit. Example: 2 is entered as 02	Work Week Schedule is used for benefit calculation. This information is required when the benefit calculation is based on work week schedule.

NEW YORK PFL COVERAGE							
403	NY PFL Coverage	Y	2	PF	alpha	NY Paid Family Leave = PF	Identifies if the employee has NY PFL coverage
405	NY PFL Coverage Start Date (Insurance Effective Date)	Y	8	MMDDYYYY	numeric	The date the PFL coverage with Vendor became effective or will become effective.	PFL Coverage Start Date is used to determine when an employee became eligible for NY PFL Benefits.
413	NY PFL Coverage Stop Date (Insurance Cancel Date)	Y	8	MMDDYYYY	numeric	The date the PFL coverage with Vendor was canceled or will be canceled.	PFL Coverage Stop Date is used to determine when an employee is no longer eligible for NY PFL Benefits.
421	NY PFL Report Number (Group Number)	Y	7	N/A	numeric	A policy contract number for reporting premium and claim data to a customer. If report number is less than 7 digits, then enter leading zeros.	
428	NY PFL SubCode (Subdivision)	Y	4	N/A	numeric	A number assigned by Vendor which further separates experience between premium and/or claims to identify categories (i.e., hourly, salaried) of employees or locations. Vendor Account Manager will provide numbers and descriptions. If subcode is less than 4 digits, then enter leading zeros.	
432	NY PFL SubPoint (Branch)	Y	4	N/A	alphanumeric	A number assigned by Vendor which along with a Report Number and SubCode provides further delineation within a group. Usually, it denotes a location. Vendor Account Manager will provide numbers and description. If branch is less than 7 digits, then enter leading zeros.	
438	Job Status Code (full time/part time indicator)	Y	1	Part-Time = P Full-Time = F	alpha	Indicates whether the employee works part-time or full-time.	Part-Time/Full-Time Code is required to determine eligibility for states that require the employee to be full-time, ie NY PFL. REQUESTED BUT NOT REQUIRED.
439	Job Status (full time/part time) As of Date	Y	8	MMDDYYYY	numeric	The date corresponding to the PT or FT indicator.	Part-Time/Full-Time As of Date determines when the employee starting working full-time or part-time. This assists with determining eligibility. REQUESTED BUT NOT REQUIRED.

Columns C Legend:

 Standard required fields

**Paid Family Leave RFP 2017
Transaction File Code Map**

Exhibit II. B

Work Schedule Codes			
Description of Schedule	Code		
Monday - Friday	01		Family Relationship Type
Tuesday - Saturday	02		SP Spouse
Wednesday - Sunday	03		PT Parent
Thursday - Monday	04		OT Other
Friday - Tuesday	05		AC Adopted Child
Saturday - Wednesday	06		FC Foster Child
Sunday - Thursday	07		SC Step Child
Monday - Thursday	08		LW Legal Ward
Tuesday - Friday	09		BC Biological Child
Wednesday - Saturday	10		DC Domestic Partner's Child
Thursday - Sunday	11		
Friday - Monday	12		
Saturday - Tuesday	13		Work Status Codes
Sunday - Wednesday	14		D = Disabled
Monday, Tuesday, Thursday, Friday	15		N = Not Employed
Monday, Tuesday, Wednesday, Friday	16		O = On Strike
Tuesday, Thursday, Friday, Saturday	17		R = Retired
Tuesday, Wednesday, Friday, Saturday	18		U = Unknown
Tuesday, Wednesday, Thursday, Saturday	19		A = Active
Wednesday, Friday, Saturday, Sunday	20		E = Early Retirement
Wednesday, Thursday, Saturday, Sunday	21		L = Laid Off (will result in disability coverages being terminated in MetLife's system)
Wednesday, Thursday, Friday, Sunday	22		T = Terminated (will result in disability coverages being terminated in MetLife's system)
Thursday, Saturday, Sunday, Monday	23		P = Paid Leave of Absence
Thursday, Friday, Sunday, Monday	24		C = Unpaid Leave of Absence
Thursday, Friday, Saturday, Monday	25		
Friday, Sunday, Monday, Tuesday	26		
Friday, Saturday, Monday, Tuesday	27		
Friday, Saturday, Sunday, Tuesday	28		
Saturday, Monday, Tuesday, Wednesday	29		
Saturday, Sunday, Tuesday, Wednesday	30		
Saturday, Sunday, Monday, Wednesday	31		
Sunday, Tuesday, Wednesday, Thursday	32		
Sunday, Monday, Wednesday, Thursday	33		
Sunday, Monday, Tuesday, Thursday	34		
Sunday - Saturday	35		
Monday - Wednesday	36		
Thursday - Saturday	37		