

**Persistently Struggling Schools Grant (PSSG) Application**  
**Education Law 211-f and Commissioner's Regulation 100.19**  
**Funding Period: July 1, 2015 – March 31, 2017**

**Background**

Education Law Section 211-f designates current Priority Schools that have been in the most severe accountability status since the 2006-07 school year as “Persistently Failing Schools” and vests the superintendent of the district with the powers of a receiver. Pursuant to Commissioner’s Regulation 100.19, these schools have been identified as “Persistently Struggling Schools.” Section 211-f of Education Law provides persons or entities vested with the powers of a receiver new authority to, among other things, develop a school intervention plan; convert schools to community schools providing wrap-around services; reallocate funds in the school’s budget; expand the school day or school year; establish professional development plans; order the conversion of the school to a charter school consistent with applicable state laws; remove staff and/or require staff to reapply for their jobs in collaboration with a staffing committee; and negotiate collective bargaining agreements, with any unresolved issues submitted to the Commissioner for decision.

**Purpose**

Beginning on July 1, 2015, schools identified as Persistently Struggling will be eligible for a portion of \$75 million to support and implement turnaround efforts over a 21 month period. The superintendent is given an initial one-year period to use the enhanced authority of a Receiver to make demonstrable improvement in student performance at the Persistently Struggling School or the Commissioner will direct that the school board appoint an Independent Receiver and submit the appointment for approval to the Commissioner. Independent Receivers are appointed for up to three school years and will enter into a contract with the NYS Education Department.

The Department shall reserve the larger of \$200,000 or an amount equivalent to ten percent of a school’s Persistently Struggling Schools Grant (PSSG) to pay for potential 2016-17 school year activities and/or the contracted costs of the Independent Receiver. NYSED will provide guidance at a later time on the application process to access schools' contingency reserve funds if no Independent Receiver is appointed. Click link below for information on Commissioner’s Regulation 100.19.

<http://www.p12.nysed.gov/accountability/de/documents/Section100.19oftheRegulationsoftheCommissionerofEducation.pdf>

**Eligibility and Grant Allocation**

As defined in Section 211-f of Education Law and Commissioner’s Regulation 100.19, there are 20 Persistently Struggling Schools eligible for these grants.

Education Law requires that the Commissioner shall determine the school-specific allocation based on factors including enrollment. School Districts must apply for the

allocation for each school separately. Funds shall be distributed according to the following formula:

<b>Allocation Methodology</b>		
Allocation	Dollars Per Pupil	Weightings
Base School Allocation	\$100,000	
Student enrolled in the school as of BEDS Day 2014	\$2,575.00 per student	1.00
Student enrolled in grades 6, 7, and 8	\$128.75 per student	0.05
Student enrolled in grades 9, 10, 11, and 12	\$257.50 per student	0.10
English language learner enrolled in grades K-6	\$643.75 per student	0.25
English language learner enrolled in grades 7-12	\$1,287.50 per student	0.50
Low-Income Student	\$1,287.50 per student	0.50
Student with disability enrolled for 40% or less of the day in a special class	\$1,931.25 per student	0.75
Student with disability enrolled for more than 40% of the day in a special class	\$2,575.00 per student	1.00

Note: These are duplicated counts so a low income high school student who was an English language learner would generate \$5,407.50 (\$2575+\$257.50+\$1,287.50+\$1,287.50) towards the school's allocation.

## Persistently Struggling School Allocations

School	District	Enrollment Weighting	Two-Year Total Transformation Allocation
WILLIAM S HACKETT MIDDLE SCHOOL	ALBANY CITY SD	1.550	\$2,625,818
BUFFALO ELEM SCH OF TECHNOLOGY	BUFFALO CITY SD	1.633	\$2,783,408
PS 37 FUTURES ACADEMY	BUFFALO CITY SD	1.625	\$2,317,976
BURGARD VOC HIGH SCHOOL	BUFFALO CITY SD	1.685	\$2,407,715
SOUTH PARK HIGH SCHOOL	BUFFALO CITY SD	1.670	\$3,829,115
WEST HERTEL ELEMENTARY SCHOOL	BUFFALO CITY SD	1.665	\$3,881,388
HEMPSTEAD HIGH SCHOOL	HEMPSTEAD UFSD	1.640	\$9,499,394
JHS 162 L RODRIGUEZ DE TIO	NYC GEOG DIST # 7 - ISC-BRONX	1.806	\$1,811,345
JHS 22 JORDAN L MOTT	NYC GEOG DIST # 9 - ISC-BRONX	1.846	\$2,405,526
PS 64 PURA BELPRE	NYC GEOG DIST # 9 - ISC-BRONX	1.783	\$1,449,944
IS 117 JOSEPH H WADE	NYC GEOG DIST # 9 - ISC-BRONX	1.822	\$2,999,193
JHS 80 MOSHOLU PARKWAY	NYC GEOG DIST #10 - ISC-BRONX	1.781	\$3,058,675
AUTOMOTIVE HIGH SCHOOL	NYC GEOG DIST #14 - ISC-BROOKLYN	1.767	\$1,902,114
PS 328 PHYLLIS WHEATLEY	NYC GEOG DIST #19 - ISC-BROOKLYN	1.655	\$1,318,876
SCHOOL 9-DR MARTIN LUTHER KING JR	ROCHESTER CITY SD	1.672	\$3,328,664
CHARLOTTE HIGH SCHOOL	ROCHESTER CITY SD	1.834	\$2,216,135
EAST HIGH SCHOOL	ROCHESTER CITY SD	1.839	\$7,644,235
JAMES MONROE HIGH SCHOOL	ROCHESTER CITY SD	1.893	\$5,647,580
GRANT MIDDLE SCHOOL	SYRACUSE CITY SD	1.704	\$3,145,453
ROOSEVELT HIGH SCHOOL (Early College)	YONKERS CITY SD	1.714	\$3,763,581

### **Application Options**

For each identified school, the district must choose either application Option 1 or Option 2.

**Option 1: Request funding to be used for planning activities (Complete Appendix A) and then submit a full application (Appendix B) for the remaining amount of the Persistently Struggling School Grant at a later date.**

Superintendent Receivers can request planning funds (for a period of three months), equal to no more than 10% of a school's Persistently Struggling Schools allocation.

Superintendent Receivers will need to provide the Department with a school-specific budget and a detailed plan for how they will:

- Conduct a needs-assessment of the school and the community to determine what issues must be addressed to positively impact student achievement. The Superintendent Receiver may choose to use the results of the school's most recent Diagnostic Tool for School and District Effectiveness (DTSDE) review, if the review is less than a year old.
- Engage local stakeholders (the Community Engagement Team, community based organizations, etc.) in the creation of a new School Comprehensive Education Plan (SCEP) or revision of an existing Department approved plan such as the School Comprehensive Education Plan (SCEP), 1003(g) School Improvement Grant (SIG), or School Innovation Fund(SIF).
- Begin conversations with local collective bargaining units regarding any elements of the SCEP that require changes to the collective bargaining agreement.

The Department will review the application and release planning funds if the application is approvable. As a condition of approval, the Superintendent Receiver must commit to provide bi-weekly updates on the progress made in planning.

Once the school district has completed the required planning activities, the Superintendent Receiver may submit a full application (using the template in Appendix B) for the remaining Persistently Struggling Schools Grant allocation. With the full application, the Superintendent Receiver will be required to submit a new or revised SCEP or, if applicable, the 1003(g) S IG or SIF Continuation Plan. This SCEP or SIG/SIF Continuation Application must address any issues identified during the planning period and describe the activities to be funded with the Persistently Struggling Schools Grant allocation, and include a school-specific budget. If the Receiver is submitting a revised SCEP, SIG or SIF, the revisions or additions must be highlighted in yellow.

The remaining amount of the Persistently Struggling Schools Grant allocation will not be given to Receivers who fail to show evidence of adequate planning and community engagement. Instead, such Receivers will be offered additional short term planning funds for an amount that is no more than ten percent of the remaining allocation, for a period of no more than three months.

**Option 2: Submit a full application for the total amount of the Persistently Struggling Schools Grant allocation,** (Complete Appendix B), with evidence that the appropriate planning activities have already taken place prior to submission of the application.

The Receiver may submit an application for the full amount of the Persistently Struggling Schools Grant allocation, as long as evidence is provided that the following planning activities are included in the application or have been completed prior to submission of the application:

- Conduct a needs-assessment of the school and the community to determine what issues must be addressed to positively impact student achievement. The Superintendent Receiver may choose to use the results of the school's most recent Diagnostic Tool for School and District Effectiveness (DTSDE) review, if the review is less than a year old.
- Engage local stakeholders (the Community Engagement Team, community based organizations, etc.) in the creation of a new SCEP or revision of an existing Department approved plan such as the SCEP, 1003(g) (SIG, or SIF).
- Begin conversations with local collective bargaining units regarding any elements of the SCEP that require changes to the collective bargaining agreement.

The Superintendent Receiver will be required to submit a new or revised SCEP or, if applicable, the SIG/SIF Continuation Application. This SCEP or SIG/SIF Continuation Application must address any issues identified during the planning period and describe the activities to be funded with the Persistently Struggling Schools Grant, and include a school-specific budget. If the Superintendent Receiver is submitting a revised SCEP, SIG or SIF, the revisions or additions must be highlighted in yellow.

Districts should ensure that the CET at each identified school is consulted when preparing the planning and full grant applications. Schools will be required to show evidence of consultation with the CET as part of their application.

The Persistently Struggling Schools Grant allocation will not be given to Receivers who fail to show evidence of adequate planning and community engagement within the full application. Instead, such Receivers will be offered planning funds.

### **Allowable Grant Activities**

Districts receiving these funds must set aside a portion of the grant (no less than 5% of the total allocation) to pay for an independent evaluator to assess program implementation over the period of the grant.

Activities that can be supported by these funds include, but are not limited to:

- Converting school buildings into community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal and/or other services to students and their families;

- Expanding, altering or replacing the school's curriculum and program offerings;
- Extending the school day and/or school year;
- Providing professional development to teachers and administrators;
- Mentoring of at-risk students;
- Paying for the actual and necessary expenses of the independent receiver of the school;
- Any other activity aligned with the school's approved SCEP, SIG or SIF, as approved by the Commissioner.

Each eligible activity must be aligned with the school's approved intervention model, comprehensive education plan or school intervention plan.

A district may allocate up to 25 percent of a school's grant allocation to support approved activities in struggling "feeder schools." A "feeder school" is defined as a school identified by the Commissioner as "struggling" pursuant to Commissioner's Regulations 100.19 from which at least 20 percent of the students in the persistently struggling school matriculated. **If the district chooses to use a portion of the Persistently Struggling School's allocation in a Struggling feeder school, the district must complete a grant application for each feeder Struggling School to be served.**

Funds provided through a Persistently Struggling Schools Grant may not be used to fund, in whole or in part, existing programs and services, including but not limited to staff salaries.

The funding can be spread over Year 1 and Year 2, but schools should anticipate receiving no more than 50 percent of their allocation for the 2015-16 school year. If a school would like to access more than 50 percent of the allocation in the first year, the school district must request that all or a portion of the Persistently Struggling School Grant funds otherwise dedicated to the second year be advanced to the first year. Such requests must include documentation to demonstrate to NYSED's satisfaction that the costs of the plan's activities are reasonable and that the school district has developed a plan to maintain improvements in the 2016-17 and 2017-18 school years without additional State grant funding.

## **Budget Requirements**

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

Applicants must submit a proposed budget on the FS-10 Budget Form (available online at <http://www.oms.nysed.gov/cafe>) with this application for the project period of either option 1 (planning period up to 3 months) or option 2 full application for the 1<sup>st</sup> year period of 07/01/2015 – 06/30/2016. Budgeted costs must be reasonable and necessary to cover program expenses and be in compliance with applicable State laws and regulations and the Department's Fiscal Guidelines for Federal and State Aided Grants

(available at <http://www.oms.nysed.gov/cafe/guidance/guidelines.html>). School districts must use the restricted indirect cost rates calculated by the Department.

For more information on indirect rates, go to <http://www.oms.nysed.gov/cafe/guidance/faqs.html#indirect>.

The FS-10 must bear the original signature of the Chief School/Administrative Officer.

### **Sustained Activities Certification**

Districts must submit with the grant applications a certification that activities funded by the Persistently Struggling Schools Grant will be sustained in the 2016-17 and 2017-18 school years (See Appendix C: Sustained Activities Certification). In addition, if a district submits a Persistently Struggling Schools Grant budget that includes additional staff positions at the Persistently Struggling School, funding for those positions will not be approved unless the district can provide evidence of sustainability past the grant period. Additionally, the Department intends to review all school specific budgets to ensure that the activities supplement and do not supplant school program responsibilities.

### **Reporting Requirements**

Submit a quarterly report to the board of education, the Commissioner and the Board of Regents no later than October 30, January 31, April 30, and July 31 of each year, as required by Commissioner's Regulations. Quarterly Reports, together with a plain-language summary thereof, must be made publicly available in the school district's offices and posted on the school district's website, if one exists. These reports will be used as the basis for Performance Management calls with districts regarding progress in implementing receivership plans and achieving selected Demonstrable Improvement indicators. The Quarterly Report Template and guidance can be found at: <http://www.p12.nysed.gov/accountability/de/SchoolReceivership.html>.

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

NYSED reserves the right to: (1) reject any or all proposals received in response to the RFP; (2) withdraw the RFP at any time, at the agency's sole discretion; (3) make an award under the RFP in whole or in part; (4) disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP; (5) seek clarifications of proposals; (6) use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP;

(7) prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available; (8) prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments; (9) change any of the scheduled dates; (10) waive any requirements that are not material; (11) negotiate with the successful bidder within the scope of the RFP in the best interests of the state; (12) conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder; (13) utilize any and all ideas submitted in the proposals received; (14) unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 90 days from the bid opening; (15) require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offeror's proposal and/or to determine an offeror's compliance with the requirements of the solicitation; (16) to request best and final offers.

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

***The following M/WBE requirements apply when an applicant submits an application for grant funding that exceeds \$25,000 for the full grant period. All forms referenced here can be found in the M/WBE Documents section at the end of this RFP.***

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

M/WBE participation includes services, materials, or supplies purchased from minority and women-owned firms certified with the NYS Division of Minority and Women Business Development. Not-for-profit agencies are not eligible for this certification. For additional information and a listing of currently certified M/WBEs, see <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687>

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

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

3. that portion of the budget in purchased services used for direct educational services provided by public or not for profit organizations.

For multi-year grants, applicants should use the total budget for the full multi-year term of the grants in the above calculation. The M/WBE Goal Calculation Worksheet is provided for use in calculating the dollar amount of the M/WBE goal for this grant application.

M/WBE participation does not need to be the same for each year of a multi-year grant.

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

## **METHODS TO COMPLY**

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

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

### **COMPLETE FORMS:**

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

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

### **COMPLETE FORMS:**

- M/WBE Goal Calculation Worksheet
- M/WBE Cover Letter
- M/WBE 100 Utilization Plan
- M/WBE 101 Request for Waiver
- M/WBE 102 Notice of Intent to Participate
- M/WBE 105 Contractor's Good Faith Efforts

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

### **COMPLETE FORMS:**

- M/WBE Goal Calculation Worksheet
- M/WBE Cover Letter

M/WBE 101 Request for Waiver  
M/WBE 105 Contractor's Good Faith Efforts

**GOOD FAITH EFFORTS**

Applicants must make a good faith effort to solicit NYS certified M/WBE firms as subcontractors and/or suppliers to achieve the goals for this grant. Solicitations may include, but are not limited to: advertisements in minority and women-centered publications; solicitation of vendors found in the NYS Directory of Certified Minority and Women-Owned Business Enterprises (see <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687>); and the solicitation of minority and women-oriented trade and labor organizations.

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

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

**REQUEST FOR WAIVER**

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

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

All payments to Minority and Women-Owned Business Enterprise subcontractor(s) should be reported to the NYSED M/WBE Program Unit using the M/WBE 103 Quarterly M/WBE Compliance Report. This report should be submitted on a quarterly basis and can be found at

[www.oms.nysed.gov/fiscal/MWBE/forms.html](http://www.oms.nysed.gov/fiscal/MWBE/forms.html).

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

**Application Submission Instructions**

Complete Application for Planning Grant – Appendix A or Full Amount Application Submission – Appendix B for each eligible school, including any Struggling feeder schools that the district has identified.

Complete applications along with revised department approved plans must be submitted electronically to [Receivership@nysed.gov](mailto:Receivership@nysed.gov) by no later than 5 p.m. on **November 12, 2015**.

In addition, the original application and revised department approved plan must be mailed by postal service to:

New York State Education Department  
Attn: Office of Accountability  
Accountability, Policy and Administration Team  
55 Hanson Place  
Brooklyn, NY 11217

A pre-recorded applicant informational webinar will be posted at <http://www.p12.nysed.gov/accountability/de/SchoolReceivership.html> by October 26, 2015.

**Appendix A:**  
**Persistently Struggling Schools Grant Application**  
**For Planning Funds**

**COVER PAGE**

<b>School:</b>	<b>BEDS Code:</b>
<b>Address:</b>	
<b>Program Contact Person:</b>	<b>Telephone:</b>
<b>Address of Contact:</b>	
<b>E-mail Address:</b>	<b>Fax:</b>

<p>I hereby certify that I am the applicant's chief school/administrative officer and that the information contained in this application is, to the best of my knowledge, complete and accurate. I further certify, to the best of my knowledge, that any ensuing program and activity will be conducted in accordance with all applicable Federal and State laws and regulations, application guidelines and instructions, Assurances, Certifications, Appendix A, and that the requested budget amounts are necessary for the implementation of this project.</p> <p>It is understood by the applicant that this application constitutes an offer and, if accepted by the NYS Education Department or renegotiated to acceptance, will form a binding agreement. It is also understood by the applicant that immediate written notice will be provided to the grant program office if at any time the applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.</p>	
<b>Authorized Signature of Chief School/Administrative Officer (in blue ink)</b>	
<b>Typed Name:</b>	<b>Date:</b>

**Directions:** Superintendent Receivers can request planning funds (for a period of three months), equal to no more than 10% of a school's Persistently Struggling Schools Grant allocation, to be used for planning activities. To receive the planning funds, Superintendent Receivers will need to provide the Department with a school-specific budget (FS-10) and a completed the Persistently Struggling Schools Grant Planning Funds Application for each identified school.

### Part I: Planning Funds Requirement Narrative

1. Please describe how the Superintendent Receiver will conduct a needs-assessment of the school and the community to determine what issues must be addressed to positively impact student achievement. If the Superintendent Receiver is choosing to use the results of the school's most recent DTSDE review (either district led or led by an Integrated Intervention Team) as the needs assessment, please provide evidence that this review has taken place within the last year. Provide information on the timeline for completing the needs assessment, identify the person(s) responsible for planning and conducting the needs assessment, and describe how the results of the needs assessment will be shared with the CET and the school community.
2. Please describe how the Superintendent Receiver is planning to engage local stakeholders (the CET, community based organizations, etc.) in the creation of a new SCEP or revision of an existing Department approved plan. Please include a list of engagement activities, a timeline for engagement, and identify the person(s) responsible for planning and conducting the engagement activities.
3. Please describe how the Superintendent Receiver will begin conversations with local collective bargaining units regarding any elements of the SCEP or other department-approved plan that require changes to the collective bargaining agreement. Please include a timeline for engagement with local collective bargaining units, and identify the person(s) responsible for planning and conducting the engagement activities.



**Appendix B:**  
**Persistently Struggling Schools Grant Application**  
**For Full Allocation or Remaining Funds**

**COVER PAGE**

<b>School:</b>	<b>BEDS Code:</b>
<b>Address:</b>	
<b>Program Contact Person:</b>	<b>Telephone:</b>
<b>Address of Contact:</b>	
<b>E-mail Address:</b>	<b>Fax:</b>

I hereby certify that I am the applicant's chief school/administrative officer and that the information contained in this application is, to the best of my knowledge, complete and accurate. I further certify, to the best of my knowledge, that any ensuing program and activity will be conducted in accordance with all applicable Federal and State laws and regulations, application guidelines and instructions, Assurances, Certifications, Appendix A, and that the requested budget amounts are necessary for the implementation of this project.

It is understood by the applicant that this application constitutes an offer and, if accepted by the NYS Education Department or renegotiated to acceptance, will form a binding agreement. It is also understood by the applicant that immediate written notice will be provided to the grant program office if at any time the applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

<b>Authorized Signature of Chief School/Administrative Officer (in blue ink)</b>	
<b>Typed Name:</b>	<b>Date:</b>

**Directions:** Please complete the following application for each Persistently Struggling School or Feeder Struggling School. Please also submit with the completed application a revised school comprehensive education plan (SCEP), 1003(g) School Improvement Grant (SIG) plan, or School Innovation Fund (SIF) plan. The changes made to the plans in order to describe the proposed funded activities must be highlighted in yellow.

The Department will review each school specific budget in conjunction with the related plan to determine whether the activities proposed align with the needs of the specific school, the stated goals of the plan, and to determine if the activities are allowable. If a district submits a budget that includes additional staff positions at the Persistently Struggling School, the budget will not be approved unless the district can provide evidence of sustainability past the grant period. Additionally, the Department intends to review all school specific budgets to ensure that the activities supplement and do not supplant school program responsibilities.

#### Part I: Evidence of Planning

1. Please describe how the Superintendent Receiver conducted a needs-assessment of the school and the community to determine what issues must be addressed to positively impact student achievement. If the Superintendent Receiver used the results of the school's most recent DTSDE review (either district led or led by an Integrated Intervention Team) as the needs assessment, please provide evidence that this review has taken place within the last year. Please describe how the results of the needs assessment were shared with the CET and the school community.
2. Please describe how the Superintendent Receiver has engaged local stakeholders (the CET, community based organizations, etc.) in the creation of a new SCEP or revision of an existing Department approved plan (SCEP, SIG Continuation, SIF, or Out of Time Plan). Please include a list of engagement activities undertaken, and the results of the engagement.
3. Please describe how the Superintendent Receiver has engaged with local collective bargaining units regarding any elements of the SCEP or other department-approved plan that require changes to the collective bargaining agreement. Please include a list of engagement activities undertaken, and the results of the engagement.

**Part II: Proposed Activities Narrative**

Directions: Please complete the chart below. Add rows to the chart as necessary to list and describe all activities proposed under the grant.

- Proposed Activity - provide a brief sentence describing the activity.
- Connection to Needs Assessment - describe how this activity was selected, as it relates to any needs assessment conducted at the school and/or consultation with the CET.
- Connection to Demonstrable Improvement Metrics - identify the school’s demonstrable improvement metric(s) that are expected to be impacted positively by this proposed activity.
- Progress Monitoring Process - provide a description of how and when the school leadership will monitor the impact of the activity upon the Demonstrable Improvement metric.
- Timeline for Implementation - provide a description of when the activity will begin, how often it will occur, and when the activity will be completed (if not on-going).
- Plan Page Reference - note the page in the SCEP, SIG, SIF or Out of Time Plan where the activity is described in greater detail. The activity must be described in greater detail in the plan, and the additional information added to the plan must be highlighted in yellow.
- Budgeted Amount and Budget Code - provide the amount of PSSG funding that will be used to support the activity, and the FS-10 code. If the activity includes hiring of staff, please indicate how many and if they are full time, part time or consultants. If the activity includes hiring of staff, the school is required to complete Part IV of this application, the Sustainability Certification Regarding Additional Staff Positions.

<b>Proposed Activity</b>	<b>Connection to Needs Assessment</b>	<b>Connection to Demonstrable Improvement Metrics</b>	<b>Progress Monitoring Process</b>	<b>Timeline for Implementation</b>	<b>Plan Page Reference</b>	<b>Budgeted Amount and Budget Code(s)</b>

### Part III: Evaluation

Directions: Districts with identified schools that receive these funds must set aside a portion of the grant (no less than 5%) to pay for an external evaluator to assess program implementation. Please answer the questions below.

1. How will the district select an independent evaluator to assess program implementation?
2. What is the estimated cost of the independent evaluator?
3. When will the independent evaluator assess program implementation?
4. How will the independent evaluator assess program implementation?
5. How will the independent evaluator inform the School Receiver of the results of the assessment?

Appendix C:

Sustained Activities Certification

Additional Staff Positions:

This chart only needs to be completed if the school is proposing to add staff positions using PSSG funds. Please complete the chart below, listing each proposed position, describing the need for the position, and providing information on how the district will continue to support this position after the 2016-17 school year.

<b>Proposed Staff Position(s)</b>	<b>Description of Need for the Position(s)</b>	<b>Plan to Sustain Position(s) after 2016-17 school year and Funding Source</b>

Certification:

I, \_\_\_\_\_, Superintendent Receiver of [insert school name], certify that the activities described within this grant application will be sustained in the 2016-17 and 2017-18 school years, even without additional State funding. The funds from the PSSG allocation will not be used to supplant activities or services at the school, and will only be used to fund supplemental activities and services.

Superintendent Name:	
Superintendent Signature:	
Date:	

**PSSG SUBMISSION CHECKLIST – *Planning Application (option 1)***

<b>Documents for Submission</b>	<b>Checked – applicant</b>	<b>Checked – SED</b>
Appendix A – PSSG Planning Grant Application <i>(with original signatures in <u>blue ink</u>)</i>	<input type="checkbox"/>	<input type="checkbox"/>
Grant Application Checklist –Planning Application	<input type="checkbox"/>	<input type="checkbox"/>
Revised SCEP, SIG, OR SIF Plan, with revisions or additions highlighted in yellow.	<input type="checkbox"/>	<input type="checkbox"/>
Appendix C – Sustained Activities Certification <i>(with original signatures in <u>blue ink</u>)</i>	<input type="checkbox"/>	<input type="checkbox"/>
FS-10 Form for the up to 3 month Planning Period FS-10 available here: <a href="http://www.oms.nysed.gov/cafe/forms/">http://www.oms.nysed.gov/cafe/forms/</a>	<input type="checkbox"/>	<input type="checkbox"/>

**SED Comments:**

**Has the applicant submitted all of the documents listed above?**  Yes  No

**Reviewer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Note: Submission and approval of the M/WBE documents are not required for the Planning Period

**PSSG SUBMISSION CHECKLIST – Full Allocation (Option 2) or Remaining Funds Applications**

<b>Documents for Submission</b>	<b>Checked – applicant</b>	<b>Checked – SED</b>
Appendix B – PSSG Full Allocation Application <i>(with original signatures in <u>blue ink</u>)</i>	<input type="checkbox"/>	<input type="checkbox"/>
Grant Application Checklist –Full Allocation or Remaining Funds Application	<input type="checkbox"/>	<input type="checkbox"/>
Revised SCEP, SIG, OR SIF Plan, with revisions or additions highlighted in yellow.	<input type="checkbox"/>	<input type="checkbox"/>
Appendix C – Sustained Activities Certification	<input type="checkbox"/>	<input type="checkbox"/>
FS-10 Form. FS-10 available here: <a href="http://www.oms.nysed.gov/cafe/forms/">http://www.oms.nysed.gov/cafe/forms/</a>  <b>FS-10 form submitted is for the 1st year period of 7/1/15-6/30/16</b>	<input type="checkbox"/>	<input type="checkbox"/>

<b>M/WBE Documents Package (containing original signatures)</b>			
<input type="checkbox"/> Full Participation <input type="checkbox"/> Request Partial Waiver <input type="checkbox"/> Request Total Waiver			
Type of Form	Full Participation	Request Partial Waiver	Request Total Waiver
M/WBE Cover Letter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
M/WBE 100 Utilization Plan	<input type="checkbox"/>	<input type="checkbox"/>	N/A
M/WBE 102 Notice of Intent to Participate	<input type="checkbox"/>	<input type="checkbox"/>	N/A
EEO 100 Staffing Plan and Instructions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
M/WBE 105 Contractor’s Good Faith Efforts	N/A	<input type="checkbox"/>	<input type="checkbox"/>
M/WBE 101 Request for Waiver Form and Instructions	N/A	<input type="checkbox"/>	<input type="checkbox"/>
<b>SED Comments:</b> Has the applicant submitted all of the documents listed above? <input type="checkbox"/> Yes <input type="checkbox"/> No  Reviewer: _____ Date: _____			

## M/WBE Documents

### M/WBE Goal Calculation Worksheet

(This form should reflect Multi-Year Budget Summary Totals)

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

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

The M/WBE participation for this grant is 30% of each applicant's total discretionary non-personal service budget over the entire term of the grant. Discretionary non-personal service budget is defined as the total budget, excluding the sum of funds budgeted for direct personal services (i.e., professional and support staff salaries) and fringe benefits, as well as rent, lease, utilities, and indirect costs, if these are allowable expenditures.

Please complete the following table to determine the dollar amount of the M/WBE goal for this grant application.

	Budget Category	Amount budgeted for items excluded from M/WBE calculation	Totals
1.	Total Budget		
2.	Professional Salaries		
3.	Support Staff Salaries		
4.	Fringe Benefits		
5.	Indirect Costs		
6.	Rent/Lease/Utilities*		
7.	Sum of lines 2, 3, 4, 5, and 6		
8.	Line 1 minus Line 7		
9.	M/WBE Goal percentage (30%)		0.30
10.	Line 8 multiplied by Line 9 =M/WBE goal amount		

\*If not included in #5

**M/WBE COVER LETTER**  
**Requirements**

**Minority & Woman-Owned Business Enterprise**

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

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

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

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

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

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

## M/WBE UTILIZATION PLAN

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

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

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

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

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

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

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

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

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

DATE \_\_\_\_\_

REVIEWED BY _____	DATE _____
UTILIZATION PLAN APPROVED YES/NO _____	DATE _____
NOTICE OF DEFICIENCY ISSUED YES/NO _____	DATE _____
NOTICE OF ACCEPTANCE ISSUED YES/NO _____	DATE _____

**M/WBE 100**

**M/WBE SUBCONTRACTORS AND SUPPLIERS  
NOTICE OF INTENT TO PARTICIPATE**

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

Bidder/Applicant Name: \_\_\_\_\_ Federal ID No.: \_\_\_\_\_

Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ E-mail: \_\_\_\_\_

Signature of Authorized Representative of Bidder/Applicant's Firm \_\_\_\_\_  
Print or Type Name and Title of Authorized Representative of Bidder/Applicant's Firm

Date: \_\_\_\_\_

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

Name of M/WBE: \_\_\_\_\_ Federal ID No.: \_\_\_\_\_

Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_ E-mail: \_\_\_\_\_

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

**DESIGNATION:**     MBE Subcontractor     WBE Subcontractor     MBE Supplier     WBE Supplier

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

The undersigned is a certified M/WBE by the New York State Division of Minority and Women-Owned Business Development (MWBD).

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

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

The estimated dollar amount of the agreement \$ \_\_\_\_\_

Signature of Authorized Representative of M/WBE Firm \_\_\_\_\_

Date \_\_\_\_\_

Printed or Typed Name and Title of Authorized Representative \_\_\_\_\_

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

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

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

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

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

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

(1) Copies of its solicitations of certified minority- and women-owned business enterprises and any responses thereto;

(2) If responses to the contractor's solicitations were received, but a certified minority- or woman-owned business enterprise was not selected, the specific reasons that such enterprise was not selected;

(3) Copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publication of such advertisements;

(4) Copies of any solicitations of certified minority- and/or women-owned business enterprises listed in the directory of certified businesses;

(5) The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the State agency awarding the State contract, with certified minority- and women-owned business enterprises which the State agency determined were capable of performing the State contract scope of work for the purpose of fulfilling the contract participation goals;

(6) Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified minority- and women-owned business enterprises.

(7) Describe any other action undertaken by the bidder to document its good faith efforts to retain certified minority - and women- owned business enterprises for this procurement.

Submit additional pages as needed.

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

\_\_\_\_\_  
Date

**M/WBE CONTRACTOR UNAVAILABLE CERTIFICATION**

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

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

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

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

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

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

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

\_\_\_\_\_  
**Authorized Representative Signature**                      **Date**                      **Print Name**

**M/WBE 105A**

**REQUEST FOR WAIVER FORM**

**BIDDER/APPLICANT NAME:**

**TELEPHONE:**

**ADDRESS:**

**EMAIL:**

**FEDERAL ID NO.:**

**CITY, STATE, ZIPCODE:**

**RFP#/PROJECT NO.:**

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

**BIDDER/APPLICANT IS REQUESTING (check all that apply):**

**MBE Waiver** - A waiver of the MBE goal for this procurement is requested.  
 Total                       Partial \_\_\_\_\_%

**WBE Waiver** - A waiver of the WBE goal for this procurement is requested.  
 Total                       Partial \_\_\_\_\_%

**Waiver Pending ESD Certification**

(check here if subcontractor or supplier is not certified M/WBE, but an application for certification has been filed with Empire State Development)

Subcontractor/Supplier Name: \_\_\_\_\_ Date of application filing: \_\_\_\_\_

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

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

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

## REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

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

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

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

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

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

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

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

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

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

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

Report includes:

Work force to be utilized on this contract OR

Applicant's total work force

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

EEO - Job Categories	Total Work Force	Race/Ethnicity - report employees in only one category																	
		Hispanic or Latino		Not-Hispanic or Latino															
				Male								Female							
		Male	Female	White	African-American or Black	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races	Disabled	Veteran	White	African-American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races	Disabled	Veteran
Executive/Senior Level Officials and Managers																			
First/Mid-Level Officials and Managers																			
Professionals																			
Technicians																			
Sales Workers																			
Administrative Support Workers																			
Craft Workers																			
Operatives																			
Laborers and Helpers																			
Service Workers																			
TOTAL																			

PREPARED BY (Signature): \_\_\_\_\_  
 NAME AND TITLE OF PREPARER: \_\_\_\_\_

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

## STAFFING PLAN INSTRUCTIONS

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

### Instructions for Completing:

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

### RACE/ETHNIC IDENTIFICATION

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

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

**EEO 100**

**Appendix A**  
**STANDARD CLAUSES FOR NYS CONTRACTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

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

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

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

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

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

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

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

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

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

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

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify

in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections

139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

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

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

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

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or

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

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

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

(January 2014)

## APPENDIX A-1 G

### Article I. General

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

### Terminations

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

### Responsibility Provisions

- A. **General Responsibility Language**  
The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of Education or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- B. **Suspension of Work (for Non-Responsibility)**  
The Commissioner of Education or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Education or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

C. Termination (for Non-Responsibility)

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

Safeguards for Services and Confidentiality

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

Iran Divestment Act

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

By entering into this Contract, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Contractor agrees that after the list is posted on the OGS website, should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before SED may approve a request for Assignment of Contract

During the term of the Contract, should SED receive information that a person is in violation of the above-referenced certification, SED will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then SED shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

SED reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Rev. 6/4/13