SUNY UPSTATE MEDICAL UNIVERSITY

Invitation for Bids ("IFB")

Medical Coding Services
IFB S-1636

Responses Due:
Friday, December 11, 2026
2:00 PM ET

TABLE OF CONTENTS

SUMMARY INFORMATION FORM 1
Section 1: OVERVIEW 2
Section 2: PROJECT SPECIFICATIONS 3
A. Scope of Services 3
B. Method of Award 3
1. Administrative Review 3
2. Review of Bidder Qualifications 3
3. Selection 3
C. Utilization of Agreements 4
Section 3: BIDDER QUALIFICATIONS & TECHNICAL COMPONENTS 4
A. Mandatory Bidder Qualifications 4
B. Mandatory Technical Requirements 5
C. References 5
D. Pricing 5
Section 4: BID SUBMISSION REQUIREMENTS 6
A. Bid Submission Requirements 6
B. Bidder Questions 8
C. Pre-Bid Proposal Meeting 8
D. Site Visit 8
E. Bid Opening 8
F. Minor Irregularities 8
G. Extraneous Terms 8
Section 5: GENERAL INFORMATION 9
A. Electronic IFB 9
B. SUNY's Reserved Rights 9
C. Contract Award 9
D. Post Award Procedures 9
Section 6: GENERAL TERMS AND CONDITIONS 10
A. Free and Open Competition 10
B. Notification of Errors, Inquiries and Interpretation 10
C. No Claims or Rights 10
D. Conflict of Interest 10
E. Acceptance of IFB Content 10
F. Services Outside Scope of the Contract Awarded 10
G. Standard Contract Clauses 10
H. Binding Effect 10
I. Confidentiality/Freedom of Information Law 11
J. Data Privacy and Security 11
K. New York Information Breach and Notification Requirements 12
L. Service Levels 13
M. Disaster Recovery 13
N. Data Portability 13
O. Diversity Contracting Requirements 13
P. Minority and Women-Owned Business Enterprises (MWBE) 14
Q. Equal Employment Opportunity Requirements 15
R. Service-Disabled Veteran-Owned Businesses (SDVOB) 15
S. Encouraging Use of New York State Businesses in Contract Performance 16
T. Office of Federal Contract Compliance Programs 16
U. Governing Law 16
V. Omnibus Procurement Act of 1992 16
W. Determination of Vendor Responsibility 16
X. Requirements of New York State's Recycling Program 16
Y. State Consultant Services Reporting 17
Z. Electronic Payment Authorization 17
AA. Timeliness of Payment and Interest 17
BB. Exhibits 17
CC. Independent Contractor 18
DD. Subcontracting 18

EE. Compliance 18
FF. Indemnification 19
GG. Liability 20
HH. Insurance 20
II. Travel 22
JJ. Termination 22
KK. Procurement Lobbying Act - State Finance Law 139-J and 139-K 23
LL. Restrictions on The Activities of Current and Former State Officers and Employees 23
MM. Diesel Emissions Reduction Act of 2006 23
NN. Smoke Free SUNY 24
OO. State Finance Law 139-L Certification 24
PP. State Finance Law 139-M Certification - Gender-Based Violence in the Workplace 24
QQ. Compliance with SUNY Policies 25
RR. Trademarks and Service Marks 25
SS. Executive Order 177 (EO 177) 25
TT. Executive Order 16 (EO16) 25
UU. False Claims Act & Acknowledgement 25
VV. Excluded Individuals/Entities 26
WW. Sales and Compensating Use Tax Documentation 26
XX. Non-Solicitation 27
YY. Piggybacking 27
ZZ. Payment Terms 27

SUNY Notary Acknowledgement
Attachment 1: Bid Submission Checklist
Attachment 2: Bidder Qualifications Submission Form
Attachment 3: Bidder Reference Form
Attachment 4: Procurement Lobbying Act Certification
Attachment 5: Non-Collusive Bidding Certification
Attachment 6: Diversity Practices Questionnaire
Attachment 7: Service Level Agreement
Attachment 8: NYS Business Subcontractor Identification Form
Attachment 9: Consultant Information Including Forms A & B
Attachment 10: NYSFL 139-L Certification
Attachment 11: NYSFL 139-M Certification
Attachment 12: NY Human Rights Law EO 177 Certification
Attachment 13: False Claims Act and Acknowledgement Form
Attachment 14: Financial Proposal
Attachment 15: Public Officers Law
Attachment 16: Doing Business with Russia (EO 16)
Attachment 17: Package Label
Exhibit A
Exhibit A-1
Exhibit T
Exhibit Z

SUMMARY INFORMATION FORM

THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE

IFB #: S-1636	**IFB Title:** Medical Coding Services	**IFB Release Date:** 10/26/2026 Electronic copies of this IFB are available at: www.upstate.edu/finance/publicbid/bid.php
Key Events		
Questions/Requests for clarification due		Tuesday, November 10, 2026, at 2:00 PM ET
Response to questions/requests for clarifications issued		Tuesday, November 17, 2026
Pre-Bid Conference (if applicable)		N/A
Site Visit (if applicable)		N/A
Notice of Intent to Bid Due (if applicable)		Request Excel Version of Financial Proposal
Proposal Due Date and Time		Thursday, December 12, 2026, at 2:00 PM ET
Presentation, Demonstration, Interview (if applicable)		N/A
Anticipated Notification of Award		Late Winter 2027
Anticipated Contract Start Date		April 2027
Anticipated Term Length of Contract		Five (5) Years
SUNY reserves the right, in its sole discretion, to modify the above schedule. Bidders will be notified via email of any changes in a timely manner.		
Contact Information		
Primary Contact: Emily Brown Attn: Contracts, SLC 2045 SUNY Upstate Medical University 650 South Salina Street Syracuse, NY 13202 Telephone: (315) 464-8922 Email: BrownEmi@upstate.edu	**Secondary Contact:** Kristy Davis Attn: Contracts, SLC 2048 SUNY Upstate Medical University 650 South Salina Street Syracuse, NY 13202 Telephone: (315) 464-4680 Email: DavisKr@upstate.edu	**Other Contact:**
Restricted Period		
In accordance with the requirements of New York State Finance Law Sections 139j and 139k ("Lobbying Law"), the restricted period for this procurement is now in effect. Therefore, all communications regarding this procurement must be handled through the State University of New York's designated contacts only.		
Bidder Information		
Legal Business Name of Company Bidding:		Bidder's Federal Tax Identification Number:
D/B/A – Doing Business As (if applicable):		NYS Vendor ID Number:
Street Address:	City/State:	Zip Code:
If applicable, place an "x" in the appropriate box*: (check all that apply)* ☐ Small Business (if checked, provide # of employees ____) ☐ Disabled Veteran Owned Business ☐ Minority Owned Business (NYS Certified) ☐ Women Owned Business (NYS Certified)		
If you are not bidding, place an "x" in the box and return this page only. ☐ We are unable to bid at this time because:		
Bidders Signature:		Title:
Printed Name:		Date:
Contact Name and E-Mail for questions:		

THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE

By signing this form, bidder acknowledges (a) that the IFB instructions are understood; (b) that the bidder is committed to servicing SUNY's needs in the required time period; and (c) that all information required by this IFB has been included in bidder's proposal.

Section 1: OVERVIEW

SUNY Upstate Medical University located in Syracuse, New York, is the only academic medical center in Central New York. With an operating budget of approximately $1.8 billion, it is the region's largest employer with approximately 10,100 employees and generates more than $2.5 billion in economic impact for the State of New York.

SUNY Upstate Medical University is a component of State University of New York ("SUNY"). Its mission is to improve the health of the communities it serves through education, biomedical research and patient care. Its vision, which was developed through a process open to all employees, is: united in expertise, compassion and hope to create a healthier world for all. Upstate is guided by shared values, also developed campus-wide, which are to: drive innovation and discovery; respect people; serve our community; value integrity; and embrace diversity and inclusion.

Upstate is one of three hospitals in the SUNY System and serves the 17-county Central New York region, covering one-third of the state's landmass, which spans from north of Watertown, south to Binghamton and points east and west of Syracuse. Upstate represents the region's only tertiary care center and is designated as a Level 1 Trauma Center for both adults and children. The Hospital also operates a range of outpatient clinics and services and features the region's only Children's Hospital and holds several other specific New York State DOH designations to include: a Certified Stroke Center (also the region's first Comprehensive Stroke Center), Burn Center, AIDS Care Center, SAFE Center and a Poison Control Center which serves 54 NYS counties. The Hospital is a UNOS certified Kidney Transplant Center, and the Upstate Cancer Center is certified by the American College of Surgeons Commission on Cancer.

The Upstate University Health System serves more than 1.8 million people, often the most seriously ill and injured. The Hospital provides highly specialized inpatient and outpatient services, with nearly 35,000 admissions in 2018. Upstate had more than 106,000 visits in its three emergency rooms: 2 adult and 1 pediatric and 617,217 outpatient encounters in 2018. Upstate has 70 specialty clinics, which saw 460,000 of its outpatient visits. Patients also have access to additional clinics, through UUMAS, Upstate University Medical Associates at Syracuse, Inc. UUMAS is a 501(c)3 not-for-profit university faculty practice corporation, which serves as the umbrella organization of the 19 clinical departmental practices, Medical Service Groups (MSGs), within the College of Medicine.

Upstate has a total of 800 licensed beds at its two hospital campuses: the downtown campus ("University Hospital"), located at 750 East Adams St., Syracuse, New York with 486 licensed beds, and Upstate University Hospital Community Campus ("Community Hospital") located at 4900 Broad Road, Syracuse, New York, with 314 licensed beds. The Upstate Golisano Children's Hospital ("UGCH") crowns the east tower of the downtown campus. Collectively, these hospitals are referred to herein as "Hospital".

Upstate and SUNY System Administration will be identified throughout this IFB interchangeably as "Upstate," "SUNY", "University" and/or "Campus". As well, the words "bidder", "firm", "vendor" and "contractor" will be used interchangeably throughout this IFB.

About the State University of New York

The State University of New York is the largest comprehensive system of higher education in the United States, with 64 college and university campuses located within 30 miles of every home, school, and business in the state. As of fall 2018, more than 424,000 students were enrolled in a degree program at a SUNY campus. In 2017-18, SUNY served 1.4 million students, including approximately 550,000 in credit bearing courses and programs and over 850,000 through continuing education and community outreach programs. SUNY students and faculty across the state make significant contributions to research and discovery, resulting in $1 billion of externally sponsored activity each year. There are 3 million SUNY alumni worldwide, and one in three New Yorkers with a college degree is a SUNY alum. To learn more about how SUNY creates opportunity, visit www.suny.edu.

Section 2: SCOPE & BIDDING SPECIFICATIONS

A. Scope of Services

Upstate is requesting proposals from qualified contractors (the "Contractor" or "Bidder" may be used interchangeably) for the provision of *Medical Coding Services*. Upstate intends to award contracts to the successful bidder(s) (the "Successful Bidder") providing the best value to Upstate as defined in Section 2(C).

Our number of medical coders can vary depending on volumes, time of year, and other variables. The annual number of requested coder hours is currently about 6,500, or 32,000 over the course of the five (5) year period. We are anticipating needing 3-4 Full-Time Coders to work alongside our in-house coders. We utilize Epic and 3M as our Coding Platforms.

Upstate aims to code immediately after the 4-day bill hold. All coders will be given a queue and will take the next chart by date order.

Please see our Productivity Expectations by Patient Type below:

1. Inpatient: 1.5 charts per hour
2. Observation: 2 charts per hour
3. Hospital Outpatient Services/Ambulatory Procedures: 3 charts per hour
4. Emergency Room: 7 charts per hour

No minimum number of billable hours is guaranteed under any resulting agreement (the "Agreement").

B. Method of Award

This IFB is part of a competitive procurement process designed to serve the best interests of Upstate, SUNY, and the People of the State of New York. It is also designed to provide all bidders with a fair and even opportunity to have their services considered. Upstate will conduct a comprehensive review of each responsive proposal submitted in accordance with the terms of this IFB. Proposals will be evaluated on the basis of "best value," which for purposes of this procurement opportunity shall be defined as the *lowest priced responsible and responsive Bidder(s)*, who meet the specifications in the best interest of Upstate. To be considered responsible and responsive, Bidder must submit a completed proposal that satisfies all requirements stated in the IFB by the due date and time noted on the **Summary Information Page**. A proposal which fails to conform to the requirements set forth may be considered non-responsive and disqualified. Proposals received will be reviewed by an evaluation committee comprised of Upstate representatives, and shall be conducted in the following steps:

1. ***Administrative Review.***
   Each proposal received by the due date and time will be screened for completeness of submission in accordance with Section 4: *Bid Submission Requirements*. Read instructions carefully to ensure that your proposal is submitted as requested and all responses to questions/requested information are included in your proposal. This review will be conducted by a representative of Upstate's Contract and Campus Purchasing Department.

2. ***Review of Bidder Qualifications.***
   Each proposal remaining after the Administrative Review will be advanced for determination of whether Bidder has met the requirements of Section 3(A), *Bidder and Technical Mandatory Requirements*. This review will be conducted by a representative of Upstate's Contract and Campus Purchasing, Human Resources, and Patient Financials Department.

3. ***Selection.***
   Upstate will award up to four (4) Agreements to the qualified vendors able to satisfy the requirements of this IFB and provide the lowest Bill Rate. A prioritized call down list will be created for the Title(s), the order of which shall be determined by the lowest Bill Rate. Please refer to **Attachment 14 (Financial Proposal) for instructions on completing the Price Sheet.**

Tentative award of the contract shall consist of written notice of the contract award by Upstate to the successful Bidder (the "Award Notice"), who shall thereupon be obligated to execute an Agreement. The Agreement will require the written approvals of the New York State Office of the Attorney General (the "OAG") and the New York State Office of the State Comptroller (the "OSC").

In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient(s). Should pricing be the same, Upstate's procedures for a tie breaker are completed in the following manner:

1. One of the vendors is a New York State certified minority-owned or women-owned business enterprise (M/WBE); or
2. The location of vendor, using the address of the principal place of business, in the following order:
    a. Syracuse area
    b. Central New York
    c. New York State
    d. Northeast Region of the United States, as defined by the United States Census Bureau, comprising of nine states: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.
3. Names drawn from a basket or hat by a Purchasing designee.

C. Utilization of Agreements

Upstate is cognizant that no single Bidder will be able to meet one hundred (100) percent of its medical coding needs. Therefore, Upstate will award multiple Agreements. As such, prioritized call down lists (the "Call Down") will be created to contact successful Bidders in a specific order when services are needed.

Section 3: BIDDER QUALIFICATIONS & TECHNICAL COMPONENTS

A. MANDATORY BIDDER QUALIFICATIONS

For a Bidder's proposal to be considered it must meet the mandatory qualifications listed below. All Bidders must complete and submit **Attachment 2 (Bidder Qualifications Submissions Form)**. To confirm that Bidder's proposal meets all mandatory qualifications, **Bidder must submit all documents that are requested below and/or must explain if and how they meet the qualifications that are listed**. If Bidder does not meet the qualifications listed below, their proposal will be rejected and the proposal will not move on for technical and financial evaluation. If Bidder does not respond to each mandatory requirement below or does not submit any requested information, Bidder's proposal will be deemed non-responsive, and the proposal will be rejected.

1. Bidder must submit the following company information:
    i. Full legal name; and
    ii. Primary business address; and
    iii. All other office locations (city/state for domestic; city/country for international); and
    iv. Hours of operation for the offices that will be responsible for providing services to Upstate, including current holiday schedule; and
    v. Company website address (URL).
2. Bidder must be eligible to conduct business in the State of New York and provide evidence of its ability to do so.
3. Bidder must have at least five (5) years of experience providing remote medical coding services to large healthcare organizations of similar size and scope to Upstate.

B. MANDATORY TECHNICAL REQUIREMENTS

1. General Requirements:
    i. Bidder must allow Upstate to provide a coding test to bidder's coders to ensure that the applicant is capable of coding at the level we require. Upstate requires a passage rate of 95% or higher in order to select the coder for our services. Upstate's accuracy requirement is 95% or higher.
    ii. Bidder must be able to produce qualified applicants within five (5) business days of our request.
    iii. Bidder must terminate any coders that are deemed unsatisfactory as the Coding Manager/Director sees fit.
    iv. Bidder must respond to emails from the Coding Managers/Directors with concerns or requests within one (1) business day.
    v. Bidder must be able to provide coders that are experienced in IP, Outpatient Surgery, Observation, and Emergency Facility Coding.
    vi. Bidder must provide weekly or monthly schedules for every coder chosen.
    vii. Bidder must be willing to provide weekly or monthly production per day to Upstate.
    viii. Bidder must be able to submit reports with coder hours for payment.
    ix. All staff must be located within the United States of America when providing coding services.
    x. All data must be stored within the United States of America.
2. Coder Requirements/Qualifications:
    i. Coders must be AHIMA-Certified RHIT/RHIA
    ii. CCS will be considered depending on experience
    iii. Coders must have at least three (3) years of recent experience including coding for a Level I Trauma Center
    iv. Coders must have experience with EPIC and 3M
    v. Coders must have experience working with CDI and the Reconciliation Process
    vi. Coders must have experience with Labor and Delivery and Newborn
    vii. Coders must be able to VPN (remote access) into the SUNY network with their own equipment. To the awarded bidders, Upstate will provide information regarding our minimum hardware, software, and security requirements to ensure compatibility and security.
    viii. Coders must be prepared to share demographic information, including, but not limited to, Social Security Number to establish network connection access per SUNY requirements.
    ix. Coders, once chosen, must respond to questions via email or Teams in a timely manner, so accounts are not on hold for several days.

C. REFERENCES

1. Bidder must provide a minimum of three (3) references (not including Upstate) from healthcare facilities for which it's provided coders to by completing **Attachment 3 (Reference Form).** REFERENCES MUST BE SUBMITTED WITH THE BID. BIDS SUBMITTED WITHOUT REFERENCES MAY RESULT IN THE PROPOSAL BEING REJECTED AS NON-RESPONSIVE. Furthermore, Upstate reserves the right to contact, make inquiries, and visit any facilities named as references.
    i. One (1) reference must be based on services provided to a healthcare facility of similar size and scope to Upstate within the past twelve (12) months.
    ii. References provided must adequately show the offeror has provided similar services in the past and has done an acceptable job in the performance of their duties.

D. PRICING

1. **Bidder's proposed pricing must be included in proposal package and must be submitted in a separate sealed envelope marked "Financial Proposal - IFB S-1636."**

Bidder must list their proposal prices on **Attachment 14 (Financial Proposal).** Any proposals submitted with cost information in a format other than **Attachment 14** will be rejected as non-responsive. Based upon an informed reading of the IFB and Bidder's expertise, Bidder is to provide the necessary rates as defined in Section 2(B) above.

2. Travel expenses will **not** be reimbursed under any resulting agreement.

3. **Upstate shall not be obligated to pay any cost(s) that haven't been identified on Attachment 14. Any cost(s) not identified by the Bidder but subsequently incurred to achieve the objectives set forth in this IFB and the Agreement shall be borne by the Successful Bidder.**

   Upstate will not be liable for additional expenses listed by the Successful Bidder unless authorized in writing by Upstate. Additional expenses, if authorized, require further approval by the New York State Office of the State Comptroller.

4. No prepayment of any kind will be made.

5. Expenses for travel or incidentals may be billed monthly if incurred.

6. Upstate is not liable for any cost(s) incurred by Bidders prior to execution of a contract and the written approvals of the New York State Attorney General and the Office of the State Comptroller, if applicable.

Section 4: BID SUBMISSION REQUIREMENTS

A. BID SUBMISSION REQUIREMENTS.

1. A Bidder's proposal shall address the Bidder's ability and methodology for providing Upstate with the requested services. To be deemed "responsive" to this IFB, a Bidder must meet all mandatory requirements and qualifications, and its written proposal must address all points and questions appearing in this IFB. In the event a Bidder's proposal is determined by Upstate to be "non-responsive," Upstate is required by its contracting procedures to disqualify the proposal. A disqualified proposal will not be further evaluated or considered for contract award. **To facilitate Upstate's review of proposals, Bidders must address all points and questions that appear in this IFB and should do so in the order that they appear. Responses should be labeled to correspond to the numbers/letters of the sections and subsections of this IFB.**
2. Prepare a clearly readable proposal that includes all required information.
3. Bidders must submit all information requested by Upstate in written form. Proposals must be complete, accurate, and in the form requested.
4. Indicate any deviations from the technical specifications and if necessary, attach separate documents and/or explanation.
5. Proposals should be submitted in sealed packages clearly labeled on the exterior with the IFB number and title. Proposals not labeled as instructed risk being opened prior to the bid opening date, which may result in the proposal being rejected. All bids and documentation shall become the property of SUNY and shall not be returned.
6. No telephone, facsimile, emailed, or otherwise electronically submitted proposals will be accepted.
7. The proposal must be fully and properly executed by an authorized person, and the authorized person's signature must be notarized. By signing, you certify (i) your express authority to sign on behalf of yourself, your company, or other entity; (ii) your full knowledge and acceptance of this IFB, **Exhibit A** (State University of New York Standard Contract Clauses), **Exhibit A-1** (State University of New York Affirmative Action Clauses), State Finance Law §139-j and §139-k (Procurement Lobbying Certification); and (iii) that all information provided is complete, true and accurate. By signing, you further affirm that you understand and agree to comply with the procedures on permissible contacts relating to this procurement as required by State Finance Law §139-j (3) and §139-j (6) (b). These procedures may be accessed at: Procurement Lobbying: https://ogs.ny.gov/acpl/.

8. Proposals must be received in the office identified below by the due date and time provided on the Summary Information Form on Page 5 of this IFB. **Bidders mailing their proposals must allow sufficient time to ensure receipt by the due date and time.** Bidders are cautioned that even when using a trackable mailing/courier/messenger service, proposals must be received by the due date and time. While proposals may be signed for by personnel at Upstate prior to the due date and time, this does not guarantee that the identified office will receive the proposal by the due date and time.
    - **Submit one (1) original hard copy** of your **proposal**, ensuring it bears an original signature and notarized Acknowledgement form.
    - **Submit one (1) thumb drive** containing a scanned copy of your entire proposal and the original Excel Workbook version (.xlsx file format) of your **financial proposal** (**Attachment 14**), USB thumb drives will not be returned to Bidder.

    Address for submission of proposal:

    Trackable, Overnight or Hand Delivery:
    (e.g., FedEx or UPS)

    Emily Brown
    Contracts & Campus Purchasing, SLC 2045
    SUNY Upstate Medical University
    650 South Salina Street
    Syracuse, NY 13202

    US Postal Mail:
    (e.g., United States Postal Service)

    Emily Brown
    Contracts & Campus Purchasing, SLC 2045
    SUNY Upstate Medical University
    750 East Adams Street
    Syracuse, NY 13210

    If you are sending regular mail (United States Postal Service), please allow additional time for your package to be delivered to the Contracts & Campus Purchasing office as your package will first go to Upstate's mail room and then will be delivered to the Contracts & Campus Purchasing office which is located off-site**. UPSTATE STRONGLY ENCOURAGES PROPOSALS BE SENT VIA FEDEX, UPS OR ANOTHER TRACKABLE MAIL SERVICE.**

    Affix the label from Attachment 17: IFB Package Label to the outside of the proposal package.

    a. **Late Bids**: For purposes of bid openings, a Bid must be received at the Contracts & Campus Purchasing Office, SLC 2042, 650 South Salina Street, Syracuse, New York, on or before the due date listed for this solicitation. A late bid is one that is not received at the location, date and time specified in this IFB. Any Bid received at the specified location after the time specified in this IFB will be considered a late bid (a "Late Bid"). A Late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of this IFB are received; or, (ii) in the case of a multiple award, an insufficient number of timely bids were received to satisfy the multiple award; (iii) and acceptance of the Late Bid is in the best interest of UPSTATE. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of UPSTATE shall not excuse Late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance shall not excuse Late Bid submissions. Determinations relative to bid timeliness shall be at the sole discretion of the SUNY Chancellor, or his or her designee.
9. Bidders unable or unwilling to submit a proposal are asked to complete the Summary Information Form on Page 5 of this IFB and check the box indicating that no bid is being submitted.
10. All prices and conditions must be included in the original proposal. Prices and conditions not included in the original proposal will be rejected.

11. The submission of a proposal constitutes a nonrevocable, binding offer to perform and provide said services. Such binding offer shall be firm and not revocable for a period of sixty (60) days from bid opening. After sixty (60) days, the proposal may remain in effect, subject to withdrawal communicated in writing signed by the Bidder. If this IFB is for the sale of goods pursuant to §2-205 of New York State Uniform Commercial Code, the proposal shall be firm, binding and not revocable for a period of ninety (90) days.
12. Bidder is responsible for all costs that it incurs, direct or indirect, related to the preparation and submission of a proposal in response to this IFB.
13. Each copy of the proposal must be accompanied by the documents listed in **Attachment 1 (Bidder Submission Checklist)**.

B. **BIDDER QUESTIONS.** If a Question-and-Answer period is provided for this solicitation, the schedule will be shown on the Summary Information Form, "Key Events," provided on the first page of this IFB. All questions must be submitted in writing, citing the particular IFB page, section, and paragraph numbers where applicable. Questions must be **EMAILED** to arrive no later than 4:00 pm Eastern time on the date indicated and should be directed to the Designated Contacts shown on the Summary Information Form. Questions received after the closing date for inquiries will not be answered. Only written answers are official. All Questions and Answers will be issued as addenda to this IFB and will be provided in writing to all potential Bidders.

C. **PRE-BID PROPOSAL MEETING.** If a mandatory or optional Pre-Bid Conference is held for this solicitation, the date, time, and whether the conference is mandatory or optional is reported on the Summary Information Form, "Key Events," provided on Page 5 of this IFB.

D. **SITE VISIT.** If a site visit is required for this solicitation, the date and time is reported on the Summary Information Form, "Key Events," provided on Page 5 of this IFB.

E. **BID OPENING.** Bidders may attend the bid opening, at which a SUNY representative will publicly announce the names of Bidders who have submitted proposals. To ensure adequate space for attendees, Bidders must notify the designated contact(s) identified on the Summary Information Form (Page 5 of this IFB) of their desire to attend the bid opening.

F. **MINOR IRREGULARITIES.** Bids that contain minor irregularities, such as those submitted without a proper Bid Security, or in the wrong form, or executed improperly, shall be considered informal. Informal proposals may be considered in selecting a low bidder where the public interest will be promoted thereby.

G. **EXTRANEOUS TERMS.** Bids must conform to the terms set forth in this IFB. Extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid. Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting contract but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

1. Each proposed extraneous term (addition, deletion, counteroffer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and
2. The writing must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and
3. The Bidder shall enumerate the proposed addition, counteroffer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Chancellor or her designee expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

Section 5: GENERAL INFORMATION

A. ELECTRONIC IFB. Electronic copies of this IFB and related forms are available at: www.upstate.edu/finance/publicbid/bid.php.

B. SUNY'S RESERVED RIGHTS. SUNY reserves the right to:

1. Reject any and all proposals received in response to this IFB.
2. Reject any or all portions of any proposal, to negotiate terms and conditions consistent with this IFB and to make an award for any or all remaining portions.
3. Withdraw the IFB at any time, at SUNY's sole discretion.
4. Make an award in whole or in part.
5. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB.
6. Use proposal information obtained through site visits, management interviews and the state's investigation of a Bidder's qualifications, experience ability or financial standing, and any material or information submitted by the Bidder in response to SUNY's request for clarifying information, in the course of evaluation and/or selection under the IFB.
7. Prior to the bid opening, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available.
8. Request certified audited financial statements for the past three (3) completed fiscal years and/or other appropriate supplementation including, but not limited to, interim financial statements and credit reports.
9. Request references and contact any or all references.
10. Adjust or correct cost or cost figures with the concurrence of the Bidder if mathematical or typographical errors exist.
11. Advise the Successful Bidder of an objectionable employee(s) and/or subcontractor(s).
12. Waive requirements or amend this IFB upon notification to all Bidders. Mandatory requirements may be eliminated if unmet by all Bidders.
13. Negotiate with Bidders responding to this IFB within the requirements necessary to serve the best interests of SUNY.
14. Begin contract negotiations with another Bidder in order to serve the best interests of SUNY should contract negotiations with the Successful Bidder be unsuccessful within a time frame acceptable to SUNY.
15. Request clarifications from Bidders for purposes of assuring a full understanding of responsiveness, and permit revisions from all potential awardees prior to award.
16. Award no contract.
17. Change due date of the IFB upon written notice to all vendors.

C. CONTRACT AWARD. Receipt of this IFB does not indicate that SUNY has predetermined Bidder's qualifications to receive a contract award. A contract award, if made, shall be based on evaluation of the bid in accordance with the criteria set forth in this IFB. The Successful Bidder will be notified by SUNY by telephone and confirmed by a Notice of Award letter.

D. POST AWARD PROCEDURES.

1. *Debriefing*

   Bidders who responded to this IFB will be given written notice as to whether their bid was successful or unsuccessful. Upon being notified of their unsuccessful bid, Bidders may request a debriefing in writing within 15 calendar days of such notice. The 15-day period starts once unsuccessful Bidders are notified. Upon a Bidder's request for a debriefing:

   a. The University will schedule the debriefing within a reasonable time of such request.
   b. The debriefing will be conducted in person with the Bidder, unless the University and the Bidder mutually agree to use another method such as by telephone, video conference or another type of electronic communication.
   c. Bidders' written request must state whether the Bidder will be attending with counsel, to allow the University to arrange for University counsel attendance if so determined.
   d. The debriefings will cover, but not limited to the following:
      (i) The reason why the bid was unsuccessful.

(ii) The quantitative and qualitative analysis that was used by the campus to assess the relative merits of the bid, proposal or offer.
(iii) How the selection criteria was applied to the unsuccessful bid.
(iv) If the request for debriefing is made prior to contract award, the debriefing shall be limited to review of that Bidder's bid.
(v) If the debriefing is held after the final award (which means OSC approval, if applicable) it, may cover the reason for the selection of the winning proposal.
(vi) To the extent practicable, general advice and guidance on the ways the Bidder can improve future proposal submission or be more responsive.

2. *Contract Award Protest Procedures*

Bidders wishing to protest a contract award may do so in accordance with the University's procedures, available at: http://www.suny.edu/sunypp/documents.cfm?doc_id=699.

Section 6: GENERAL TERMS AND CONDITIONS

A. **FREE AND OPEN COMPETITION.** SUNY encourages free and open competition. Whenever possible, terms, specifications, and conditions are designed to accomplish this objective, consistent with the necessity to satisfy SUNY's needs.

B. **NOTIFICATION OF ERRORS, INQUIRIES AND INTERPRETATION**. Bidder is responsible to bring to SUNY's attention any deviations in the technical specifications and tomake recommendations for any additional requirements deemed necessary as standard, or for work indicated in the specifications contained in this IFB. If SUNY in its discretion finds the deviations to be significant so as to require a change in the necessary specifications for the work, SUNY will notify all Bidders in writing of the change in specifications. No deviations from the technical specifications provided herein shall be made without written approval of SUNY.

C. **NO CLAIMS OR RIGHTS.** By submitting a proposal, Bidder agrees that it will not make any claims for, or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any misinformation or lack of information.

D. **CONFLICT OF INTEREST.** Bidder may be requested to provide evidence that the award of a contract will not result in (i) a conflict of interest with regard to other work performed by Bidder; or (ii) a potential conflict of interest among Bidder's staff.

E. **ACCEPTANCE OF IFB CONTENT.** The terms and conditions included in this IFB as well as the *applicable* portions of Bidder's proposal shall become contractual obligations if a contract is awarded. **BIDDER'S FAILURE TO ACCEPT THESE TERMS AND CONDITIONS AND OBLIGATIONS SHALL RESULT IN REJECTION OF BIDDER'S PROPOSAL**.

F. **SERVICES OUTSIDE SCOPE OF THE CONTRACT AWARDED**. SUNY shall not be responsible for any services provided by the Successful Bidder that are outside the scope of the contract awarded. SUNY shall not be responsible for any additional costs other than the costs for the services outlined herein, or for any work performed that has not been properly authorized in writing by SUNY.

G. **STANDARD CONTRACT CLAUSES.** Any contract awarded resulting from this IFB shall include **Exhibit A** (State University of New York Standard Contract Clauses) and, for contracts in excess of $25,000, **Exhibit A-1** (State University of New York Affirmative Action Clauses). The provisions of **Exhibit A** and **Exhibit A-1** shall take precedence over any provision in this IFB or any provisions in the contract awarded. **Exhibits A** and **A-1** are attached to this IFB.

H. **BINDING EFFECT.** The contract awarded shall be binding upon its execution by both parties and, if required by New York State law, upon the written approvals of the Attorney General and the Office of the State Comptroller.

I. **CONFIDENTIALITY/FREEDOM OF INFORMATION LAW**. All proposals submitted for UPSTATE's consideration will be held in confidence and will become the property of UPSTATE. However, the resulting contract is subject to the New York State Freedom of Information Law (FOIL), contained in Article 6 of the New York State Public Officer's Law. Therefore, if a Bidder believes that any information in its proposal constitutes a trade secret, should be treated as confidential and should not be disclosed upon a request pursuant to FOIL, Bidder shall submit with its proposal a separate letter addressed to: **FOIL Officer, Internal Audit, 750 E. Adams Street, Syracuse, NY 13210**, specifically (i) identifying the page number(s), line(s) or other appropriate designation(s) containing such information; (ii) explaining in detail why such information is a trade secret or confidential; and (iii) formally request that such information be held as confidential. Bidder's failure to submit such a letter with its proposal will constitute a waiver by the Bidder of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Bidder may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire proposal be kept confidential is not advisable, because a proposal cannot reasonably consist exclusively of proprietary information.

J. **DATA PRIVACY AND SECURITY.**

1. *Data Privacy*.
    a. Contractor will use any information it creates, receives, maintains or transmits on behalf of SUNY ("SUNY Data") only for the purpose of fulfilling its duties under this Contract and will not share such data with or disclose it to any third party without the prior written consent of the SUNY, except as required by the Contract or as otherwise required by law.
    b. SUNY Data will not be stored outside the United States without prior written consent from SUNY.
    c. Contractor will provide access to SUNY Data only to its employees and subcontractors who need to access the data to fulfill its obligations under the Contract.
    d. Contractor will ensure that employees who perform work under the Contract have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of the Contract.
    e. FERPA: If Contractor will have access to the SUNY's Education Records as defined under the Family Educational Rights and Privacy Act (FERPA), Contractor acknowledges that for the purposes of the Contract it will be designated as a "school official" with "legitimate educational interests" in the SUNY Education records, as those terms have been defined under FERPA and its implementing regulations, and the Contractor agrees to abide by the limitations and requirements imposed on school officials. Contractor will use the Education Records only for the purpose of fulfilling its duties under the Contract for SUNY's and its end user's benefit, and will not share such data with or disclose it to any third party except as provided for in the Contract, required by law, or authorized in writing by the SUNY.
    f. Contractor will receive, maintain, process or otherwise will have access to confidential information on employees of the State University of New York. Pursuant to the Gramm-Leach-Bliley Act (P.L. 106-102) and the Federal Trade Commission's Safeguards Rule (16 CFR Part 314), and to the extent the Contractor is a covered entity or applicable service provider under these regulations with respect to student or customer data, the Contractor will implement and maintain a written Information Security Program ("Program") in order to protect such confidential customer information. Customer information is defined as "any record containing nonpublic personal information as defined in 16 CFR §313(n)" (the FTC's Privacy Rule) "about a customer of a financial institution, whether in paper, electronic, or other form" (16 CFR §314.2). Examples of nonpublic personal customer information include, but are not limited to, name, address, phone number, social security number, bank and credit card account numbers and student identification numbers.
2. *Data Security*.

a. Contractor agrees at all times to maintain network security which at a minimum, includes network firewall provisioning, intrusion detection, and regular (three or more annually) third party vulnerability assessments, and provide a copy of the annual Attestation of Compliance (AOC) document, if requested. Further, Contractor agrees to maintain network security that conforms to generally recognized "Industry Standards "and best practices that Contractor applies to its own network. Generally recognized industry standards include but are not limited to the current standards and benchmarks set forth and maintained by the Center for Internet Security (see http://www.cisecurity.org) or Payment Card Industry/Data Security Standards (PCI/DSS) *see* http://www.pcisecuritystandards.org. Contractor will maintain a data security plan ("Data Security Plan"), which will comply with Payment Card Industry Data Security Standards ("PCI DSS") requirements (as discussed in more detail below) and all applicable legal and regulatory requirements for data protection. In addition, the Data Security Plan will protect against any anticipated threats or hazards to the security or integrity of information stored on its servers and unauthorized access to or use of such information that could result in harm or inconvenience to the person who is the subject of such information. Contractor will review, at least annually, its Data Security Plan and update and revise it as needed. A copy of Contractors' Data Security Plan will be made available to SUNY upon request.

Contractor shall maintain mandatory procedures and protocols outlined in its "Information Security Incident Response Policy" to be undertaken in the event of an identified or suspected breach of credit card information or current or former student information that is not Directory Information. A copy of Contractor's Information Security Incident Response Policy will be made available to SUNY upon request. In the event a breach is suspected, Contractor will: (i) immediately contain the possible exposure while not compromising any data on its system; (ii) contact all members of its Corporate Security Committee; (iii) initiate a local analysis within 24 hours of the suspected breach to determine the type of information that has been potentially compromised, the individuals and SUNY institutions at risk, the incident timeframe at risk and the suspected cause of the incident; and (iv) if a breach is identified, immediately contact affected parties with details of the breach.

K. NEW YORK INFORMATION BREACH AND NOTIFICATION REQUIREMENTS. Contractor hereby acknowledges and agrees to use commercially reasonable efforts to maintain the security of private information (as defined in the New York State Information Security Breach and Notification Act, as amended "ISBNA"(General Business Law § 889-aa; State Technology Law § 208) that it creates, receives, maintains or transmits on behalf of SUNY and to prevent unauthorized use and/or disclosure of that private information; and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic private information that it creates, receives, maintains or transmits on behalf of SUNY ("SUNY Data"). Contractor hereby acknowledges and agrees to fully disclose to SUNY pursuant to the ISBNA, and any other applicable law any breach of the security of a system where Contractor creates, receives, maintains or transmits private information on behalf of SUNY following discovery or notification of the breach in the system as to any resident of New York State whose private information was, or is reasonably believed to have been acquired by a person without valid authorization ("Security Incidents"). The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the system. Contractor shall be liable for the costs associated with such breach if caused by Contractor' negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors. In the event of a Security Incident involving SUNY Data pursuant to the ISBNA, SUNY has an obligation to notify every individual whose private information has been or may have been compromised. In such an instance, the Contractor agrees that SUNY will determine the manner in which such notification will be provided to the individuals involved pursuant to the ISBNA and agrees to indemnify SUNY against any cost of providing any such legally required notice. Upon termination or expiration of the Contract, the Contractor will follow SUNY's instructions relating to any SUNY Data remaining in Contractor's possession. Upon authorization from SUNY, the Contractor will use data and document disposal practices that are reasonable and appropriate to prevent unauthorized access to or use of SUNY Data and will render the information so that it cannot be read or reconstructed.

L. **SERVICE LEVELS.** SUNY UNDERSTANDS THAT THE SERVICES WILL NOT BE UNINTERRUPTED OR ERROR FREE. CONTRACTOR WILL USE COMMERCIALLY REASONABLY EFFORTS TO ENSURE AVAILABILITY OF THE SERVICES IN ACCORDANCE WITH THE PROVISIONS OF **ATTACHMENT 7: SERVICE LEVEL AGREEMENT.**

M. **DISASTER RECOVERY.** Contractor shall maintain disaster recovery services at the dedicated facility that is able to handle SUNY data center and business continuity needs under the Contractor in the event disaster recovery is needed. Throughout the term of the Contract, Contractor shall maintain contracts or arrangements that are substantially equivalent or an improvement to those currently in effect. Contractor shall test disaster recovery capabilities, at least once every calendar year and provide SUNY with a copy of its disaster recovery plan upon request.

N. **DATA PORTABILITY.** Contractor agrees to do whatever is reasonable and necessary to facilitate the orderly and professional transfer of the Services and SUNY Data upon the expiration or termination of the Contract to SUNY or a SUNY Institution or do whatever subsequent vendor SUNY may select to provide similar services on SUNY's behalf.

O. **DIVERSITY CONTRACTING REQUIREMENTS.** SUNY seeks to engage contractors that have a demonstrated history of hiring, training, developing, promoting and retaining minority group members and women. Under NYS Executive Law Article 15-A, 5 NYCRR Part 141.1(o) diversity practices are the efforts of contractors to include New York State certified MWBEs in their business practices. Diversity practices may include part, present, or future actions and policies, and include activities of contractors on contracts with private entities and governmental units other than the State of New York. SUNY will assess the diversity practices of prospective bidders to encourage contractors to engage in meaningful, capacity-building collaborations with MWBEs through evaluation of the **Attachment 6 (Diversity Practices Questionnaire)**. All prospective bidders are required to complete the attached Diversity Practices Questionnaire. This questionnaire elicits information about each prospective bidder in order to verify that its work environment demonstrates a strong commitment to diversity. By responding to the IFB and completing this questionnaire, each prospective bidder acknowledges that:

a. The Bidder has an equal employment opportunity policy statement (which shall be submitted to SUNY with each Bidder's Proposal using the Form identified in subsection (iv) below).
   i. Pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Bidder will not discriminate against any employee or applicant for employment because of race, creed, color, sex, religion, national origin, military status, sexual orientation, age, disability, genetic disposition or carrier status, domestic violence victim status, or marital status, will undertake, or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force during its legal engagement with SUNY. It 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.
   ii. The Bidder will state in all solicitations or advertisements for employees that, in the performance of this Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, sex, religion, national origin, military status, sexual orientation, age, disability, genetic disposition or carrier status, domestic violence victim status, or marital status.
   iii. The Bidder will submit the applicable Workforce Employment Utilization Report utilizing MWBE Form 7557-112a, 7557-112b or 7557-112c, as applicable, describing the anticipated work force to be utilized on the engagement with SUNY or, where required, information on the Bidder's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by SUNY. This form elicits information about each responding Bidder in order to verify that its work environment demonstrates a strong commitment to diversity.

b. By submission of a bid or proposal in response to this solicitation and completing this questionnaire, the Bidder agrees with all of the terms and conditions of SUNY's **Exhibit A-1** including Clause 12 - Equal Employment Opportunities for Minorities and Women and acknowledges that:

i. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over $25,000 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, shall 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.

ii. 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.

iii. Bidder must submit with their bid or proposal their Bidder's Equal Employment Opportunity Policy Statement (which conforms to the provisions of **Exhibit A-1**) utilizing MWBE Form 104. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=611. 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.

iv. Diversity, Equity and Inclusion: If this solicitation is for the services of an executive search firm, the SUNY Board of Trustees adopted a policy to establish diversity, equity and inclusiveness throughout the SUNY system. Diversity is broadly defined under that policy to include race, ethnicity, religion, sexual orientation, gender, gender identity and expression, age, socioeconomic status, status as a veteran, status as an individual with a disability, students undergoing transition (such as transfer, stop-out, international student acclimation), and first-generation students. In furtherance of this policy, all executive search firms are required to provide the following:

1. information about the diversity of your Firm's staff; and
2. the Firm's success rate in placing diverse candidates.

P. **MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBE).** Pursuant to New York State Executive Law Article 15-A, SUNY recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of SUNY contracts.

For purposes of this solicitation, SUNY hereby establishes an overall **combined** goal of **thirty percent (30%)** for M/WBE participation (based on the current availability of qualified MBEs and WBEs).

For guidance on how SUNY will determine a Contractor's good faith efforts to utilize certified MWBEs, refer to 5 NYCRR §142.8.

Please note the response forms identified in Form 7557-121 (SUNY MWBE Forms 7557-104 & 7557-108) must be submitted with all Bids. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=61.

Q. **EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS.** By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of SUNY's **Exhibit A** including Clause 12, *Equal Employment Opportunities for Minorities and Women*. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over $25,000 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, shall 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.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form 7557-108) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to SUNY, a workforce utilization report identifying the workforce actually utilized on the Contract if known. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=611.

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.

R. **SERVICE-DISABLED VETERAN-OWNED BUSINESSES (SDVOB).** SUNY is committed to the State's policy of encouraging the development of service-disabled veteran-owned businesses (SDVOB). The Service-Disabled Veteran-Owned Business Act (the "Act") became effective on May 12, 2014, and SUNY has implemented the State's comprehensive plan and operational guidelines to promote SDVOBs and to assist them in obtaining opportunities to participate in the procurement of goods and services by the State. SUNY will employ applicable measures and procedures provided by the Director of the Division of Service-Disabled Veterans' Business Development in the Office of General Services (the "Division"), to ensure that SDVOBs are afforded the opportunity for meaningful participation in the performance of SUNY's contracts and to assist in achieving the Act's statewide goal for participation on state contracts by SDVOBs. The awarded contract shall provide that any contractor who willfully and intentionally fails to comply with the SDVOB participation requirements shall be liable to SUNY for damages, calculated based on costs for administration of SUNY's SDVOB program.

For purposes of this solicitation, SUNY hereby establishes an **overall** goal of **six percent (6%)** for SDVOB participation.

For additional information please refer to the SDVOB requirements outlined in SDVOB Prospective Bidder's Notice (Forms 7564-121A, 7564-121B and 7564-121C). A SDVOB Utilization Plan must be submitted with all bids, utilizing Form 7564-107. All Forms are available at: http://www.suny.edu/sunypp/documents.cfm?doc_id=816.

Bidders are encouraged to apply to the Division for certification as a Service-Disabled Veteran-Owned Business, and to provide such documentation necessary to establish their status as such in accordance with the rules of the Director of the Division.

S. **ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE.** New York State businesses have a substantial presence in SUNY contracts and strongly contribute to the economies of New York and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/Proposers/Contractors for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All bidders must complete and return **Attachment 8**.

T. **OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS. This Contractor and Subcontractor shall abide by the requirements of 41 C.F.R. §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.**

U. **GOVERNING LAW.** This IFB, Bidders' proposals and any resulting contract shall be governed, construed and enforced in accordance with the laws of the State of New York, excluding New York's choice-of-law principles, and all claims relating to or arising out of this Agreement, or the breach thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of the State of New York, excluding that State's choice-of-law principles. Jurisdiction of any litigation with respect to this Agreement shall be in New York State with venue in a court of competent jurisdiction located in Onondaga County or any other court having competent jurisdiction in the State of New York. Bidder/Contractor agrees to submit itself to such court's jurisdiction.

V. **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 and a directory of minority and women-owned business enterprises is available from the NYS Empire State Development.

Website: https://esd.ny.gov/doing-business-ny/small-business-hub
Address: Division for Small Business, 625 Broadway, Albany, NY 12207
Phone: 1-800-782-8369
Email: nylovessmbiz@esd.ny.gov

W. **DETERMINATION OF VENDOR RESPONSIBILITY.** New York State procurement law requires that state agencies award contracts only to responsible contractors. Additionally, the New York State Comptroller must be satisfied that a proposed contractor is responsible before approving a contract award under Section 112 of the State Finance Law. Section 163 of the New York State Finance Law ("SFL") requires that contracts for services and commodities be awarded on the basis of lowest price or best value "to a responsive and responsible bidder." Section 163 (9)(f) of the SFL requires that prior to making a contract award, each contracting agency shall make a determination of responsibility of the proposed contractor.

In accordance with these procurement laws, SUNY will conduct an affirmative review of vendor responsibility for all organizations or firms with which it conducts business. In doing so, bidders are required to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the VendRep System, see the VendRep System Instructions on the Office of State Comptroller (OSC) website, available at: www.osc.state.ny.gov/vendrep or go directly to the VendRep System online at https://www.osc.state.ny.gov/state-vendors/vendrep/vendrep-system. For VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.gov. Bidders opting to file a paper questionnaire may obtain the appropriate questionnaire from the VendRep website https://www.osc.state.ny.gov/state-vendors/vendrep/vendor-responsibility-forms and click on forms on the left side of the page, or may contact SUNY System Administration for a copy of the paper form.

In addition:

1. *General Responsibility*. The Contractor shall at all times during the contract awarded term remain responsible. The Contractor agrees, if requested by the SUNY Chancellor or their 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.
2. *Suspension of Work for Non-Responsibility*. The SUNY Chancellor, in their sole discretion, reserves the right to suspend any or all activities under the contract awarded, at any time, when they discover information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the SUNY Chancellor or their designee issues a written notice authorizing a resumption of performance of the contract awarded.
3. *Termination for Non-Responsibility*. Upon written notice to the Contractor and a reasonable opportunity to be heard with appropriate SUNY officials or staff, the contract awarded may be terminated by the SUNY Chancellor or their designee at the Contractor's expense, where the Contractor is determined by the SUNY Chancellor or their designee to be non-responsible. In such event, the SUNY Chancellor or their designee may complete the contractual requirements in any manner they may deem advisable and pursue available legal or equitable remedies for breach.

X. **REQUIREMENTS OF NEW YORK STATE'S RECYCLING PROGRAM.** In accordance with the provisions of Section 165(3) of the State Finance Law and Executive Order No. 142, SUNY is required to purchase recycled products, if available, made with recycled content in accordance with rules and regulations established by the State Department of Environmental Conservation in development of that agency's Recycling Emblems Program. If the cost of a recycled product does not exceed by 10% the cost of a product made without recycled content (or by 15% if over 50% of the recycled materials are generated from the New York State waste stream), the recycled product must be purchased.

Y. **STATE CONSULTANT SERVICES REPORTING.** State Finance Law Sections 8 and 163 require that Contractors annually report certain employment information to the contracting agency, the Department of Civil Service and Office of the State Comptroller. State contractors are required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any persons working under any subcontracts with the State contractor. Please refer to **Attachment 9**.

Z. **ELECTRONIC PAYMENT AUTHORIZATION.** Contractor shall provide complete and accurate billing invoices to SUNY in order to receive payment for its services. Billing invoices submitted to SUNY must contain all information and supporting documentation required by SUNY and the Office of State Comptroller (OSC). Payment for invoices submitted by Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Senior Vice President for Finance and Administration of SUNY or designee, in her/his sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary New York state procedures and practices. Contractor shall comply with the OSC procedures to authorize payments. Contractor acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the OSC's electronic payment procedures, except where the Vice Chancellor or designee has expressly authorized payment by paper check as set forth above.

AA. **TIMELINESS OF PAYMENT AND INTEREST.** Interest for late payment shall be governed by Section 179g of New York State Finance Law.

BB. **EXHIBITS.** The following documents will be incorporated into, and made part of, the contract awarded:

1. **Exhibit A**, State University of New York Standard Contract Clauses
2. **Exhibit A-1**, State University of New York Affirmative Action Clauses (for contracts valued at greater than $25,000)
3. The Agreement, including any other necessary exhibits or documents
4. **Exhibit B**, this IFB including any addendums, exhibits or documents
5. **Exhibit C**, the Successful Bidder's Proposal
6. **Exhibit D,** the Successful Bidder's Cost Proposal

In the event of any inconsistency in or conflict among the document elements described above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the order set forth above.

CC. **INDEPENDENT CONTRACTOR.** The successful bidder (the "Contractor") and its agents or employees or any entity or person acting on behalf of the Contractor engaged in the performance of work shall at all times be deemed to be performing as independent contractors. The Contractor hereby covenants and agrees to act in accordance with that status. The Contractor and its agents or employees or any entity or person acting on behalf of the Contractor shall neither hold themselves out as, nor claim to be, officers or employees of SUNY and shall make no claim for, nor be entitled to, Workers' Compensation coverage, medical and unemployment benefits, social security, or retirement membership benefits from SUNY.

DD. **SUBCONTRACTING.** In the event the successful bidder (the "Contractor") uses partners, subcontracts or subcontractors, the Contractor will remain responsible for compliance with all specifications and performance of all obligations under the contract resulting from this IFB. For the resulting agreement, the successful bidder will be the prime contractor.

Within thirty (30) calendar days after Notice of Award, the Successful Bidder must submit a written statement to SUNY giving the name and address of all proposed subcontractors. The statement must contain a description of the portion of the work and materials which the proposed subcontractors are to perform and must furnish any other information to document that the proposed subcontractors have the necessary facilities, skill, integrity, past experience and financial resources to perform the work in accordance with the terms and provisions of the contract.

If SUNY finds that the proposed subcontractors are qualified, it will so notify the Contractor within ten (10) business days following receipt of Contractor's written statement described above. If SUNY determines that a subcontractor is not qualified, it will so notify the Contractor. The Contractor must, within ten (10) business days thereafter, submit a written statement as described above with respect to other proposed subcontractors, unless the Contractor decides to do such work itself and in SUNY's opinion is qualified to do such work.

SUNY's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties and liabilities under the contract. The Contractor shall be solely responsible to SUNY for the acts, omissions or defaults of such subcontractors and of such subcontractors' officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract. No provisions of the awarded contract shall create or be construed as creating any contractual relation between SUNY and any subcontractor or sub-subcontractor or with any person, firm or corporation employed by, contracted with or whose services are utilized by the Contractor.

The Contractor shall be fully responsible for the administration, integration, coordination, direction and supervision of all of its subcontractors and of all work. Contractor shall check requirements of the work and coordinate and adjust as required so that conflicts in time, workspace, equipment and supplies do not occur in the work being performed by the Contractor with its own employees and the work being performed by its subcontractors.

No subcontractor shall be permitted to work until it has furnished satisfactory evidence to SUNY of the insurance required by law.

The Contractor shall execute a written agreement with each of its subcontractors and shall require all subcontractors to execute with their sub-subcontractors a written agreement which shall bind each to the terms and provisions of the prime contract awarded, insofar as such terms and provisions are applicable to the work to be performed by such subcontractors. The Contractor shall require all subcontractors and sub-subcontractors to promptly, upon request, file with SUNY a copy of such agreements upon request, from which the price and terms of payment may be deleted.

EE. **COMPLIANCE.**

1. The successful bidder (the "Contractor") shall comply with all laws, rules, orders, regulations, and requirements of federal, state and municipal governments applicable hereto, including the provisions of **Exhibit A**, *State University of New York Standard Contract Clauses*, attached hereto and made a part hereof, and for agreements with a value of $25,000 or more **Exhibit A-1**, *State University of New York Affirmative Action Clauses*, attached hereto and made a part hereof.
2. Contractor, its employees, subcontractors, and agents shall be subject to and comply with Upstate's institutional compliance program as it relates to services provided hereunder and report any compliance concerns that are applicable to their provision of services to Upstate hereunder. *Upstate's Compliance & Ethics Program Education* is attached hereto as **Exhibit T**. Contractor shall require its employees, subcontractors, and agents that are providing services to Upstate review **Exhibit T** prior to providing services to Upstate. Contractor shall maintain records demonstrating its compliance with the foregoing requirement for no less than six (6) years and provide a copy of such records to Upstate within fifteen (15) days of Upstate's written request. Upstate may terminate this Agreement upon fifteen (15) days written notice in the event Contractor fails to comply with the provisions of this section and does not cure such non-compliance during such time period. In the event of such termination, Contractor shall provide Upstate with a pro-rated refund for all amounts paid in advance for the unexpired portion of the term.
3. Contractor understands and agrees that Contractor's employees and/or agents assigned to Upstate shall, at all times, comply with the provisions of the Health Insurance Portability and Accountability Act ("HIPAA") of 1996 and its implementing regulations, as well as applicable the Hospital's policies and procedures governing the confidentiality, privacy and security of patient protected health information. The Successful Bidder's resulting agreement shall be subject to, and hereby incorporates by reference, the SUNY Standard HIPAA Business Associate Agreement which is attached hereto as **Exhibit Z** and made an integral part hereof.

FF. INDEMNIFICATION.

1. Successful Bidder (the "Contractor"): The Contractor shall be responsible to and shall fully defend, indemnify, and hold harmless the State of New York and the State University of New York and their respective officers, trustees, directors, agents and employees without limitation, from any and all losses, expenses, damages and liabilities, including reasonable attorneys' fees, arising out of the intentional or negligent acts or omissions of the Contractor, its officers, employees, agents or licensees in any performance under this Agreement including: i) personal injury, damage to real or personal tangible property; ii) negligence, either active or passive; and iii) infringement of any law or of a United States Letter Patent, with respect to Products and Services furnished under this Agreement, or of any copyright, trademark, trade secret or intellectual proprietary rights, provided that SUNY shall give Contractor: (a) prompt written notice of any action, claim, or threat of infringement suit, or other suit, promptness of which, shall be established by SUNY upon the furnishing of written notice and verified receipt, (b) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (c) assistance in the defense of any such action is at the expense of the Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, SUNY may require the Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as SUNY shall require. New York State reserves the right to join such action, at its sole expense, when it determines there is an issue involving a significant public interest.

2. SUNY: Subject to the availability of lawful appropriations and the New York State Court of Claims Act, SUNY will hold the Contractor harmless from and indemnify it for any final judgment of a court of competent jurisdiction only to the extent attributable to the negligence of SUNY or of its officers or employees when acting within the course and scope of their employment.

GG. **LIABILITY.** The successful bidder (the "Contractor") understands and agrees that it is responsible for the performance of the Services in accordance with the terms and conditions of the awarded Contract. SUNY may look solely to the Contractor for remedy, redress, liability or indemnification for any failure to perform, whether caused by Contractor itself or by one or more of its officers, employees, subcontractors, agents, licensees, licensors or affiliates or any person or entity acting on behalf of Contractor in providing the Services. The Contractor shall be fully liable for the actions of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates or any person or entity acting on its behalf in providing the Services and shall fully indemnify and save harmless SUNY and the State of New York from suits, actions, damages and costs of every name and description presented, brought, or recovered against SUNY and the State of New York for, or on account of any liability which may be incurred by reason of the Contractor's performance of this Agreement.

The Contractor will be responsible for the work, direction and compensation of any person or entity it engages as an officer, expert, employee, consultant, agent, independent contractor, or subcontractor. Nothing in the contract awarded or the performance thereof by the Contractor will impose any liability or duty whatsoever on SUNY including, but not limited to, any liability for taxes, compensation, commissions, Workers' Compensation, disability benefits, Social Security, or other employee benefits for any person or entity.

HH. **INSURANCE.** During the term of the awarded contract, the successful bidder (the "Contractor") must obtain and maintain insurance coverage at its own expense as provided in this paragraph and shall deliver Certificates of Insurance in a form satisfactory to SUNY before commencing any work under this contract. Certificates shall reference the contract number and list SUNY Upstate as the certificate holder. Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy. Certificates shall be mailed to the individual listed as the primary contact on the Summary Information Page of this IFB.

The policies of insurance set forth below shall be written by companies authorized by the New York Department of Financial Services to issue insurance in the state of New York ("admitted" carriers) with an A.M. Best company rating of "A-" or better. Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to the individual listed as the primary contact on the Summary Information Page of this IFB.

All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to SUNY for any claim arising from the Successful Bidder's work under the awarded contract, or as a result of the Successful Bidder's activities. Any other insurance maintained by SUNY shall be excess of and shall not contribute with the Successful Bidder's insurance, regardless of any "other insurance" clause contained in any SUNY policy of insurance.

At least two weeks prior to the expiration of any policy required by the awarded contract, evidence of renewal or replacement of policies of insurance with terms no less favorable to SUNY than the expiring policies shall be delivered to SUNY in the manner required for service of Notice under the contract.

1. Professional Liability Policy (Errors and Omissions) with limits no less than **ONE MILLION DOLLARS** ($1,000,000.00) per claim and **THREE MILLION DOLLARS** ($3,000,000.00) in the aggregate, which shall be maintained for a period of three (3) years after completion of this contract. If said policy is issued on a claims-made policy form, the policy shall be purchased with extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.
2. Workers Compensation and Disability Benefits Coverage for the life of this Agreement for the benefit of employees required to be covered by the New York State Workers Compensation Law and the New York State Disability Benefits Law. Evidence of coverage must be provided on forms specified by the Commissioner of the Workers Compensation Board.

Worker's Compensation Law ("WCL") §57 & §220 requires the heads of all municipal and state entities to ensure that businesses applying for permits, licenses or contracts document it has appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals, whether the governmental agency is having the work done or is simply issuing the permit, license or contract. Failure to provide proof of such coverage or a legal exemption will result in a rejection of your bid or renewal.

Proof of Compliance with Workers' Compensation Coverage Requirements:
An ACORD form is NOT acceptable proof of workers' compensation coverage. In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, a Bidder shall:

a. Be legally exempt from obtaining Workers' Compensation insurance coverage; or
b. Obtain such coverage from an insurance carrier; or
c. Be a Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan.

A Bidder seeking to enter into a contract with the State of New York shall provide one of the following forms to Hospital at the time of bid submission or shortly after the opening of bids:

a. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain out of State Entities that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is NOT required, which is available on the Workers' Compensation Board's website (www.wcb.ny.gov); (Reference applicable IFB and Group #s on the form.)
b. Certificate of Workers' Compensation Insurance:
    i. Form C-105.2 if coverage is provided by the Bidder's insurance carrier, Bidder must request its carrier to send this form to Hospital, or
    ii. Form U-26.3 if coverage is provided by the State Insurance Fund, Bidder must request that the State Insurance Fund send this form to Hospital.
c. Form SI-12, Certificate of Workers' Compensation Self-Insurance available from the New York State Workers' Compensation Board's Self-Insurance Office.
d. Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance available from the Bidder's Group Self-Insurance Administrator.

Proof of Compliance with Disability Benefits Coverage Requirements:
In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, a Bidder shall:

a. Be legally exempt from obtaining disability benefits coverage; or
b. Obtain such coverage from an insurance carrier; or
c. Be a Board-approved self-insured employer.

A Bidder seeking to enter into a contract with the State of New York shall provide one of the following forms to Hospital at the time of bid submission or shortly after the opening of bids:

a. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (www.wcb.ny.gov); (Reference applicable IFB and Group #s on the form.)
b. Form DB-120.1, Certificate of Disability Benefits Insurance. Bidder must request its business insurance carrier to send this form to Hospital; or
c. Form DB-155, Certificate of Disability Benefits Self-Insurance. The Bidder must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

All of the above referenced forms, except CE-200, SI-12 & DB-155 must name: SUNY Upstate Medical University, Contracts Office, 750 East Adams Street, Syracuse, NY 13210 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

3. General Liability Insurance with limits no less than **ONE MILLION DOLLARS** ($1,000,000.00) per claim and **THREE MILLION DOLLARS** ($3,000,000.00) in the aggregate. Such policy shall name the State University of New York as an additional insured and shall contain a provision that the State University of New York shall receive at least thirty (30) days written notice prior to material change, cancellation or expiration of such policy.
4. Business Automobile Liability insurance covering liability arising out of the use of any motor vehicle in connection with the work, including owned, leased, hired and non-owned vehicles bearing, or under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least **ONE MILLION DOLLARS** ($1,000,000.00) and shall name the State University of New York as additional insured. The limits may be provided through a combination of umbrella/excess liability policies.

II. **TRAVEL.** In the event the Contractor is required to be reimbursed for travel, reimbursement rates shall not exceed the current NYS Schedule of Allowable Reimbursable Travel Expenses, available from the New York State Comptroller at: https://www.osc.ny.gov/state-agencies/travel.

JJ. **TERMINATION.** The Contract awarded to the successful bidder (the "Contractor") may be terminated by SUNY for any of the following reasons:

1. *Convenience of SUNY*: The contract may be terminated at any time upon receipt of thirty (30) days prior written notice given by SUNY for whatever reason.
2. *Event of default*: The contract may be terminated in the event of breach of any of its provisions by the Contractor, or if the Contractor's Services are deemed unsatisfactory in SUNY's sole discretion, due to Contractor's fault or negligence, or that of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates. In such event, SUNY will send a written cure notice in accordance with the Notice provisions of the contract, and Contractor shall have thirty (30) days to correct the deficiencies noted. If the deficiencies are not corrected, SUNY may terminate this contract immediately upon written notice.
3. *Deficient Certifications*: If the awarded contract has a value greater than $15,000, SUNY shall have the right to terminate in the event the State Finance Law sections 139-j and 139-k certifications executed by the Contractor are found to be intentionally false or incomplete. If the contract has a value of greater than $100,000 and Contractor's sales for the immediately preceding four quarters were greater than $300,000, or if the contract has a value of $125,000 or greater, SUNY shall have the right to terminate in the event the Successful Bidder's Department of Taxation and Finance Contractor Certification form, ST 220-CA, statements are found to be false or incomplete.
4. *Lack of Funds*: If for any reason the State of New York terminates or reduces its appropriations to SUNY, the awarded contract may be terminated or reduced at SUNY's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the SUNY for payment of such costs. In any event, no liability shall be incurred by the State (including SUNY) beyond monies available for the purposes of the awarded contract.
5. SUNY may terminate the awarded contract, upon written notice, in the event of any of the following: (1) Contractor makes an assignment for the benefit of creditors; (ii) a petition in bankruptcy or any insolvency proceeding is filed by or against Contractor and is not dismissed within thirty (30) days from the date of filing; or (iii) all or substantially all of Contractor's property is levied upon or sold in any judicial proceeding.

KK. **PROCUREMENT LOBBYING ACT – STATE FINANCE LAW §§ 139-J AND 139-K.** Prior to approval of the contract for which this IFB has been issued by SUNY, or if applicable, the Office of the State Comptroller, a Bidder shall not communicate with SUNY other than with the persons identified in this IFB as Designated Contacts or with a person who the Designated Contacts has advised the Bidder in writing is also a Designated Contact. Generally, the New York State Finance Law restricts communications between a bidder or a person acting on behalf of a Bidder, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of $15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact.

SUNY has developed guidelines regarding Contacts and procedures for the reporting and investigation of Contacts. SUNY's procurement record must demonstrate compliance with these requirements. SUNY will make a record of all Contacts, and such records of Contact will become part of the procurement record for this IFB. A determination that a Bidder or a person acting on behalf of a Bidder has intentionally made a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k, is likely to result in denial of the award of contract under this IFB. Additional sanctions may apply. A complete copy of SUNY's Procurement Lobbying Policy and Procedure and its accompanying forms is available for review at http://www.suny.edu/sunypp/documents.cfm?doc_id=430

Each Bidder shall submit with its proposal a written affirmation of its understanding of SUNY's procurement lobbying procedures and agreement to comply with such procedures. The requisite form is provided at **Attachment 4**.

LL. **RESTRICTIONS ON THE ACTIVITIES OF CURRENT AND FORMER STATE OFFICERS AND EMPLOYEES.** All Bidders and Bidder employees must be aware of and comply with the requirements of the New York State Public Officers Law, all other appropriate provisions of New York State Law and all resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State.

Contractors and their employees are cautioned that the hiring of former state employees may violate the Ethics Law. The governing provisions are set forth the New York State Public Officers Law §§ 73 and 74, and the underlying principle of law is to prevent conflicts of interest and encourage ethical behavior. The law may be found on the website of the New York State Commission on Ethics and Lobbying in Government ("COELIG") at: https://ethics.ny.gov/laws.

MM. **DIESEL EMISSIONS REDUCTION ACT OF 2006.** The successful bidder (the "Contractor") certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law ("ECL") section 19-0323, to be used by Contractor, its agents or subcontractors under the contract awarded, will comply with the specifications and provisions of ECL section 19-0323 and any regulations promulgated pursuant thereto, which requires the use of Best Available Retrofit Technology ("BART") and Ultra Low Sulfur Fuel ("ULSD"), unless specifically waived by DEC. Qualification for a waiver under this law will be the responsibility of Contractor. Annually, but no later than March 1st, Contractor shall complete and submit directly to SUNY, via electronic mail, the Regulated Entity Vehicle Inventory Form and Regulated Entity and Contractors Annual Report forms available at the Department of Environmental Conservation ("DEC") website: http://www.dec.ny.gov/chemical/4754.html, for heavy duty vehicles used in the performance of the contract awarded for the preceding calendar year. The Contractor shall certify to SUNY, and submit with each application for payment, Contractor and Subcontractor Certification forms, which state that the Contractor will comply with the provisions of ECL Section 19.0323.

NN. **SMOKE FREE SUNY.** SUNY campuses are smoke free. No smoking is permitted within the buildings or upon the grounds owned or leased by SUNY. The successful bidder (the "Contractor") must communicate this policy to its employees, subcontractors, and any other individuals assigned to enter upon SUNY grounds and premises in connection with the services to be performed in connection with the contract awarded.

OO. **STATE FINANCE LAW § 139-L CERTIFICATION.** Pursuant to N.Y. State Finance Law § 139-l, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, and where otherwise required by such public department or agency, shall contain a certification that the Bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of N.Y. State Labor Law § 201-g.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: https://www.ny.gov/combating-sexual-harassment-workplace/employers.

Pursuant to N.Y. State Finance Law § 139-l, any bid by a corporate bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such Bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the Bidder.
If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, SUNY may reject the bid or decide that there are sufficient reasons to accept the bid without such certification. The certification required above can be found on **Attachment 10**.

PP. **STATE FINANCE LAW §139-M CERTIFICATION – GENDER-BASED VIOLENCE IN THE WORKPLACE.** Pursuant to N.Y. State Finance Law § 139-m, every bid made on or after November 05, 2025 to the State or any public department or agency thereof (including SUNY), where competitive bidding is required by statute, rule, or regulation, shall contain a certification, subscribed and affirmed under penalty of perjury, that the Bidder has and has implemented a written policy addressing gender-based violence and the workplace and has provided such policy to all of its employees, directors, and board members. The policy must, at a minimum, meet the requirements referenced in Executive Law § 575(11).

For non-competitive procurements, the contracting entity may, at its discretion, require inclusion of the same certification.

Under State Finance Law §139-m(3), a bid shall not be considered for award if it does not comply with §139-m(1). However, if a bidder cannot make the certification, the bidder may submit, with its bid, a signed statement detailing the reasons it cannot certify. SUNY will review any such statement and retains discretion to reject the bid. Bids that include neither the certification nor a timely signed explanatory statement will not be considered.

A corporate Bidder's bid containing the § 139-m certification is deemed authorized by the Bidder's board of directors, and such authorization includes the signing and submission of the bid and inclusion of the certification as the act and deed of the Bidder.

OPDV has issued a Model Gender-Based Violence and the Workplace Policy explaining minimum content and distribution expectations for bidders (including distribution to employees, directors, and board members upon hire and annually). While § 139-m does not itself impose training on private bidders, OPDV guidance and Executive Law § 575(11) set out the baseline policy elements agencies should expect.

In response to this Section, complete and submit **Attachment 11** with your bid/proposal.

QQ. **COMPLIANCE WITH SUNY POLICIES.** At all times when on SUNY premises, all Contractors and subcontractor personnel shall be required to comply with SUNY regulations, policies and procedures including (i) the requirement to wear an identity tag clearly identifying them as being an employee or agent of the contractor; (ii) there will be no smoking within the buildings or on the grounds owned or leased by SUNY. The Contractor must communicate this policy to its employees, subcontractors, and any other individuals assigned to enter upon SUNY grounds and premises in connection with the services to be performed in connection with the contract awarded; and (iii) Parking regulations: Parking violations are subject to fines and are the sole responsibility of Contractor. All vehicles must be registered with SUNY.

RR. **TRADEMARKS AND SERVICE MARKS.** SUNY trademarks, service marks and logos are registered trademarks or owned by SUNY (the "Licensed Marks) and may not be used without SUNY's written permission. In the event that the awarded contract requires Contractor to use the Licensed Marks, SUNY will grant a limited license for use of the Licensed Marks only in connection with the contracted work. Such license shall not be construed as permission by SUNY to use its name or the Licensed Marks for any other purpose.

SS. **EXECUTIVE ORDER 177 (EO 177).** The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to: (i) all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment; (ii) employers with fewer than four employees in all cases involving sexual harassment; and (iii) any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, prior to contract award, successful bidder must submit a certification that at it does not have institutional policies or practices that fail to address harassment and discrimination as described above. SUNY is electing to obtain the certification with the bid documents to avoid unnecessary delay in the contract award process. All bidders must sign and submit the certification attached to this IFB as **Attachment 12**.

TT. **EXECUTIVE ORDER 16 (EO 16) PROHIBITING STATE AGENCIES AND AUTHORITIES FROM CONTRACTING WITH BUSINESSES CONDUCTING BUSINESS IN RUSSIA.** ON MARCH 17, 2022, GOVERNOR KATHY HOCUL ISSUED EXECUTIVE ORDER NO. 16, WHICH STATES: "ALL AFFECTED STATE ENTITIES ARE DIRECTED TO REFRAIN FROM ENTERING INTO ANY NEW CONTRACT OR RENEWING ANY EXISTING CONTRACT WITH AN ENTITY CONDUCTING BUSINESS OPERATIONS IN RUSSIA." IN ADDITION, EXECUTIVE ORDER NO. 16 DIRECTS THE OFFICE OF GENERAL SERVICES ("OGS") TO ESTABLISH THESE GUIDELINES FOR COMPLIANCE WITH EXECUTIVE ORDER NO. 16 BY AFFECTED STATE ENTITIES.

ON MARCH 24, 2022, THE UNITED STATES, IN COORDINATION WITH THE EUROPEAN UNION AND THE GROUP OF SEVEN (G-7), IMPOSED SANCTIONS ON AN ADDITIONAL 400 RUSSIAN INDIVIDUALS AND ENTITIES. THE FEDERAL SANCTIONS INCLUDE EFFORTS TO BLOCK MOVES BY RUSSIAN ENTITIES AND INDIVIDUALS TO EVADE THE SANCTIONS IMPOSED OR TO USE INTERNATIONAL RESERVES.

WHILE THE FEDERAL SANCTIONS SEEK TO TARGET SPECIFIC ENTITIES AND INDIVIDUALS WITHIN RUSSIA, EXECUTIVE ORDER NO. 16 IS INTENDED TO ENSURE THAT NEW YORK STATE IS NOT ENTERING INTO CONTRACTS WITH ENTITIES CONDUCTING BUSINESS IN RUSSIA AND THEREBY INDIRECTLY SUPPORTING RUSSIA'S UNJUSTIFIED WAR AGAINST THE UKRAINIAN PEOPLE. PLEASE COMPLETE **ATTACHMENT 16: CONDUCTING BUSINESS IN RUSSIA EXECUTIVE ORDER 16 CERTIFICATION** AND RETURN WITH YOUR PROPOSAL.

UU. Upstate is required by law to provide information to all our contractors and agents regarding the Federal False Claims Act, New York State laws regarding civil or criminal penalties for false claims and payments, administrative remedies for false claims and statements, and whistleblower protections under these laws. **Attachment 13** of this IFB satisfies this notification requirement, and by signing the False Claims Acknowledgement Form that is part of **Attachment 13**, the Bidder acknowledges that it has received and understands the information provided therein.

VV. EXCLUDED INDIVIDUALS/ENTITIES. Contractor represents and warrants to Hospital that neither it nor any of its affiliates are excluded from participation in any federal health care program, as defined under 42 U.S.C. 1320a-7b(f), for the provision of items or services for which payment may be made under such federal health care programs and has not arranged or contracted (by employment or otherwise) with any employee, contractor, or agent such that it or its affiliates knows or should know are excluded from participation in any federal health care program, to provide items or services hereunder. Contractor represents and warrants to Hospital that no final adverse action, as such term is defined under 42 U.S.C. 1320a-7e(g), has occurred or is pending or threatened against Contractor or its affiliates or to their knowledge against any employee, contractor, or agent engaged to provide items or services under this Agreement (collectively "Exclusions/Adverse Actions"). If, at any time during the term of this Agreement, Contractor or any employee, contractor, or agent is excluded from participation in any federal health care program, Contractor shall immediately notify Hospital of the exclusion, and Hospital shall have the option to immediately terminating this Agreement, in whole or in part as necessary and applicable in Hospital's sole discretion, and Contractor shall provide a pro rata refund to Hospital based on the period of time remaining in the term of this of this Agreement. See Department of Health and Human Services Office of the Inspector General (www.oig.hhs.gov), System for Award Management (www.SAM.gov), and New York State Medicaid Disqualified Provider List (www.omig.ny.gov). Contractor and any of its affiliates shall be responsible to and shall indemnify and hold harmless Hospital, SUNY, and the State of New York and their respective officers, trustees, directors, employees, and agents in the event that an excluded individual is identified and provided or is providing services, indirect or direct, to Hospital. Contractor shall reimburse, within thirty (30) days, Hospital, SUNY, and the State of New York for any and all penalties imposed by OIG or OMIG or any other governmental agency due to the fact that Contractor provided said excluded individual to Hospital.

WW. SALES AND COMPENSATING USE TAX DOCUMENTATION. Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than $100,000 to certify to the Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a contract awarded to a contractor meeting the registration requirements but who is not so registered in accordance with the law.

The web links to obtain these Contractor certification forms are provided below. Form No. ST-220-TD must be filed with and returned directly to DTF. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, it's affiliate(s), or its subcontractor(s), a new Form No. ST-220-TD must be filed with DTF.

Form ST-220-CA must be filed with the bid and submitted to the procuring covered agency certifying that the contractor filed the ST-220-TD with DTF. Proposed contractors should complete and return the certification forms with their bid submission. Failure to make either of these filings may render a bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms to ensure compliance with the law.

Bidders may call DTF at **1-800-698-2909** for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF web site: http://www.nystax.gov.

The Hospital reserves the right to terminate any Resulting Agreement in the event it is found that the certification filed by Bidder in accordance with § 5-a of the Tax Law is not timely filed during the term of the agreement or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Hospital may exercise its termination right by providing written notification to successful Bidder.

Complete one (1) original copy of the New York State Department of Taxation and Finance ("NYSDTF") Form ST-220-CA and return with your proposal. Document must be sworn and notarized. The form can be found at: https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf.

Complete one (1) original copy of the NYSDTF Form ST-220-TD and return to the Department of Taxation and Finance. Document must be sworn and notarized. The form can be found at: https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf.

XX. **NON-SOLICITATION**. During the term of this Agreement, neither Party will directly or indirectly solicit, hire, or utilize as an independent contractor the other party's employees or subcontractors involved in the performance of this Agreement. The foregoing provision will not (i) prohibit a general solicitation of employment in the ordinary course of business or prevent a party from employing any employee who contacts such party as a result of a general solicitation; or (ii) be read so as to limit employment opportunities to an extent that would not be permitted under applicable law.

YY. **PIGGYBACKING.** Other New York government entities as authorized by State Finance Law and General Municipal Law, and other departments, agencies or instrumentalities of the United States government as well as any department, agency, office, political subdivision, or instrumentality of any state or state(s) who are permitted to do so by their procurement laws and regulations, may utilize the Agreement upon securing all legally-required approvals. Private entities, cooperatives and consortia may also utilize the Agreement with the express approval of SUNY and the Contractor.

ZZ. **PAYMENT TERMS.** Payment under the Resulting Agreement shall be made to Bidder in accordance with New York State Finance Law, Article 11-A, upon receipt of a proper invoice. As a State agency, Upstate cannot pre-pay or pay deposits for services not yet rendered. Please note that the State budget and/or the appropriation budgeted funds to Upstate may be delayed in any given fiscal year due to circumstances beyond Upstate's control, which can delay payments for services. Any interest for late payments is paid in accordance with New York State "Prompt Payment Legislation." **Any and all invoices for amounts payable under the resulting agreement shall be sent to AccountsPayable@upstate.edu.**

STATE UNIVERSITY OF NEW YORK NOTARY ACKNOWLEDGMENT

State University of New York
Notary Acknowledgement

(ACKNOWLEDGEMENT BY INDIVIDUAL)

STATE OF)
COUNTY OF) *ss.*:

On this _____ day of _____ , 20___, before me personally came _____ , to me known and known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

_____
Notary Public

(ACKNOWLEDGEMENT BY UNINCORPORATED ASSOCIATION)

STATE OF)
COUNTY OF) *ss.*:

On this _____ day of _____, 20___, before me personally came _____, to me known and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say that he/she is a member of the firm of _____ and that he/she executed the foregoing instrument in the firm name of _____ and that he/she had authority to sign same, and he/she did duly acknowledge to me that he/she executed the same as the act and deed of said firm of _____ for the uses and purposes mentioned therein.

_____
Notary Public

(ACKNOWLEDGEMENT BY CORPORATION)

STATE OF)
COUNTY OF) *ss.*:

On this ___ day of _____, 20__, before me personally came _____, to me known, who being duly sworn, did depose and say that he/she resides in _____; that he/she is the _____ (title) of _____(firm), the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

_____
Notary Public

THIS PAGE MUST BE SIGNED IN THE ORIGINAL AND MUST ACCOMPANY EACH COPY OF YOUR BID.

ATTACHMENT 1: BID SUBMISSION CHECKLIST

Attachment 1: Bid Submission Checklist

Attachment 1: Bid Submission Checklist

√	Description
☐	Bidder's Proposal (one [1] original hardcopy) with Financial Proposal (Attachment 14) in separate labeled envelope
☐	Bidder's Proposal (one [1] USB flash drive) ☐ *Financial Proposal – signed version* and *saved in Excel format (MUST be in a Separate Document on USB from Proposal)*
☐	IFB (Page 5) Summary Information Form
☐	Notary Acknowledgement Form
☐	Attachment 2: Bidder Qualifications Submission Form
☐	Attachment 3: Bidder Reference Form
☐	Attachment 4: Procurement Lobbying Act Certification
☐	Attachment 5: Non-Collusive Bidding Certification
☐	Attachment 6: Diversity Practices Questionnaire
☐	Attachment 8: NYS Subcontractor Identification Form
☐	Attachment 9: Consultant Form A
☐	Attachment 10: NY State Finance Law 139-L Certification
☐	Attachment 11: NY State Finance Law 139-M Certification
☐	Attachment 12: NY Human Rights Law Certification (Executive Order 177)
☐	Attachment 13: False Claims Acknowledgment Form
☐	Attachment 14: Financial Proposal (Must submit in separate **sealed & labeled**) envelope)
☐	Attachment 15: Public Officers Law
☐	Attachment 16: Conducting Business in Russia (Executive Order 16)
☐	Attachment 17: Package Label
☐	Vendor Responsibility: File either the required Vendor Responsibility Questionnaire online via the New York State VendRep System or complete and submit a paper questionnaire. **Select one:** ☐ completed online questionnaire ☐ paper copy of questionnaire included in Bid.
☐	NYS Workers' Compensation insurance certificate (C-105.2, SI-12, CE-200) **(ACORD FORM WILL NOT BE ACCEPTED!)**
☐	NYS Disability insurance certificate (DB-120.1, DB-155, CE-200) **(ACORD FORM WILL NOT BE ACCEPTED!)**
☐	MWBE Form 7557-104: Equal Opportunity Policy Statement
☐	MWBE Form 7557-107: Utilization Form
☐	MWBE Form 7557-108: EEO Staffing Plan
☐	SDVOB Form 7564-107: SDVOB Utilization Plan

ATTACHMENT 2: BIDDER QUALIFICATIONS SUBMISSION FORM

Attachment 2: Bidder Qualifications Submission Form

Instructions:

For a Bidder's proposal to be considered it must meet the mandatory qualifications listed below. All Bidders must complete and submit **Attachment 2 (Bidder Qualifications Submissions Form)**. To confirm that Bidder's proposal meets all mandatory qualifications, **Bidder must submit all documents that are requested below and/or must explain if and how they meet the qualifications that are listed**. If Bidder does not meet the qualifications listed below, their proposal will be rejected and the proposal will not move on for technical and financial evaluation. If Bidder does not respond to each mandatory requirement below or does not submit any requested information, Bidder's proposal will be deemed non-responsive, and the proposal will be rejected.

#	Mandatory Qualification Description	Bidder Response
1	Bidder must submit the following company information: i. Full legal name; and ii. Primary business address; and iii. All other office locations (city and state for domestic; city and country for international); and iv. Hours of operation for the offices that will be responsible for providing services to Upstate, including current holiday schedule; and v. Company website address (URL).	
2	Bidder must be eligible to conduct business in the State of New York and provide evidence of its ability to do so.	
3	Bidder must have at least five (5) years of experience providing medical coding services to large healthcare organizations of similar size and scope to Upstate.	
#	**Mandatory Technical Requirements**	**Bidder Response**
	General Requirements	
1i.	Bidder must allow Upstate to provide a coding test to bidder's coders to ensure that the applicant is capable of coding at the level we require. Upstate requires a passage rate of 95% or higher in order to select the coder for our services. Upstate's accuracy requirement is 95% or higher.	
1ii.	Bidder must be able to produce qualified applicants within five (5) business days of our request.	
1iii.	Bidder must terminate any coders that are deemed unsatisfactory as the Coding Manager/Director sees fit.	
1iv.	Bidder must respond to emails from the Coding Managers/Directors with concerns or requests within one (1) business day.	
1v.	Bidder must be able to provide coders that are experienced in IP, Outpatient Surgery, Observation, and Emergency Facility Coding.	

1vi.	Bidder must provide weekly or monthly schedules for every coder chosen.	
1vii.	Bidder must be willing to provide weekly or monthly production per day to Upstate.	
1viii.	Bidder must be able to submit reports with coder hours for payment.	
1ix.	All staff must be located within the United States of America when providing coding services.	
1x.	All data must be stored within the United States of America.	
	Coder Requirements/Qualifications	
1i.	Coders must be AHIMA-Certified RHIT/RHIA	
1ii.	CCS will be considered depending on experience.	
1iii.	Coders must have at least three (3) years of recent experience including coding for a Level 1 Trauma Center.	
1iv.	Coders must have experience with EPIC and 3M.	
1v.	Coders must have experience working with CDI and the Reconciliation Process.	
1vi.	Coders must have experience with Labor and Delivery and Newborn.	
1vii.	Coders must be able to VPN (remote access) into the SUNY network with their own equipment. To the awarded bidders, Upstate will provide information regarding our minimum hardware, software, and security requirements to ensure compatibility and security.	
1viii.	Coders must be prepared to share demographic information, including, but not limited to, Social Security Number to establish network connection access per SUNY requirements.	
1ix.	Coders, once chosen, must respond to questions via email or Teams in a timely manner, so accounts are not on hold for several days.	

ATTACHMENT 3: BIDDER REFERENCE FORM

Attachment 3: Bidder Reference Form

Instructions:

Bidder must provide a minimum of three (3) references (not including Upstate) from facilities for which it provided medical coders to by completing **Attachment 3 (Reference Form).** REFERENCES MUST BE SUBMITTED WITH THE BID. BIDS SUBMITTED WITHOUT REFERENCES MAY RESULT IN THE PROPOSAL BEING REJECTED AS NON-RESPONSIVE. Furthermore, Upstate reserves the right to contact, make inquiries, and visit any facilities named as references.

References					
	Company Name:	Address, Name, Email & Phone #:	Length of time as your customer	Reference Criteria:	Notes/Comments
1.				*Similar Size/Scope? (Y/N) _____ *Academic Medical Center? (Y/N) _____	
2.				*Similar Size/Scope? (Y/N) _____ *Academic Medical Center? (Y/N) _____	
3.				*Similar Size/Scope? (Y/N) _____ *Academic Medical Center? (Y/N) _____	
4.				*Similar Size/Scope? (Y/N) _____ *Academic Medical Center? (Y/N) _____	
5.				*Similar Size/Scope? (Y/N) _____ *Academic Medical Center? (Y/N) _____	

Contract Terminations				
	Address:	Address, Name, Email & Phone #:	Date of Contract Termination	Reason for Contract Termination
1.				
2.				
3.				

ATTACHMENT 4: PROCUREMENT LOBBYING ACT CERTIFICATION

Attachment 4: Procurement Lobbying Act Certification

This attachment must be completed and submitted with your proposal.

State Finance Law §§139-j and 139-k, enacted by Ch. 1 L. 2005, as amended by Ch. 596 L. 2005, effective January 1, 2006, regulate lobbying on government procurement, including procurements by State University to obtain commodities and services and to undertake real estate transactions.

Generally, the law restricts communications between a potential vendor or a person acting on behalf of the vendor, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of $15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. The agency's procurement record must demonstrate compliance with these new requirements.

Accordingly, neither a potential vendor nor a person acting on behalf of the vendor should contact any individual at State University other than the person designated in this solicitation as State University's Designated Contact, nor attempt to unduly influence award of the contract. State University will make a record of all Contacts, and such records of Contact will become part of the procurement record for this solicitation. A determination that a vendor or a person acting on behalf of the vendor has made intentionally a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k is likely to result in denial of the award of contract under this solicitation. Additional sanctions may apply.

Please complete the following:

1. As defined in State Finance Law §§ 139-j (1)(a), has a governmental agency made a determination of non-responsibility with respect to the Offeror within the previous four years where such a finding was due to a violation of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? NO ☐ YES ☐ If yes, attach explanation

2. Has a governmental entity terminated or withheld a procurement contract with the Offeror because of violations of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? NO ☐ YES ☐ If yes, attach explanation.

CERTIFICATION:
By signing below the Bidder affirms and certifies that it: (1) has reviewed and understands the Policy and Procedure of SUNY, related to SFL §§ 139-j and 139-k, (2) agrees to comply with SUNY's procedure relating to Contacts with respect to this procurement, and (3) has provided information that is complete, true, and accurate with respect to SFL §§ 139-j and 139-k. Bidder understands that SUNY reserves the right to terminate any resulting contract in the event it is found that the certification filed by the Bidder in accordance State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, SUNY may exercise its termination right by providing written notification to the Bidder in accordance with the written notification terms of the contract.

Firms Name and Address:	
FEIN #:	
Telephone Number: (___)___-____	
Fax Number: (___) ___-____	
Email Address:	
Bidder's Name and Title:	
Bidder's Signature:	
Date:	

ATTACHMENT 5: NON-COLLUSIVE BIDDING CERTIFICATION

Attachment 5: Non-Collusive Bidding Certification

This attachment must be completed and submitted with your proposal.

By Submission Of This Bid, Bidder And Each Person Signing On Behalf Of Bidder Certifies, And In The Case Of Joint Bid, Each Party Thereto Certifies As To Its Own Organization, Under Penalty Of Perjury, That To The Best Of His/Her Knowledge And Belief:

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

A Bid Shall Not Be Considered For Award Nor Shall Any Award Be Made Where [1], [2], [3] Above Have Not Been Complied With; Provided However, That If In Any Case The Bidder(S) Cannot Make The Foregoing Certification, The Bidder Shall So State And Shall Furnish Below A Signed Statement Which Sets Forth In Detail The Reasons Therefore:

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

Subscribed to under penalty of perjury under the laws of the State of New York, this ___ day of _____, 20____ as the act and deed of said corporation of partnership.

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

_____ _____
_____ _____
_____ _____
_____ _____

IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:
NAME LEGAL RESIDENCE

_____ _____

President:

_____ _____

Secretary:

_____ _____

Treasurer:

_____ _____

President:

_____ _____

Secretary:

_____ _____

Treasurer

Identifying Data

Potential Contractor	
Address	
Telephone	
Name of Responsible Corporate Officer	
Title of Responsible Corporate Officer	
Signature:	

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

_____ _____

Legal name of person, firm or corporation — Legal name of person, firm or corporation

By _____ — By _____
Name: — Name:
Title: — Title:
Address:

ATTACHMENT 6: DIVERSITY PRACTICES QUESTIONNAIRE

Attachment 6: Diversity Practices Questionnaire

<u>This attachment must be completed and submitted with your proposal.</u>

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

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

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

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

3. What percentage of your company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?[1] _____**%**

4. Does your company provide technical training[2] to minority- and women-owned business enterprises? Circle one: **Yes / No**

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

[1] Do not include onsite project overhead.

[2] Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

5. Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program? Circle one: **Yes / No**

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

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

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

7. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Circle one: **Yes / No**

   If Yes, provide documentation of program activities and a copy of policy or program materials.

8. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority- and women-owned business enterprises if selected as the successful respondent? Circle one: **Yes / No**

   If Yes, complete the MWBE Utilization Plan, Form No. 7557-107.

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

Signature of Owner/Official _____

Printed Name of Signatory _____

Title _____

Name of Business _____

Address _____

City, State, Zip _____

ATTACHMENT 7: SERVICE LEVEL AGREEMENT

Attachment 7: Service Level Agreement

This Service Level Agreement ("**SLA**") sets forth the service level and performance objectives of the Firm/Vendor/Vendor in providing hosting services (the "**Services**") to SUNY. The Firm/Vendor/Vendor will use commercially reasonable efforts to meet the following service level and performance objectives to support the operation of the facilities, server(s), computer equipment, operating software and connectivity used to provide the Services to SUNY.

1. Uptime Commitment.

The Firm/Vendor/Vendor will use commercially reasonable efforts to ensure the Firm/Vendor/Vendor's Systems are available 99.9% of the time (the "**Uptime Commitment**"). All Uptime Commitment will be measured within the Firm/Vendor/Vendor's System on a monthly basis calculated to include twenty-four (24) hours per day over each month, but excluding from the numerator and denominator in the calculation the duration in time of any temporary shutdowns due to scheduled maintenance (which will not exceed in the aggregate sixteen (16) hours per month), telecommunications or power disruptions caused by third parties, and any other causes beyond Firm/Vendor/Vendor's reasonable control. The Firm/Vendor/Vendor agrees to notify the Group promptly of any factor, occurrence, or event coming to its attention that may affect the Firm/Vendor/Vendor's ability to meet the Uptime Commitment, or that is likely to cause any material interruption in the Services.

2. Exclusive Remedy.

The Firm/Vendor/Vendor will use commercially reasonable efforts to correct any material problems in the Services, including any failure to satisfy the Uptime Commitment. In the event that the Firm/Vendor/Vendor fails to satisfy the Uptime Commitment for a given month, the Group's sole and exclusive remedy will be to receive a service credit equal to the following percentage of the monthly fees for the Services for the stated uptime:

97% to 99.9%	15%
94% to 96.9%	25%
92% to 93.9%	50%
90% to 91.9	75%
Below 90%	100%

In no event will the service credit exceed the monthly fees paid by SUNY for the Services. SUNY acknowledges and agrees that if the remedies set forth in this section are applied, any failure of the Firm/Vendor/Vendor to meet the requirements in this SLA will not constitute a breach of the Agreement.

3. Monitoring.

Firm/Vendor/Vendor will monitor and maintain Firm/Vendor/Vendor's Systems in working order each day (24 x 7). Firm/Vendor/Vendor will proactively manage and monitor all application server hardware devices and software to ensure optimal performance and reliability as well as to detect abnormal events or exceeded utilization or performance thresholds. Firm/Vendor/Vendor will proactively monitor the status of the operating systems (e.g., CPU, disk I/O, memory, processes, etc.), critical application layer daemons and processes and trigger appropriate event notification alarms caused by errors, exceeded thresholds, etc.

3.1 Maintenance.

Firm/Vendor/Vendor will operate, monitor and administer all servers, applications and networks supporting the Services. In order to provide such coverage, Firm/Vendor/Vendor may utilize a mixture of on-site and on-call support staff, automated server monitoring and automated paging technology. Contactor's on-site coverage is during Firm/Vendor/Vendor's normal business hours, Monday through Friday, excluding holidays recognized by Firm/Vendor/Vendor.

3.2 Scheduled Outages.

Maintenance outages, if necessary, will be conducted at a time and in a manner to minimize adverse impacts on the Services. Maintenance outages will include, but are not limited to the installation of upgrades, service packs and routine server or application configuration changes. Other maintenance outages may be necessary from time to time.

3.3 Change Control.

Firm/Vendor/Vendor will install new equipment, software, releases, upgrades, fixes, patches and other items necessary to maintain Firm/Vendor/Vendor's Systems to industry standards. Firm/Vendor/Vendor will proactively gather information from appropriate server, peripheral, operating system or database vendors regarding upgrades, defect patches or fixes.

3.4 Notice.

Firm/Vendor/Vendor will use commercially reasonable efforts to give the Group three (3) days notice prior to all non-routine management, maintenance, change control or other actions by Firm/Vendor/Vendor that may material impact the Service adversely.

ATTACHMENT 8: NYS BUSINESS SUBCONTRACTOR IDENTIFICATION FORM

Attachment 8 – NYS Business Subcontractor Identification Form

Encouraging the use of New York State Businesses in Contract Performance

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

Bidders/proposers/contractors need to be aware that to the maximum extent practical and consistent with legal requirements, they are strongly encouraged to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers/contractors 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 SUNY 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 this 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. SUNY therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to New York State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract? Circle one: YES / NO

If YES, identify New York State Business(es) that will be used by attaching identifying information, e.g., contact information, dollar value of the subcontract or supply contract.

This form, along with accompanying information as required above, must be completed and submitted with your proposal.

ATTACHMENT 9: CONSULTANT INFORMATION INCLUDING FORMS A & B

Attachment 9 – Consulting Forms A and B

Form A must be completed and submitted with your proposal.

Contractor shall comply with Section 163(4)(g) of the New York State ("State") Finance Law ("NYSFL") requiring all contractors (including subcontractors), which provide consulting services for State purposes pursuant to a contract, submit (i) the Contractor's Planned Employment – Form A, and (ii) the Contractor's Annual Employment Report – Form B, for each such contract.

Section 8(17)(f) of the NYSFL defines a contract for consulting services to be any contract entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health and mental health services, accounting, auditing, paralegal, legal, or similar services. The employment report shall include for each employment category (O*NET, http://online.onetcenter.org), within the contract, the number of employees employed to provide services under the contract, the number of hours they work and their total compensation under the contract. Contractor shall be responsible for submitting employment reports to (i) the State agency that awarded the contract, (ii) the State Department of Civil Service and (iii) the State Department of Audit and Control. The Contractor's Planned Employment – Form A, and the Contractor's Annual Employment Report – Form B shall be available for public inspection and copying pursuant to Section 87 of the State Public Officers Law provided that in disclosing such reports, the State agency making the disclosure shall redact the name or social security number of any individual employee that is included in such document.

Form A – should be completed and returned with your bid submission. It is a one-time report of planned employment data for the entire term of a consulting contract on a projected basis.

Form B – should is required to be submitted each year the contract is in effect, detailing actual employment data for the most recently concluded State fiscal year (April 1-March 31). The report is due no later than May 15th of each year and should be submitted to:

SUNY Upstate Medical University
Contracts & Campus Purchasing, Suite 2050 SLC
750 E. Adams Street
Syracuse, NY 13210

And

New York State Office of the State Comptroller
Bureau of Contracts, Consultant Reporting
110 South State Street, 11th Floor
Albany, NY 12236

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

FORM A

New York State Consultant Services
Contractor's Planned Employment

From Contract Start Date Through the End of the Contract Term

State Agency Name: SUNY Upstate Medical University

State Agency Department ID: 3320211 Agency Business Unit: SNY01

Contractor Name: Contract Number:

Contract Start Date: / / Contract End Date: / /

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
Total this Page	0.00	0.00	$ 0.00
Grand Total			

Name of person who prepared this report:

Title: Phone #:

Preparer's Signature: _____

Date Prepared: / /

(Use additional pages, if necessary) Page of

Available on-line at:
http://www.osc.state.ny.us/agencies/forms/ use AC 3271 S for Form A
and AC3272 S for Form B

FORM B

New York State Consultant Services
Contractor's Annual Employment Report

Report Period: April 1, to March 31,

Contracting State Agency Name: SUNY Upstate Medical University
Contract Number:
Agency Business Unit: SNY01
Contract Term: / / to / /
Agency Department ID: 3320211
Contractor Name:
Contractor Address:
Description of Services Being Provided:

Scope of Contract (Choose one that best fits):

☐ Analysis ☐ Evaluation ☐ Research ☐ Training
☐ Data Processing ☐ Computer Programming ☐ Other IT consulting
☐ Engineering ☐ Architect Services ☐ Surveying ☐ Environmental Services
☐ Health Services ☐ Mental Health Services
☐ Accounting ☐ Auditing ☐ Paralegal ☐ Legal ☐ Other Consulting

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
	0.00	0.00	$0.00
Total this Page	0.00	0.00	$ 0.00
Grand Total			

Name of person who prepared this report:
Title: Phone #:
Preparer's Signature: _____
Date Prepared: / /
(Use additional pages, if necessary)

Page of

ATTACHMENT 10: NY STATE FINANCE LAW §139-L CERTIFICATION

Attachment 10: NY State Finance Law 139-L Certification

This Attachment must be completed and submitted with your proposal.

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

If the bidder cannot make the foregoing certification, such bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the bidder cannot make the certification.

Bidder Name: _____

By (signature): _____

Name: _____

Title: _____

Date: _____ ____, 20__

ATTACHMENT 11: NY STATE FINANCE LAW §139-M CERTIFICATION

Attachment 11: State Finance Law §139-m Certification
Gender-Based Violence and the Workplace

This attachment must be completed and submitted with your proposal.

Solicitation No.: _____ Title: _____ Campus: _____

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing gender-based violence and the workplace and has provided such policy to all of its employees, directors and board members. Such policy shall, at a minimum, meet the requirements of subdivision 11 of section five hundred seventy-five of the executive law.

☐ *Cannot Certify*. If the bidder cannot make the foregoing certification, the bidder shall so indicate by checking this box and shall furnish with the bid a signed statement that sets forth in detail the reasons that the bidder cannot make the certification.

Note: Your bid will not be considered for award if it lacks (i) this certification or (ii) a signed statement explaining why you cannot certify, furnished with the bid. If you submit a statement instead of the certification, SUNY will review it and reserves the right to reject the bid.

Bidder (legal name): _____

Authorized Signatory (print name): _____

Title: _____

Email/Phone: _____

I am authorized to sign this certification on behalf of the Bidder and affirm it is true under the penalties of perjury under the laws of the State of New York.

Signature: _____ Date: _____ / _____ 20____

Joint Bids: Each party to a joint bid must complete and sign a separate Attachment XX.

ATTACHMENT 12: NY HUMAN RIGHTS LAW EXECUTIVE ORDER 177 CERTIFICATION

Attachment 12: NY Human Rights Law Executive Order 177 Certification

This attachment must be completed and submitted with your proposal.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Bidder Name: _____

By (signature): _____

Name: _____

Title: _____

Date: _____ ____, 20__

ATTACHMENT 13: FALSE CLAIMS ACT AND ACKNOWLEDGMENT FORM

Attachment 13: False Claims Act Information for Contractors and Agents of the State University of New York Upstate Medical University

Federal and State false claims laws are important in detecting fraud, waste and abuse in health care programs. The State University of New York (SUNY) Upstate Medical University (University Hospital) is required by law to provide information to all our contractors and agents regarding the following:

1. Federal False Claims Act
2. New York State laws regarding civil or criminal penalties for false claims and payments
3. Administrative remedies for false claims and statements
4. Whistleblower protections under these laws

This information should be provided to all employees in your organization who:

1. Have contact in any way with SUNY Upstate Medical University (University Hospital) contracts
2. Provide health care items or services to SUNY Upstate Medical University (University Hospital)
3. Perform billing or coding functions
4. Are otherwise involved with SUNY Upstate Medical University (University Hospital)

FEDERAL FALSE CLAIMS ACT

The Federal False Claims Act allows a civil action to be brought against a person or entity who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved;
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid; or
- Knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay the government.

Under the Federal False Claims Act, a "claim" is any request or demand for money or property if the Federal government provides any portion of the money or property in question. This includes requests or demands submitted to a contractor of the Federal government, including but not limited to Medicaid and Medicare claims.

The Federal False Claims Act broadly defines the terms "knowing" and "knowingly". Specifically, knowledge will have been proven for purposes of the Federal False Claims Act if the person or entity:

- Has actual knowledge of the information;
- Acts in deliberate ignorance of the truth or falsity of the information; or
- Acts in reckless disregard of the truth or falsity of the information.

The Federal False Claims Act provides that a specific intent to defraud is not required in order to prove the law has been violated.

A federal false claims action may be brought about by the United States Attorney via the United States Department of Justice (DOJ) or an individual may file a qui tam action on behalf of the government for violations of the Federal False Claim Act. The government may decide to intervene with the individual's lawsuit, in which case, the U.S. Department of Justice will direct the prosecution. If the government does not intervene, the individual may still continue to pursue the lawsuit. If the qui tam lawsuit is successful, the individual may receive between 10 – 30% of the recovery, depending upon, among other things, the level of government participation. Reasonable attorney fees and other costs may also be covered. However, any person who brings about a clearly frivolous case can be held liable for the defendant's attorney fees and costs.

A person or entity found guilty of violating the Federal False Claims Act will be obligated to repay all falsely obtained reimbursement and will be liable for a civil penalty between $5,500 - $11,000, plus up to three times the amount of damages incurred by the government for each violation of the Act. Additionally, the United States Department of Health and Human Services (DHHS) of the Office of the Inspector General (OIG) may exclude the violator from participation in federal health care programs, such as Medicaid and Medicare.

Under the Federal False Claims Act, an action may be brought up to 6 (six) years after the date of the violation or 3 (three) years after the date when material facts with respect to the violation are known or should have been known by the government, however, no later than 10 (ten) years after the date on which the violation was committed.

Federal law prohibits an employer from discriminating against an employee in the terms and conditions of his/her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole with remedies including: reinstatement with comparable seniority as the employee would have had except for the discrimination; two times the amount of any back pay plus interest; and compensation for reasonable damages sustained as a result of such discrimination, including litigation costs and reasonable attorney fees.

FEDERAL PROGRAM FRAUD CIVIL REMEDIES ACT

The Federal Program Fraud Civil Remedies Act establishes an administrative remedy against any person who makes, presents or submits, or causes to be made, presented or submitted a claim for property, services or money to certain federal agencies, including the DHHS, that the person or entity "knows or has reason to know" is:

- False, fictitious or fraudulent;

- Includes or is supported by any written statement which asserts a material fact that is false, fictitious or fraudulent;
- Includes or is supported by any written statement which omits a material fact, is false, fictitious or fraudulent because of the omission and is a statement which the person or entity has a duty to include as a material fact; (or)
- Is for the provision of items or services which the person or entity has not provided as claimed.

Additionally, it is illegal to make, present or submit, or cause to be made, presented or submitted any written statement with respect to a claim or to obtain the approval or payment of a claim if the person or entity "knows or has reason to know" such statement:

- Asserts a material fact which is false, fictitious or fraudulent (or)
- Omits a material fact which makes the statement false, fictitious or fraudulent.

Similar to the Federal False Claims Act, a person who "knows or has reason to know" is defined as one who:

- Has actual knowledge of the information;
- Acts in deliberate ignorance of the truth or falsity of the information; (or)
- Acts in reckless disregard of the truth or falsity of the information.

The law specifically provides that a specific intent to defraud is not required to prove a violation.

A violation of the Federal Program Fraud Civil Remedies Act can result in a civil monetary penalty up to $5,000 per false claim and, in certain circumstances, an assessment of twice the amount of any false claim. Additionally, under certain circumstances, a penalty of $5,000 per false statement may be imposed.

Unlike the Federal False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also, unlike the Federal False Claims Act, the determination of whether a claim is false and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

NEW YORK STATE FALSE CLAIMS ACT

The New York State False Claims Act allows a civil action to be brought against a person or entity who:

- Knowingly presents or causes to be presented, a false or fraudulent claim for payment or approval to any New York State or local government employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved;
- Conspires to defraud New York State or a local government by getting a false or fraudulent claim allowed or paid;
- Has possession, custody or control of property or money used or to be used by New York State or a local government and, intending to defraud New York State or a local government or willfully to conceal the property or money, delivers less property or money than the amount for which the person receives a receipt;
- Is authorized to make or deliver a receipt for property used or to be used by New York State or a local government and intending to defraud New York State or a local government makes or delivers a receipt without completely knowing the information on the receipt is true;
- Knowingly buys or receives as a pledge public property from an officer or employee of New York State or a local government knowing that the officer or employee may not lawfully sell or pledge such property; (or)
- Knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to New York State or a local government.

Under the New York State False Claims Act, a "claim" is any request or demand for money or property which is made to New York State or a local government or to any contractor, grantee or other recipient if New York State or a local government provides any portion of the money or property in question.

The terms "knowing" and "knowingly" are defined as that under the Federal False Claims Act. New York State law, like Federal law, provides that a specific intent to defraud is not required in order to prove the law has been violated. New York State law excludes acts arising out of mistake or mere negligence.

The New York State Attorney General has authority to investigate claims and to bring action on behalf of New York State or a local government. A local government may also investigate claims and bring action on its behalf. The Attorney General must consult with the Office of Medicaid Inspector General before bringing a claim related to the Medicaid program.

An individual may file a qui tam action on behalf of the New York State or local government for violations of the New York State False Claim Act. In a qui tam action, an individual must file his/her complaint and written disclosure of substantially all material evidence and information s/he possesses in New York State Supreme Court, where it will remain under seal for at least 60 (sixty) days. New York State may decide to intervene or to authorize a local government to intervene with the lawsuit. If neither New York State nor a local government intervenes, the individual may still continue the lawsuit independently. If a qui tam lawsuit is successful, the individual may receive between 15 – 30% of the recovery, depending upon, among other things, the level of the State's or local government's participation. Reasonable attorney fees and other costs may also be covered. The individual's share may be reduced to no more than 10% if the Court finds the action was based primarily on disclosure of specific information not provided by the individual relating to allegations or transactions in a criminal, civil or administrative

hearing. An individual's share of any recovery may also be reduced if the individual planned or initiated the violation in question. If an individual is convicted of criminal conduct arising from his/her role in the violation, s/he is not entitled to any portion of the recovery.

No action may be filed against the Federal government, the State or a local government or any officer or employee thereof acting in his/her official capacity.

A person or entity found guilty of violating the New York State False Claims Act is obligated to repay all the falsely obtained reimbursement and will be liable for a civil penalty between $6,000 - $12,000, plus up to three times the amount of damages incurred by New York State or a local government for each violation of the Act. If the person committing the violation furnished information regarding such violation to the appropriate New York State or local government official within 30 (thirty) days of obtaining such information and cooperated fully in the investigation, additional damages are caped at twice the amount.

The time periods for bringing a claim under the New York State False Claims Act are the same as under the Federal False Claims Act.

The New York State False Claims Act prohibits an employer from discriminating against an employee in the terms and conditions of his/her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole with remedies including: reinstatement with comparable seniority as the employee would have had except for the discrimination; two times the amount of any back pay plus interest; and compensation for reasonable damages sustained as a result of such discrimination, including litigation costs and reasonable attorney fees.

OTHER NEW YORK STATE LAWS

Various other New York State laws also prohibit false claims. Certain relevant portions of the New York State Code are as follows:

New York Social Services Law 145-b

It is unlawful for a person or entity to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. For violations of this law, the local social services district or New York State has the right to recover civil damages equal to three time the amount by which any figure is falsely overstated. In the case of non-monetary false statements, the local social service district or New York State may recover three times the damages or $5000, whichever is greater, for damages sustained by the government due to the violation.

A "statement or representation" includes a claim for payment, an acknowledgement, certification or report of data which serves as a basis for a claim or rate of payment.

The New York Social Services Law also empowers the New York State Department of Health to impose a monetary penalty on any person or entity that, among other actions, causes Medicaid payments to be made if the person or entity knew or had reason to know that the:

- Payment involved care, services or supplies that were medically improper, unnecessary or excessive;
- Care, services or supplies were not provided as claimed;
- Person who ordered or prescribed the improper, unnecessary or excessive care, services, or supplies was suspended or excluded from the Medicaid program at the time of the care, services or supplies were furnished; (or)
- Services or supplies were not in fact provided.

The monetary penalty cannot exceed $2000 for each item or service determined to be inappropriate, unless a penalty under the section has been imposed within the previous 5 (five) years, in which case the penalty cannot exceed $7,500 per item or service.

New York Social Services Law 366-b(2)

Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining compensation greater than that which s/he is legally entitled for furnishing services or merchandise or knowingly submits false information for the purposes of obtaining authorization for furnishing services or merchandise shall be guilty of a class A misdemeanor. If such an act constitutes a violation of a provision of the penal law of the State of New York, the person committing the act will be punished in accordance with the penalties fixed by such law.

New York Penal Law Article 155

A person, who with intent to deprive another of his property obtains, takes or withholds such property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud or other similar behavior is guilty of larceny. Larceny is a felony with the applicable class being based on the value of the property involved.

New York Penal Law Article 175

Four crimes are specified which relate to filing false information or claims.

Under 175.05 it is a Class A misdemeanor to falsify business records, including entering false information, omitting material information or altering an enterprise's business records with the intent to defraud.

Under 175.10 falsifying business records as provided in 175.05 with the intent to commit another crime or conceal its commission is a Class E felony.

Under 175.30 it is a Class A misdemeanor to present a written instrument, including a claim for payment, to a public office knowing that it contains false information.

Under 175.35 it is a Class E felony to submit a claim as provided in 175.30 with the intent to defraud New York State or a political subdivision.

New York Penal Law Article 176

This article applies to intentional filing of a health insurance claim knowing that it is false. Violation of this law is either a misdemeanor or felony, with the applicable class being based on the value of the claim involved.

New York Penal Law 177

This law establishes the crime of "health care fraud". A person commits such a crime when, with the intent to defraud Medicaid or other health plans, including non-government plans, s/he knowingly and willfully provided materially false information or omits material information for the purpose of requesting payment for a heath care item of service and as a result of the false information or omission, s/he or another person receives a payment in an amount to which s/he or such other person is not entitled. Health care fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime; the higher the payments received in a one year period, the more severe the punishments, which currently range up to 25 (twenty-five) years if more than $1 million in improper payments are involved.

New York Labor Law 740

New York law affords protections to employees who may notice and report inappropriate activities. An employer may not take any retaliatory action against an employee because the employee:

- Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety or which constitutes health care fraud;
- Provides information to, or testifies before any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; (or)
- Objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

In order to be protected when disclosing information to a public body, an employee must first bring the alleged violation to the attention of a supervisor of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs. If the court finds that a health care employer's retaliatory action was in bad faith, it may impose a civil penalty up to $10,000 on the employer. The law also provides employees who bring an action without basis in law or fact may be held liable to the employer for its attorney's fees and costs.

New York Labor Law 741

Under certain circumstances, New York law provides additional protections to employees of health care service providers, which include the Hospital. A health care service provider may not take any retaliatory action against an employee because the employee:

- Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care; (or)
- Objects to or refuses to participate in any such activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care.

In order to claim this protection, the employee must first bring the issue to the attention of a supervisor of the employer and give the employer a reasonable opportunity to correct the allegedly improper activity or practice. However, this is not required and an employee may disclose an alleged improper quality of patient care to a public body or interest, if the alleged improper quality of healthcare presents an imminent threat to public health or safety or to the health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

SUNY Upstate Medical University (University Hospital) Policies

In addition to Federal and New York State law, University Hospital has policies and procedures regarding the detection and prevention of fraud, waste and abuse. This includes the Institutional Compliance Code of Conduct and the "Prevention of False Claims" policy. Copies of these policies are available upon request.

PREVENTION OF FALSE CLAIMS

If you observe something that is not right, University Hospital encourages you to report your concern for further investigation to the University Hospital Institutional Compliance Office for Hospital Affairs by:

1. Calling 315-464-4343 to speak with the Institutional Compliance Officer

2. Faxing information to the Institutional Compliance Office at 315-464-4342
3. Writing to the Institutional Compliance Officer for Hospital Affairs, 750 East Adams Street, Syracuse, New York, 13210
4. If you are not comfortable reporting your concern directly, you may utilize the anonymous Institutional Compliance Office hotline number at 315-464-6444.
5. While you are encouraged to report your concerns to the University Hospital Institutional Compliance Office for Hospital Affairs, this is not required and you may report possible false claims act violations to the federal Department of Justice.

BIDDER MUST COMPLETE THE ACKNOWLEDGMENT FORM ON THE FOLLOWING PAGE!

Attachment 13 - FALSE CLAIMS ACKNOWLEDGMENT FORM

This attachment must be completed and submitted with your proposal.

Contractor Affirmation with respect to Federal and State false claims laws.

Procurement Description: _____

RFP/IFB or Contract # (if applicable): _____

Contracting Agency: SUNY Upstate Medical University

"Contractor affirms that it has reviewed and understands the document entitled "*Information for Contractors and Agents of the State University of New York Upstate Medical University*", which provides information related to Federal and State false claims laws, including SUNY Upstate Medical University's Compliance Program.

Name of Contractor: _____

Address: _____

_____

Person Submitting Form on behalf of Contractor:

Signature _____

Name: _____

Title: _____

ATTACHMENT 14: FINANCIAL PROPOSAL

Cost Worksheet - IFB S-1636 - Medical Coding Services

Year	Number of Hours	Hourly Rate	Yearly Total
Year 1	6,500		$ -
Year 2	6,500		$ -
Year 3	6,500		$ -
Year 4	6,500		$ -
Year 5	6,500		$ -

Grand Total:	$ -

Company Name:	
Signature:	Title:
Printed Name:	Date:

You Must Request Excel Version of this Cost Worksheet

ATTACHMENT 15: PUBLIC OFFICERS LAW

Inquiry to determine compliance with the provisions of Public Officers Law §73(4).

The conflict of interest and code of ethics provisions of New York State Public Officers Law §§73 and 74 apply to all purchasing activities of SUNY Upstate Medical University and University Hospital at Community General (collectively "Upstate"). Upstate is required to inquire if any member of a business entity is an officer or employee of the State of New York, or of a public benefit corporation of the State of New York.

Please indicate if you or any officer of your organization, or any party owning or controlling more than 10 percent of your stock if you are a corporation, or any member if you are a firm or association, is an officer or employee of the State of New York or of a public benefit corporation of the State of New York.

__ Yes __ No

Organization: _____

_____ _____

Signature Date

Name: _____

Title: _____

ATTACHMENT 16: DOING BUSINESS WITH RUSSIA (EXECUTIVE ORDER 16)

Attachment 16: Certification Under Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia

This attachment must be completed and submitted with your proposal.

Executive Order No. 16 provides that "all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia." The complete text of Executive Order No. 16 can be found here. The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in the case of some solicitations. As defined in Executive Order No. 16, an "entity conducting business operations in Russia" means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership. Is Vendor an entity conducting business operations in Russia, as defined above?

Please answer by checking one of the following boxes:

☐ 1. No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.

☐ 2.a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion.)

☐ 2.b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)

☐ 3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16.

The undersigned certifies under penalties of perjury that they are knowledgeable about the Vendor's business and operations and that the answer provided herein is true to the best of their knowledge and belief.

Bidder Name: _____

By (signature): _____

Name: _____

Title: _____

Date: _____, 20__

Attachment 17 - Package Label

PLEASE CUT OUT AND AFFIX TO THE OUTSIDE OF YOUR RESPONSE PACKAGE.

SUNY Upstate Medical University

Sealed Bid/Proposal/Response

RFP S-1636

Medical Coding Services

Due Date:

Friday, Dec. 11, 2026 | 2:00pm ET

Bidder's Name:

Trackable, Overnight or Hand Delivery:

SUNY Upstate Medical University
Contracts & Campus Purchasing, SLC 2045
Attn: Emily Brown
650 South Salina Street
Syracuse, NY 13202

United States Postal Service:

SUNY Upstate Medical University
Contracts & Campus Purchasing, SLC 2045
Attn: Emily Brown
750 East Adams Street
Syracuse, NY 13210

EXHIBIT A: STATE UNIVERSITY OF NEW YORK STANDARD CONTRACT CLAUSES

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "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 or State University of New York, whether a Contractor, licensor, licensee, lessor, lessee or any other party; the State University of New York shall hereinafter be referred to as "SUNY"):

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. **PROHIBITION AGAINST ASSIGNMENT**. 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 SUNY 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. SUNY retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with SUNY. The Contractor may, however, assign its right to receive payments without SUNY'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.** (a) In accordance with Section 112 of the State Finance Law, the State Comptroller's approval is required for the following contracts: (i) goods, services, construction, and construction-related services for State University hospital or healthcare facilities which exceed $150,000; (ii) purchases utilizing an Office of General Services (OGS) centralized contract which exceed $200,000 (iii) goods, services, construction, and construction-related services not described in (i) or (ii) and which exceed $75,000;

(b) If this contract exceeds the threshold amounts listed above in Paragraph 3(a), or, if this is an amendment for any amount to a contract which, as so amended, exceeds said threshold amounts, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $25,000, it shall not be valid, effective or binding upon the State, and the State shall bear no liability, until it has been approved by the State Comptroller and filed in his or her office.

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

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

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

7. **NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of competitive 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 SUNY a non-collusive bidding certification on Contractor's behalf.

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

9. **SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State 's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by SUNY, 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 SUNY and any other 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. SUNY 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 SUNY 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, SUNY's or 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 SUNY 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 SUNY or 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 SUNY contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. **EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**
In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination

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

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

(b) at SUNY's request, 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 sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. SUNY 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, SUNY 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 Exhibit A, the terms of this Exhibit 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 State Finance Law §165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the 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 165of 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 and Technology Development
625 Broadway
Albany, NY 12245
Telephone: 518-292-5100

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 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:

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

(b) The Contractor has complied with the Federal Equal Employment 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 of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain.
NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and

Hawaii.

22. **COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa, § 899-bb, and State Technology Law § 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 SUNY, the Department of Civil Service and the State Comptroller.

24**. PURCHASES OF APPAREL AND SPORTS EQUIPMENT**. In accordance with State Finance Law Section 165(7), SUNY may determine that a bidder on a contract for the purchase of apparel or sports equipment is not a responsible bidder as defined in State Finance Law Section 163 based on (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including employee compensation, working conditions, employee rights to form unions and the use of child labor; or (b) bidder's failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

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

26. **CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS**. To the extent this contract is a contract as defined by Tax Law § 5-a, if the Contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY 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 contract, if SUNY determines that such action is in the best interests of the State.

27. **IRAN DIVESTMENT ACT**. By entering into this contract, 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: https://ogs.ny.gov/iran-divestment-act-2012.

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 SUNY receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, SUNY 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 SUNY 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.

SUNY 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.

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

THE FOLLOWING PROVISIONS SHALL APPLY ONLY TO THOSE CONTRACTS TO WHICH A HOSPITAL OR OTHER HEALTH SERVICE FACILITY IS A PARTY

29. Notwithstanding any other provision in this contract, the hospital or other health service facility remains responsible for insuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, state and local statutes, rules and regulations. In the foregoing sentence, the word "service" shall be construed to refer to the health care service rendered by the hospital or other health service facility.

30. (a) In accordance with the 1980 Omnibus Reconciliation Act (Public Law 96-499), Contractor hereby agrees that until the expiration of four years after the furnishing of services under this agreement, Contractor shall make available upon written request to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States or any of their duly authorized representatives, copies of this contract, books, documents and records of the Contractor that are necessary to certify the nature and extent of the costs hereunder.

(b) If Contractor carries out any of the duties of the contract hereunder, through a subcontract having a value or cost of $10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract, the subcontractor shall make available upon written request to the Secretary of Health and Human Services or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, copies of the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and extent of the costs of such subcontract.

(c) The provisions of this section shall apply only to such contracts as are within the definition established by the Health Care Financing Administration, as may be amended or modified from time to time.

31. Hospital Retained Authority: Hospital Retained Authority: The Hospital retains direct, independent authority over the appointment and/or dismissal, in its sole discretion, of the facility's management level employees (including but not limited to, the Facility/Service Administrator/Director, the Medical Director, the Director of Nursing, the Chief Executive Officer, the Chief Financial Officer and the Chief Operating Officer) and all licensed or certified health care staff. The Hospital retains the right to adopt and approve, at its sole discretion, the facility's operating and capital budgets. The Hospital retains independent control over and physical possession of the facility's books and records. The Hospital retains independent control over and physical possession of the facility's operating policies and procedures. The Hospital retains full authority and responsibility for, and control over, the operations and management of the facility. The Hospital retains the right and authority to independently adopt, approve and enforce, in its sole discretion, policies affecting the facility's delivery of health care services. The Hospital retains the right to independently adopt, approve and enforce, at its sole discretion, the disposition of assets and authority to incur debts. The Hospital retains the right to approve, at its sole discretion, contracts for administrative services, management and/or clinical services. The Hospital retains the right to approve, at its sole discretion, any facility debt. The Hospital retains the right to approve, at its sole discretion, settlements of administrative proceeding or litigation to which the facility is a party. No powers specifically reserved to the Hospital may be delegated to, or shared by, the Contractor or any other person. In addition, if there is any disagreement between the parties to this Agreement regarding control between the Hospital and the Contractor, the terms of this Section shall control.

EXHIBIT A-1: STATE UNIVERSITY OF NEW YORK AFFIRMATIVE ACTION CLAUSES

1. DEFINITIONS. The following terms shall be defined in accordance with Section 310 of the Executive Law:

STATE CONTRACT herein referred to as "State Contract", shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars ($25,000.00), whereby the State University of New York ("University") is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing, to be performed for, or rendered or furnished to the University; (b) a written agreement in excess of one hundred thousand dollars ($100,000.00) whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; (c) and (d) a written agreement in excess of one hundred thousand dollars ($100,000.00) whereby the University as an 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.

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement for a total expenditure in excess of $25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is undertaken or assumed by a business enterprise not controlled by the prime contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars ($15,000,000), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any Contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

MINORITY-OWNED BUSINESS ENTER- PRISE herein referred to as "MBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more minority group members; (b) an enterprise in which such minority ownership is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars ($15,000,000.00), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

MINORITY GROUP MEMBER shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Domini- can, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North America. (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East

Asia, the Indian Subcontinent or Pacific Islands.

CERTIFIED ENTERPRISE **OR** ***BUSINESS*** shall mean a business verified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law. A business enterprise which has been approved by the New York Division of Minority & Women Business Development ("DMWBD") for minority or women-owned enterprise status subsequent to verification that the business enterprise is owned, operated, and controlled by minority group members or women, and that also meets the financial requirements set forth in the regulations.

2. TERMS. The parties to the attached State Contract agree to be bound by the following provisions which are made a part hereof (the word "Contractor" herein refers to any party other than the University:

1(a) Contractor and its Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For these purposes, affirmative action 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.

(b) Prior to the award of a State Contract, the Contractor shall submit an equal employment opportunity (EEO) policy statement to the University within the time frame established by the University.

(c) As part of the Contractor's EEO policy statement, the Contractor, as a precondition to entering into a valid and binding State Contract, shall agree to the following in the performance of the State Contract: (i) The Contractor will not discriminate against any employee or applicant for employment, will undertake or continue existing programs of affirmative action 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 on State Contracts;(ii) 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; (iii) At the request of the University 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, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(d) Form 108 - 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. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

(e) Form 112 - Workforce Employment Utilization Report ("Workforce Report")

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to SUNY of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

(iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

(f) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. 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.

(g) The Contractor shall include the provisions of this section in every Subcontract in such a manner that the requirements of the provisions will be binding upon each Subcontractor as to work in connection with the State Contract, including the requirement that Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal occupational categories of the employees to be utilized on the State Contract.

(h) To ensure compliance with the requirements of this paragraph, the University shall inquire of a Contractor whether the work force to be utilized in the performance of the State Contract can be separated out from the Contractor's and/or Subcontractors' total work force and where the work of the State Contract is to be performed. For Contractors who are unable to separate the portion of their work force which will be utilized for the performance of this State Contract, Contractor shall provide reports describing its entire work force by the specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

(i) The University may require the Contractor and any Subcontractor to submit compliance reports, pursuant to the regulations relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the State Contract is executed.

(j) If a Contractor or Subcontractor does not have an existing affirmative action program, the University may provide to the Contractor or Subcontractor a model plan of an affirmative action program. Upon request, the Director of DMWBD shall provide a contracting agency with a model plan of an affirmative action program.

(k) Upon request, DMWBD shall provide the University with information on specific recruitment sources for minority group members and woman, and contracting agencies shall make such information available to Contractors

3. Contractor must provide the names, addresses and federal identification numbers of certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State Contract and a description of the Contract scope of work which the Contractor intends to structure to increase the participation by Certified minority- and/or women-owned business enterprises on the State Contract, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State Contract which the Contractor intends to be performed by a certified minority- or woman-owned business enterprise. In the event the Contractor responding to University solicitation is joint venture, teaming agreement, or other similar arrangement that includes a minority- and women owned business enterprise, the Contractor must submit for review and approval: i. the name, address, telephone number and federal identification of each partner or party to the agreement; ii. the federal identification number of the joint venture or entity established to respond to the solicitation, if applicable; iii. A copy of the joint venture, teaming or other similar arrangement which describes the percentage of interest owned by each party to the agreement and the value added by each party; iv. A copy of the mentor-protégé agreement between the parties, if applicable, and if not described in the joint venture, teaming agreement, or other similar arrangement.

4. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN. The University shall determine whether Contractor has made conscientious and active efforts to employ and utilize minority group members and women to perform this State Contract based upon an analysis of the following factors:

(a) Whether Contractor established and maintained a current list of recruitment sources for minority group members and women, and whether Contractor provided written notification to such recruitment sources that contractor had employment opportunities at the time such opportunities became available.

(b) Whether Contractor sent letters to recruiting sources, labor unions, or authorized representatives of workers with which contractor has a collective bargaining or other agreement or understanding requesting assistance in locating minority group members and women for employment.

(c) Whether Contractor disseminated its EEO policy by including it in any advertising in the news media, and in particular, in minority and women news media.

(d) Whether Contractor has attempted to provide information concerning its EEO policy to Subcontractors with which it does business or had anticipated doing business.

(e) Whether internal procedures exist for, at a minimum, annual dissemination of the EEO policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions. Such dissemination may occur through distribution of employee policy manuals and handbooks, annual reports, staff meetings and public postings.

(f) Whether Contractor encourages and utilizes minority group members and women

employees to assist in recruiting other employees.

(g) Whether Contractor has apprentice training programs approved by the N.Y.S. Department of Labor which provides for training and hiring of minority group members and women.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor.

5. PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Based upon an analysis of the following factors, the University shall determine whether Contractor has made good faith efforts to provide for meaningful participation by minority-owned and women-owned business enterprises which have been certified by DMWBD:

(a) Whether Contractor has actively solicited bids for Subcontracts from qualified M/WBEs, including those firms listed on the Directory of Certified Minority and Women- Owned Business Enterprises, and has documented its good faith efforts towards meeting minority and women owned business enterprise utilization plans by providing, copies of solicitations, copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publications of such advertisements; dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the University, with certified minority- and women-owned business enterprises, and the reasons why any such firm was not selected to participate on the project.

(b) Whether Contractor has attempted to make project plans and specifications available to firms who are not members of associations with plan rooms and reduce fees for firms who are disadvantaged.

(c) Whether Contractor has utilized the services of organizations which provide technical assistance in connection with M/WBE participation.

(d) Whether Contractor has structured its Subcontracts so that opportunities exist to complete smaller portions of work.

e) Whether Contractor has encouraged the formation of joint ventures, partnerships, or other similar arrangements among Subcontractors.

(f) Whether Contractor has requested the services of the Department of Economic Development (DED) to assist Subcontractors' efforts to satisfy bonding requirement.

(g) Whether Contractor has made progress payments promptly to its Subcontractors.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor. It shall be the responsibility of Con- tractor to ensure compliance by every Subcontractor with these provisions.

6. MWBE Utilization Plan.

(a) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan prior to the execution of the contract.

(b) MWBE Utilization Plan (Form 7557-107).

Contractors are required to submit a Utilization Plan on Form 7557-107 with their bid or proposal. Complete the following steps to prepare the Utilization Plan:

i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
ii. insert a description of the contract scope of work which the Contractor intends to structure to increase the participation by NYS Certified minority- and women-owned enterprises on the State contract;
iii. insert the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State contract which the Contractor intends to be performed by a NYS Certified minority- or women-owned business; and

(c) Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and during the term of the contract must be reported on a revised MWBE Utilization Plan and submitted to the SUNY University-wide MWBE Program Office.

(d) The University will review the MWBE Utilization Plan and will issue the Contractor a written notice of acceptance or deficiency within twenty (20) day of its receipt. A notice of deficiency shall include the:

i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
ii. name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals;
iii. reasons why it is not an acceptable element of the Contract scope of work which the MWBE Program Office has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the Contract by MWBEs; and
iv. other information which the MWBE Program Office determines to be relevant to the MWBE Utilization Plan.

(e) The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the University a written remedy in response to the notice of deficiency.

i. If the written remedy that is submitted is not timely or is found to be inadequate, the University-wide MWBE Program Office shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for partial or total waiver of MWBE participation goals on forms provided by the University-wide MWBE Program Office.

ii. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

(f) The University may disqualify a Contractor as being non-responsive under the following circumstances:

i. If a Contractor fails to submit a MWBE Utilization Plan;

ii. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;

iii. If a Contractor fails to submit a request for waiver; or

iv. If the MWBE Program Office determines that the Contractor has failed to document Good Faith Efforts.

(g) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

(h) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, SUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

7. Waivers.

(a) For Waiver Requests Contractor should use (Form 7557-114) – Waiver Request.

(b) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete the University shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(c) If University, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the University 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.

8. MWBE Contractor Compliance Report.

Contractor is required to submit an MWBE Contractor Compliance Report (Form 7557-112) to the University by the 5th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Compliance Reports for construction contracts (Form 7557-110) must be submitted on a monthly basis.

9. GOALS. (a) GOALS FOR MINORITY AND WOMEN WORK FORCE PARTICIPATION.

(i) The University shall include relevant work force availability data, which is provided by the DMWBD, in all documents which solicit bids for State Contracts and shall make efforts to assist Contractors in utilizing such data to determine expected levels of participation for minority group members and women on State Contracts.

(ii) Contractor shall exert good faith efforts to achieve such goals for minority and women's participation. To successfully achieve such goals, the employment of minority group members and women by Contractor must be substantially uniform during the entire term of this State Contract. In addition, Contractor should not participate in the transfer of employees from one employer or project to another for the sole purpose of achieving goals for minority and women's participation.

(b) **GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION.** For all State Contracts in excess of $25,000.00 whereby the University is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or an combination of the foregoing or all State Contracts in excess of $100,000.00 whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith efforts to achieve a participation goal of zero percent (0%) for Certified Minority-Owned Business Enterprises and zero percent (0%) for Certified Women-Owned Business Enterprises.

10. ENFORCEMENT. The University will be responsible for enforcement of each Contractor's compliance with these provisions. Contractor, and each Subcontractor, shall permit the University access to its books, records and accounts for the purpose of investigating and determining whether Contractor or Subcontractor is in compliance with the requirements of Article 15-A of the Executive Law. If the University determines that a Contractor or Subcontractor may not be in compliance with these provisions, the University may make every reasonable effort to resolve the issue and assist the Contractor
or Subcontractor in its efforts to comply with these provisions. If the University is unable to resolve the issue of noncompliance, the University may file a complaint with the DMWBD.

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 withholding of funds or such other actions, remedies or enforcement proceedings as allowed by the Contract.

11. DAMAGES FOR NON COMPLIANCE.
Where the University determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay liquidated damages to the University. Such liquidated damages shall be calculated as an amount equaling the difference between:

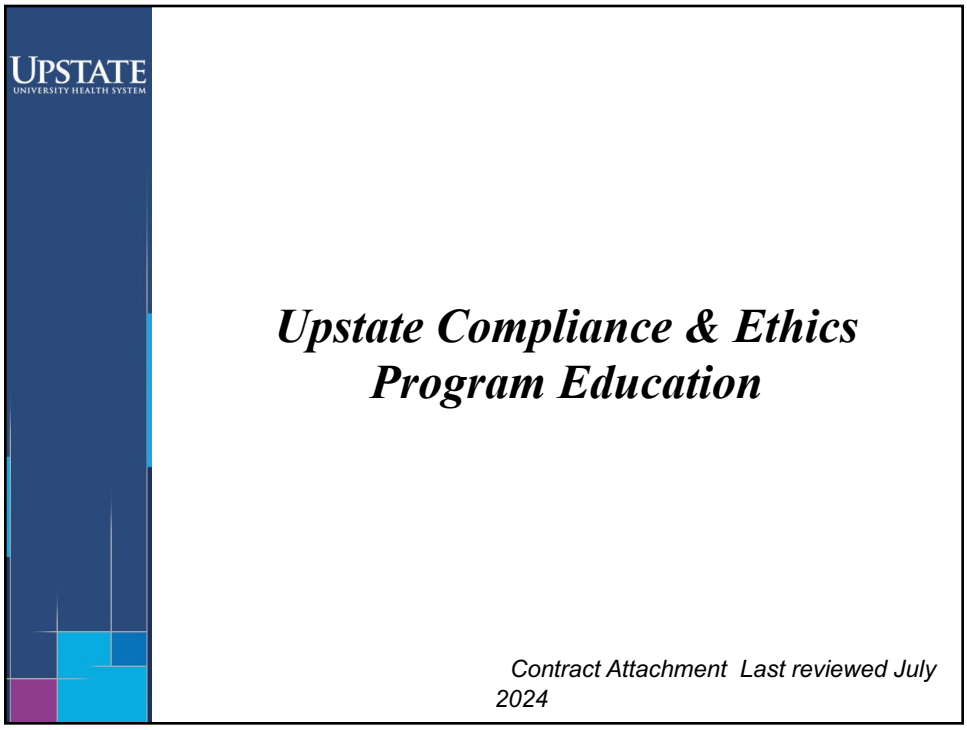
a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and

b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

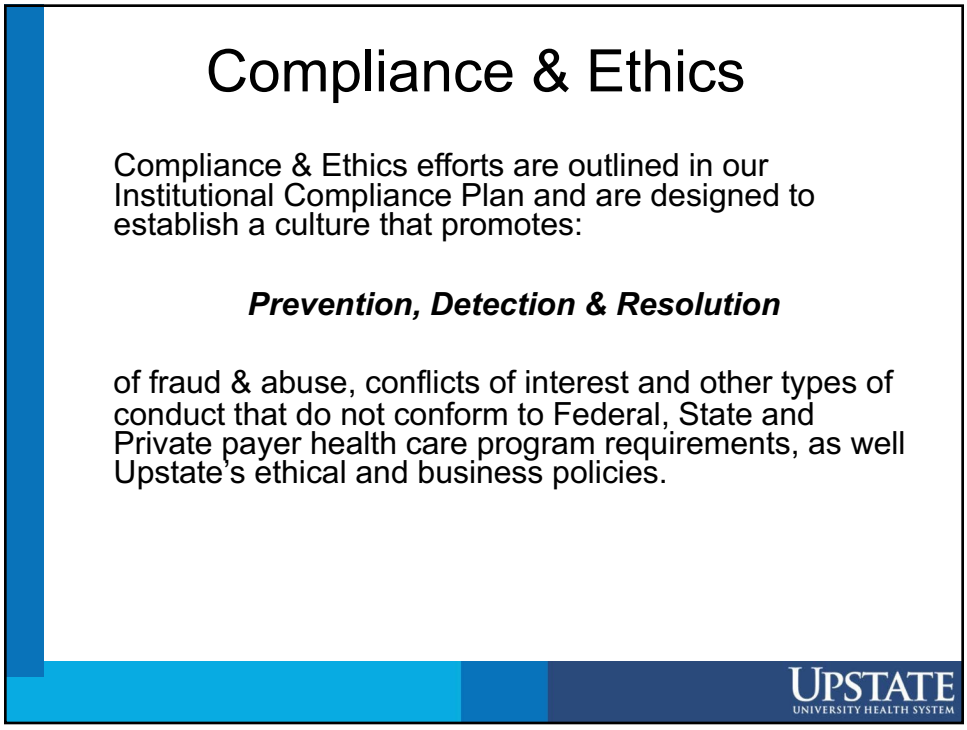
In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the University, Contractor shall pay such liquidated damages to the University within sixty (60) days after such damages are assessed, unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the University.

EXHIBIT T: UPSTATE COMPLIANCE & ETHICS PROGRAM EDUCATION

EXHIBIT T


UPSTATE
UNIVERSITY HEALTH SYSTEM
Upstate Compliance & Ethics Program Education
Contract Attachment Last reviewed July 2024

1


Compliance & Ethics
Compliance & Ethics efforts are outlined in our Institutional Compliance Plan and are designed to establish a culture that promotes:
Prevention, Detection & Resolution
of fraud & abuse, conflicts of interest and other types of conduct that do not conform to Federal, State and Private payer health care program requirements, as well Upstate's ethical and business policies.
UPSTATE
UNIVERSITY HEALTH SYSTEM

2

Fraud and Abuse

- Fraud is an intentional deception (lie) or misrepresentation that a person or business makes while knowing the lie could result in some type of unauthorized benefit to that person or business.
- Knowing means:
  - ✓ You had actual knowledge of the lie,
  - ✓ You acted in deliberate ignorance of the truth,
  - ✓ You acted in reckless disregard of the truth.

UPSTATE UNIVERSITY HEALTH SYSTEM

3

Fraud and Abuse

- Abuse is to use wrongly or improperly, misuse.
- Abuse can result in
  - ✓ Unnecessarily increased costs
  - ✓ Providing unnecessary services
  - ✓ Overuse of medical services
  - ✓ Failure to conform to professionally recognized standards

UPSTATE UNIVERSITY HEALTH SYSTEM

4

UPSTATE
UNIVERSITY HEALTH SYSTEM

Upstate Institutional Compliance Programs

5

What We Do

Key Components of our Compliance Program:

- Institutional Compliance Plan
  - Code of conduct
- Institutional Compliance & Ethics Officers
- Compliance & Ethics Education
- Monitoring & Auditing Programs and an Office of Internal Audit
- Enforcement of Disciplinary Standards
- Open Lines of Communication to the Compliance & Ethics Office(s)
- Processes to Respond to Detected Offenses

UPSTATE
UNIVERSITY HEALTH SYSTEM

6

Code of Conduct

The Code of Conduct is a model for our behavior and must be followed by all employees and contractors.

Please review the following code of conduct:

THE UPSTATE CODE OF CONDUCT: Expected and acceptable behaviors foster mutual respect.

This includes but is not limited to:

- Holding yourself and others accountable to our mission, vision and values.
- Interacting with others in a considerate, patient and courteous manner.
- Promoting equality and acceptance of people from diverse backgrounds.
- Demonstrating a caring and positive attitude: smile, greet and acknowledge others, make eye contact, say please and thank you. Giving recognition and praise.
- Respecting confidentiality and privacy at all times.
- Providing a secure, clean and safe environment for patients and fellow staff.
- Working together by promoting cooperation, participation, and sharing of ideas and information to promote team success. Fostering open and honest communication.
- Actively listening to the perspective of others and seeking to resolve conflicts promptly. Apologizing when mistakes are made or misunderstandings have occurred.
- Utilizing proper channels to express dissatisfaction with policies and administrative or supervisory actions and without fear of retaliation.
- Being honest and truthful at all times.

UPSTATE UNIVERSITY HEALTH SYSTEM

7

Examples of inappropriate and disruptive communications/behaviors*, include, but are not limited to:

1. Using abusive language, including repetitive sarcasm.
2. Sexually harassing and making comments, jokes, or innuendoes of a sexual nature.
3. Making direct or indirect threats of violence, revenge, legal action, or financial harm.
4. Using racial, ethnic, or religious slurs.
5. Displaying behavior that would be considered by others to be intimidating, disrespectful, or dismissive.
6. Exhibiting behavior that threatens or results in verbal and/or physical abuse.
7. Using foul or insulting language, shouting, and rudeness.
8. Criticizing of co-workers or other staff in the presence of others in the workplace or in the presence of patients.
9. Publicly shaming others.
10. Disregarding or being insensitive to the personal space or boundaries of others.
11. Destruction of Upstate property.
12. Being impaired (e.g., use of alcohol or drugs) in the workplace or academic environment.
13. Failing to be knowledgeable with and follow applicable policies and procedures including those that govern communication.

* Communication and/or behavior in any format, including, but not limited to, oral, written, visual, literary, electronic, recorded, or symbolic.

8

Institutional Compliance & Ethics Officers

Chief Ethics & Compliance Officer for the Hospital & University. Loretta Harris, MBA, CHC, CCEP, CHPC

- For Hospital Compliance, Hospital and Campus Ethics and Conflict of Interest questions.
  - Harrislo@upstate.edu
  - 315-464-4789

Faculty Practice Plan Compliance Officer – Deb Gregoire, MBA, RHIA

- For UUMAS/MSG Compliance and Privacy questions.
  - BaxterD@upstate.edu
  - 315-464-4793

Hospital Regulatory Compliance Officer – Darlene Sovey, CHC

- For fraud and abuse billing questions.
  - SoveyD@upstate.edu
  - 315-464-4346

HIPAA Privacy Officer –Alyssa Kopper

- For Institutional Privacy questions
  - KopperA@upstate.edu
  - 315-464-6135

Chief Research Compliance Officer – Nicole Mason

- For Institutional Research questions.
  - Masonn@upstate.edu
  - 315-464-4317

Information Security Officer- Shawn O'Reilly, CISSP, HCISPP

- For Institutional cybersecurity, security and access questions.
  - OReillyS@upstate.edu
  - 318-464-4093

UPSTATE UNIVERSITY HEALTH SYSTEM

9

Monitoring and Auditing

- Annual audit plans are developed to address identified risk areas. Plans are updated continuously to address new issues as they arise.
- Monitoring is done through system development, establishing checks and balances to automate where possible mitigating risk.
- Auditing and monitoring helps:
  - ✓ avoid submitting incorrect bills to payers.
  - ✓ avoid issues of conflicts of interest.
  - ✓ maintain adherence with internal controls.
- Please help by reporting potential issues for review to your manager or the Compliance Office.

UPSTATE UNIVERSITY HEALTH SYSTEM

10

Enforcement of disciplinary standards

- Employees and contractors are subject to disciplinary action for failure to comply with all Federal and State laws and regulations, and with Upstate Medical University policies and procedures.
- This may include failure to report a suspected violation of any Federal or State Healthcare Program requirement or a violation of SUNY Upstate Medical University's policies.
- There is also a range of penalties, which can apply to individuals or organizations for violation of Federal and State Healthcare Program regulations. Such penalties can include monetary fines, civil and criminal legal actions, and Federal program exclusions.

UPSTATE UNIVERSITY HEALTH SYSTEM

11

Open line of Communication

- Open lines of communication increases our ability to identify and respond to compliance problems.
- All employees and contractors have an obligation to report known or suspected incidents of potential non- compliance.
- Under no circumstances shall the good faith reporting of any information serve as the basis for any retaliation or reprisal in any form against any employee or contractor as a result of that person participating in the compliance efforts.

UPSTATE UNIVERSITY HEALTH SYSTEM

12

Compliance Hotline

- A key element of an effective Compliance Program is good communication.
- All providers and staff are obligated to expose any unethical or illegal activity if they are aware of it or suspect it.
- All physicians and MSG staff are encouraged to contact the Faculty Practice Plan Compliance Officer, Deb Gregoire or their Department's Compliance Officer with any compliance concerns.
- All hospital and campus staff should contact Chief Compliance Officer, Loretta Harris with any concerns.
- The Compliance Hotline is available to report concerns confidentially.
  - **Compliance Hotline: 464-6444**
  - **Compliance@upstate.edu**

UPSTATE UNIVERSITY HEALTH SYSTEM

13

Response to Detected Problems

- Once notified of a potential concern we take necessary steps to investigate and correct any identified problem.
- Most often corrective action will be in the form of education and training.
- The Compliance Office works to make sure adequate corrective action is put in place to remedy the problem.

UPSTATE UNIVERSITY HEALTH SYSTEM

14

Ways you can help insure compliance…

Your involvement can help maintain our culture of compliance. Here's how:

- When in doubt, check policies or ask your Supervisor
- Take advantage of resources available to you, ask for help to avoidmistakes
- Help to identify problems early
- Follow our code of conduct
- **Ask questions, it is better to ask questions and raise issues than to leave matters unresolved. If it feels wrong, it may very well be wrong – so check it out**
- Actively request and seek training/education when you need it
- Regard auditing and monitoring findings as opportunities forimprovement
- When new policies/procedures are implemented, take time to study them and incorporate them into your job

UPSTATE UNIVERSITY HEALTH SYSTEM

15

Simply Put, Compliance Basically Means…

No Lying, No Cheating, No Stealing!

UPSTATE UNIVERSITY HEALTH SYSTEM

16

CONTRACTOR ACKNOWLEDGMENT

By signing this contract, you are attesting that you have reviewed and understand the compliance and ethics program for SUNY Upstate Medical University and will adhere to the policies, laws and regulations contained herein.

UPSTATE
UNIVERSITY HEALTH SYSTEM

17

EXHIBIT Z: BUSINESS ASSOCIATE AGREEMENT

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT is made by and between THE STATE UNIVERSITY OF NEW YORK ("SUNY"), an educational corporation organized and existing under the laws of the State of New York, having its principal offices located at State University Plaza, Albany, New York 12246, acting for and on behalf of

Upstate University Hospital
"Covered Entity"

with its address at

750 East Adams Street
Street Address

Syracuse	NY	13210
City	State	Zip

and

"Business Associate"

with its principal offices at

Street Address

City	State	Zip

Facsimile Number: _____

Covered Entity and Business Associate, collectively, may hereinafter be referred to as the "Parties," as in the parties to this Agreement.

The Parties have entered into one or more certain agreements (each and together, the "Underlying Agreement") under which the Business Associate uses and/or discloses PHI in its performance of the Services described below. The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule") and the Standards for Security of Electronic Protected Health Information (the "Security Rule) under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") including the 2013 HIPAA Omnibus Rule. This Agreement, in conjunction with the Privacy and Security Rules, sets forth the terms and conditions pursuant to which PHI (electronic and non-electronic) that is created, received, maintained, or transmitted by, the Business Associate from or on behalf of Covered Entity, will be handled between the Business Associate and Covered Entity and with third parties during the term of their Underlying Agreement and after its termination. The Parties agree as follows:

1. PERMITTED USES AND DISCLOSURES OF PHI

1.1 **Services**. Pursuant to the Underlying Agreement, Business Associate provides services ("Services") for Covered Entity that involve the use and disclosure of PHI. Except as otherwise specified herein, the Business Associate may make any and all uses of PHI necessary to perform its obligations under the Underlying Agreement. All other uses not authorized by this Agreement are prohibited. Moreover, Business Associate may disclose PHI for the purposes authorized by this Agreement only: (a) to its employees, subcontractors and agents, in accordance with Section 2.1(d), or (b) as otherwise permitted by or as required by the Privacy or Security Rule.

1.2 **Business Activities of the Business Associate**. Unless otherwise limited herein and if such use or disclosure of PHI would not violate the Privacy or Security Rules if done by the Covered Entity, the Business Associate may:

(a) use the PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of the Business Associate provided that such uses are permitted under state and federal confidentiality laws.

(b) disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of the Business Associate, provided that the Business Associate represents to Covered Entity, in writing, that (i) the disclosures are required by law, as provided for in 45 CFR § 103 or (ii) the Business Associate has received from the third party written assurances regarding its confidential handling of such PHI as required under 45 CFR § 164.504(e)(4) and § 164.314, and the third party notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(c) Business Associate may provide data aggregation services relating to the health care operations of the Covered Entity.

1.3 Business Associate understands and agrees that its access to Protected Health Information stored in databases and information systems at the Covered Entity is subject to review and audit by the Covered Entity or agents of the State of New York at any time, that remote audits of such access may occur at any time, if remote access exists, that on-site audits of such access will be conducted during regular business hours, and that any review or audit may occur with or without prior notice by the Covered Entity.

2. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

2.1 **Responsibilities of the Business Associate**. With regard to its use and/or disclosure of PHI, the Business Associate hereby agrees to do the following:

(a) Not use or disclose PHI other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI,

to prevent use or disclosure of PHI other than as provided for by the Agreement;

(c) Report, in writing, to Covered Entity within five (5) business days any use or disclosure of PHI not provided for by the Agreement of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any security incident of which it becomes aware, and cooperate with the Covered Entity in any mitigation or breach reporting efforts; this notice shall be deemed sufficient if it is delivered to the Parties at their respective addresses listed above and the Privacy Officer using the following contact information:

Loretta Harris, MBA, CHC, CCEP, CHPC		
Privacy Officer		
750 East Adams Street		
Street Address		
Syracuse	NY	13210
City	State	Zip

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, to ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;

(e) No agent or subcontractor to whom the Business Associate provides PHI, as well as Business Associate, shall export PHI beyond the borders of the United States of America unless the Business Associate receives express written consent from the Covered Entity.

(f) Agrees to provide the Covered Entity, at the Covered Entity's request, a list of all agents and subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate.

(g) Within five (5) business days of a request from Covered Entity, make available PHI in a designated record set, if applicable, to Covered Entity, as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524.

(h) Within five (5) business days of a request from Covered Entity, make any amendment(s) to PHI, if applicable, in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526.

(i) As applicable, maintain and make available the information required to provide an accounting of disclosures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528.

(j) To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).

(k) Upon request, may make its internal practices, books, and records available to the Secretary and to the Covered Entity for purposes of determining compliance with the HIPAA Rules.

(l) Comply with minimum necessary requirements under the HIPAA Rules.

2.2 Business Associate hereby acknowledges and agrees that Covered Entity has notified Business Associate that Business Associate is required to comply with the confidentiality, Disclosure and re-Disclosure requirements of 10 NYCRR Part 63 to the extent such requirements may be applicable.

2.3 If, in the performance of the Services, Business Associate extends, renews or continues credit to patients or regularly allows patients to defer payment for services including setting up payment plans in connection with one or more covered accounts, as defined at 15 USC 1681m(e)(4), the Business Associate must comply with the Federal Trade Commission's "Red Flag" Rules, if applicable, or develop and implement a written identity theft prevention program designed to identify, detect, mitigate and respond to suspicious activities that could indicate that identity theft has occurred in the Business Associate practice or business.

2.4 Business Associate acknowledges that if Business Associate or any of its agents or subcontractors violate any Security provision as Required By Law specified in subparagraph 2.1(b) above, sections 1176 and 1177 of the Social Security Act 42 USC §1320d-5, 1320d-6 shall apply to Business Associate with respect to such violation in the same manner that such sections apply to Covered Entity if it violates such Security provision, thus resulting in civil or criminal penalties.

2.5 Covered Entity and Business Associate recognize that unsecured PHI may contain the social security numbers, financial account information or driver's license number or non-driver identification card number ("private information" as defined in the New York State Information Security Breach and Notification Act, as amended ("ISBNA"), General Business Law § 889-aa; State Technology Law § 208). Subject to the issue of interim final regulations by the Secretary and any periodic updates thereof all of which are incorporated by reference in this Agreement, in the event of a Breach of unsecured PHI containing an Individual's private information, Business Associate shall, in addition to notifying Covered Entity as required under in subparagraph 2.1(c), comply with the provisions of the New York State ISBNA. Business Associate shall be liable for the costs associated with such Breach if caused by the Business Associate's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Business Associate's agents, officers, employees or subcontractors.

3. RESPONSIBILITIES OF COVERED ENTITY.

3.1 With regard to the use and/or disclosure of PHI by the Business Associate, Covered Entity hereby agrees:

(a) to inform the Business Associate of any limitations in the form of notice of privacy practices that Covered Entity provides to individuals pursuant to 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(b) to inform the Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose PHI, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(c) to notify the Business Associate, in writing and in a timely manner, of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may impact in any manner the use and/or disclosure of PHI by the Business Associate under this Agreement. except if the Business Associate will use or disclose PHI for (and the Underlying Agreement includes provisions for) data aggregation or management and administration and legal responsibilities of the Business Associate.

(d) Covered Entity will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy and Security Rule if done by the Covered Entity.

4. **REPRESENTATIONS AND WARRANTIES [THIS SECTION MAY BE REMOVED IF IT IS INCLUDED IN THE UNDERLYING AGREEMENT]**

4.1 Mutual Representations and Warranties of the Parties. Each Party represents and warrants to the other Party:

(a) **t**hat it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized or licensed, it has the full power to enter into this Agreement and to perform its obligations hereunder, and that the performance by it of its obligations under this Agreement have been duly authorized by all necessary corporate or other actions and will not violate any provision of any license, corporate charter or bylaws.

(b) that neither the execution of this Agreement, nor its performance hereunder, will directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance hereunder. Each Party represents and warrants to the other Party that it will not enter into any agreement the execution and/or performance of which would violate or interfere with this Agreement.

(c) that it is not currently the subject of a voluntary or involuntary petition in bankruptcy, does not currently contemplate filing any such voluntary petition, and is not aware of any claim for the filing of an involuntary petition.

(d) that all of its employees and members of its workforce, whose services may be used to fulfill obligations under this Agreement are or shall be appropriately informed of the terms of this Agreement and are under legal obligation to each Party, respectively, by contract or otherwise, sufficient to enable each Party to fully comply with all provisions of this Agreement including, without limitation, the requirement that modifications or limitations that Business Associate has agreed to adhere to with regards to the use and disclosure of PHI of any individual that materially affects and/or limits the uses and disclosures that are otherwise permitted under the Standard will be communicated to the Business Associate, in writing, and in a timely fashion.

(e) that it will reasonably cooperate with the other Party in the performance of the mutual obligations under this Agreement.

(f) that neither the Party, nor its shareholders, members, directors, officers, agents, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deferred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (i) the neglect or abuse of a patient, (ii) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (iii) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, state or local government agency, (iv) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (v) interference with or obstruction of any investigation into any criminal offense.

4.2 Each Party further agrees to notify the other Party immediately after the Party becomes aware that any of the foregoing representation and warranties may be inaccurate or may become incorrect at any time during the term of this Agreement.

5. **TERMS AND TERMINATION**

5.1 **Term**. The Term of this Agreement shall commence on the Effective Date, and shall terminate on the termination date of the relevant Underlying Agreement or on the date Covered Entity terminates this Agreement for cause as authorized in paragraph 5.2 of this Section, whichever is sooner.

5.2 **Termination for Cause**. Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

5.3 **Obligations of Business Associate upon Termination**. Business Associate agrees to return or destroy all PHI pursuant to 45 CFR § 164.504(e)(2)(I). Prior to doing so, the Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents. If it is not feasible for the Business Associate to return or destroy said PHI, the Business Associate will notify Covered Entity in writing and the Covered Entity may disagree with the Business Associate's determination. Said notification shall include: (a) a statement that the Business Associate has determined that it is not feasible to return or destroy the PHI in its possession, and (b) the specific reasons for such determination. Business Associate further agrees to extend any and all protections, limitations and restrictions contained in this Agreement to the Business Associate's use and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible. If it is infeasible for the Business Associate to obtain from a subcontractor or agent any PHI in the possession of the subcontractor or agent, the Business Associate must provide a written explanation to Covered Entity and require such subcontractor or agent to agree to extend any and all protections, limitations and restrictions contained in this Agreement to the subcontractor's and/or agent's use and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible.

5.4 Automatic Termination. This Agreement will automatically terminate without any further action of the Parties upon the termination or expiration of the Underlying Agreement.

6. CONFIDENTIALITY [THIS SECTION MAY BE REMOVED IF IT IS INCLUDED IN THE UNDERLYING AGREEMENT]

6.1 **Confidentiality Obligations**. In the course of performing under this Agreement, each Party may receive, be exposed to or acquire the Confidential Information including but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer data base or computer readable form, as well as any information identified as confidential ("Confidential Information") of the other Party. For purposes of this Agreement, "Confidential Information" shall not include PHI, the security of which is the subject of this Agreement and is provided for elsewhere. The Parties including their employees, agents, representatives and subcontractors: (a) shall not disclose to any third party the Confidential Information of the other Party except as otherwise permitted by this Agreement, (b) only permit use of such Confidential Information by employees, agents, representatives and subcontractors having a need to know in connection with performance under this Agreement, and (c) advise each of their employees, agents, representatives and subcontractors of their obligations to keep such Confidential Information confidential. Notwithstanding anything to the contrary herein, each Party shall be free to use, for its own business purposes, any ideas, suggestions, concepts, know-how or techniques contained in information received from each other that directly relates to the performance under this Agreement. This provision shall not apply to Confidential Information: (d) after it becomes publicly available through no fault of either Party; (e) which is later publicly released by either Party in writing; (f) which is lawfully obtained from third parties without restriction; or (g) which can be shown to be previously known or developed by either Party independently of the other Party.

7. INSURANCE AND INDEMNIFICATION [THIS SECTION MAY BE REMOVED IF IT IS INCLUDED IN THE UNDERLYING AGREEMENT]

7.1 **Insurance**. Business Associate will procure and maintain in effect during the term of this Agreement: (a) general liability insurance coverage with minimum limits of $1 million per occurrence and $3 million aggregate; and (b) as applicable, professional liability insurance coverage within minimum limits of $1 million per occurrence and $3 million in aggregate; and (c) workers' compensation insurance coverage within statutory limits of state law in which Business Associate is located. Upon request, Business Associate shall provide evidence of continuous coverage to Covered Entity.

7.2 **Indemnification**. The Business Associate agrees to indemnify, defend and hold harmless Covered Entity and Covered Entity's employees, trustees, officers, agents and other members of its workforce from any costs, damages, expenses, judgments, losses, and attorney's fees arising from any breach of this Agreement by Business Associate or any of its agents or subcontractors, or arising from any negligent or wrongful acts or omissions of Business Associate or any of its agents or subcontractors, including failure to perform its obligations under the Privacy Rule. The Business Associate's indemnification obligation shall survive the expiration or termination of this Agreement for any reason.

8. MISCELLANEOUS

8.1 **Business Associate**. For purposes of this Agreement, Business Associate shall include the named Business Associate herein. However, in the event that the Business Associate is otherwise a Covered Entity under the Privacy or Security Rule, that entity may appropriately designate a health care component of the entity, pursuant to 45 CFR § 164.504(a), as the Business Associate for purposes of this Agreement.

8.2 **Survival**. The respective rights and obligations of Business Associate and Covered Entity under this Agreement, shall survive termination of this Agreement indefinitely.

8.3 **Amendments; Waiver**. This Agreement may not be modified, nor shall any provision hereof be waived or

amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

8.4 **Interpretation**. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

8.5 **No Third Party Beneficiaries**. Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

8.6 **Notices**. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given above , and/or (other than for the delivery of fees) via facsimile to the facsimile telephone numbers listed above. A copy of any such notice shall also be given in the same manner to the Privacy Officer listed above. Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided.

8.7 **Counterparts; Facsimiles**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

8.8 **Disputes**. If any controversy, dispute or claim arises between the Parties with respect to this Agreement, the Parties shall make good faith efforts to resolve such matters informally.

8.9 **LIMITATION OF LIABILITY**. COVERED ENTITY SHALL NOT BE LIABLE TO BUSINESS ASSOCIATE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

8.10 **Changes in Law**. The Parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws. The Parties further recognize that this Agreement may become subject to amendments in such laws and regulations and to new legislation. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the Parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the Parties agree to use their best efforts to modify in an executed written agreement the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement within thirty (30) days of receipt of notice from one Party to the other Party setting forth the proposed changes. If the Parties fail to so modify this Agreement, then either Party may, by giving the other an additional sixty (60) days written notice, terminate this Agreement, unless this Agreement would terminate earlier by its terms. In the event amendments or changes in existing law, general instructions, or new legislation, rules, regulations, or decisional law preclude or substantially preclude a contractual relationship between the Parties similar to that expressed in this Agreement, then, under such circumstances, where renegotiation of the applicable terms of this Agreement would be futile, either Party may provide the other at least sixty (60) days advance written notice of termination of this Agreement, unless this Agreement would terminate earlier by its terms. Upon termination of this Agreement as hereinabove provided, neither Party shall have any further obligation hereunder except for (a) obligations occurring prior to the date of termination, and (b) obligations, promises or covenants contained herein which are expressly made and intended either to arise upon the termination of this Agreement ot to extend beyond the term of this Agreement.

8.11 **Construction of Terms**. The terms of this Agreement shall be construed in light of any applicable interpretation or guidance on HIPAA and/or the Privacy Rule issued by the Department of Health and Human Services of the Office of Civil Rights from time to time.

8.12 **Contradictory Terms**. Any provision of the Underlying Agreement that is directly contradictory to one or more terms of this Agreement ("Contradictory Term") shall be superceded by the terms of this Agreement as of the Effective Date of this Agreement to the extent and only to the extent of the contradiction, only for the purpose of the Covered Entity's compliance with the Privacy Rule and only to the extent that it is reasonably impossible to comply with both the Contradictory Term and the terms of this Agreement.

8.13 **Governing Law**. This Agreement and any Underlying Agreement shall be governed by New York law notwithstanding any conflicts of law provisions to the contrary.

9. DEFINITIONS.

9.1 The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, PHI, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

9.2 Specific definitions include:

(a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this Agreement, shall mean the Party identified as the Business Associate above.

(b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "Covered Entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the Party identified as the Covered Entity above.

(c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

(d) Electronic Protected Health Information or Electronic PHI. "Electronic PHI" shall mean PHI which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.

(e) Privacy Officer. "Privacy Officer" shall have the meaning as set out in its definition at 45 CFR § 164.530(a)(1) as such provision is currently drafted and as it is subsequently updated, amended or revised, and in reference to this Agreement, shall mean the person identified as the Privacy Officer above.

(f) Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164.

(g) Security Rule. "Security Rule" shall mean the Standards for Security of Electronic Protected Health Information at 45 CFR Parts 160, 162, and 164.

(h) A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf.

THE STATE UNIVERSITY OF NEW YORK on behalf of COVERED ENTITY

By: _____

Print Name: _____

Print Title: _____

Date: _____

BUSINESS ASSOCIATE

By: _____

Print Name: _____

Print Title: _____

Date: _____