



**Gaming
Commission**

REQUEST FOR QUALIFICATIONS

FOR

HEARING OFFICER SERVICES

T202209A-F

March 15, 2023

Notice to Bidders

- The Permissible Contacts for this solicitation are Stacey Relation and Alysian Bowers, as noted in **Section 2.6** of the Request for Qualifications (“RFQual”).
- Bidders are responsible for checking the New York State Gaming Commission’s website https://www.gaming.ny.gov/about/procurement_opp.current.php for updated information relative to the procurement process and the RFQual. The Commission will not be responsible for a bidder’s failure to obtain updated information.
- By submission of a bid in response to this RFQual, the bidder agrees to the terms of the resulting contract in the form incorporated into the RFQual as **Appendix B**, or as revised through the RFQual process. The Commission does not intend to negotiate terms of the contract after receipt of bids or following award.
- The participation goals for Minority- and Women-Owned Business Enterprises is **30%** and Service-Disabled Veteran-Owned Businesses under this RFQual is **6%**. Equal Employment Opportunities provisions apply.
- To assist bidders in completion and submittal of the required documents, **Attachment 2 - Document Submittal Checklist** is incorporated into this RFQual.
- Bidders choosing not to submit a bid in response to this RFQual are requested to submit the **No Bid Response** form, included in this RFQual as **Attachment 3**, as the information is useful to the Commission in the planning and development of future solicitations and bidders’ lists.
- Bidders are advised that Independent Contractor Hearing Officers will not be legally represented by the New York State Office of the Attorney General in any claim or suit related to the Hearing Officer’s action or inaction related to administrative hearings. Additionally, bidders are advised that the Commission will not provide or obtain any legal malpractice or other liability insurance for the benefit of Hearing Officers.
- Bidders must have the ability to learn and use the Commission’s electronic technology, including video equipment and related equipment necessary for the hearing process.

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PART 1 – OVERVIEW, MINIMUM EXPERIENCE, QUALIFICATIONS, SCOPE

1.1 INTRODUCTION

The New York State Gaming Commission (the “Commission”), on behalf of the State of New York, is issuing this Request for Qualifications (“RFQual”) to contract with qualified attorneys to conduct administrative hearings on an as-needed basis. Most of the hearings will be held through the use of video conferencing or in person in the Capital Region, including, without limitation, Schenectady and Saratoga Springs. In some cases, hearings may be conducted physically within other regions of the State, including, without limitation, New York City, Erie County, Genesee County, Nassau County, Oneida County, Ontario County, Seneca County, Sullivan County, Tioga County and Westchester County.

Up to (6) six awards may be made as a result of this solicitation. Responses received in response to this RFQual will be reviewed by the Commission’s General Counsel and/or designated staff. The experience of the applicant will be considered, including the areas defined in **Section 1.4** of this RFQual. References may also be contacted to substantiate an applicant’s response. The term of each Contract will commence upon execution of such contract by the Commission and be in effect for two years, with three additional one-year renewal options, only available to be implemented within the Commission’s discretion.

1.2 BACKGROUND INFORMATION

The Commission was formally created via Chapter 60 of the Laws of 2012 as part of the 2012/2013 Enacted State Budget. The measure merged the New York State Division of the Lottery with the New York State Racing and Wagering Board into a single state agency responsible for regulating all aspects of legal gaming and gambling activity in the state, including horse racing and pari-mutuel wagering, Class III Indian Gaming, the State lottery (including video lottery terminals), commercial gaming and charitable gaming.

Hearings are conducted pursuant to the Commission’s regulations, as well as pursuant to New York State’s Tax Law, State Administrative Procedures Act, General Municipal Law, and Racing, Pari-Mutuel Wagering and Breeding Law.

1.3 MINIMUM QUALIFICATIONS

To be considered for an award under this RFQual the individual must meet the minimum qualifications listed below:

- A current member in good standing of the New York State Bar with a minimum of five years of post-admission legal experience; and
- Good writing, research, and communication skills.

1.4 PREFERRED EXPERIENCE

The following experience is preferred, but not mandatory, and may be a consideration in the award:

- Experience in areas of judicial/hearing officer, administrative law judge, or litigation/arbitration; and/or
- Experience in the sports industry or with doping regulations.

1.5 SCOPE OF SERVICES UPON CONTRACT AWARD

Upon Contract award the Hearing Officer will be required to:

- A. Preside at hearings as assigned by the Commission and perform other services incidental to such assignments.
- B. Perform administrative tasks, including but not limited to, managing video equipment and other equipment necessary for the hearing process; arranging the placement of the parties; and instructing the court reporter or stenographer, so as to optimize the hearing process in accordance with Commission regulations and procedures.
- C. Abide by the Model Code of Judicial Conduct for State Administrative Law Judges ("Code") adopted by the New York State Bar Association ("NYSBA") House of Delegates on April 4, 2009, and by any subsequent superseding Code adopted by the NYSBA House of Delegates.
- D. Perform the duties of a hearing officer on behalf of the Commission in administrative adjudications pursuant to the procedures within the State Administrative Procedure Act; the Racing, Pari-Mutuel Wagering and Breeding Law; Article 34 of the Tax Law; and the administrative adjudication rules of the Commission, which, unless explicitly directed otherwise in writing by the Commission, for each such matter shall include, without limitation, case management and scheduling; hearing and ruling on pre-hearing motions; appearances at the hearing location specified by the Secretary of the Commission; conducting the evidentiary hearings; marshaling of the hearing record; and preparation of a hearing officer report and recommendations.
- E. Be available to perform services upon notification of the Commission. The Commission shall make an effort to provide one month's prior notice to the hearing officer of a hearing. In cases where public health, safety or welfare imperatively requires emergency action, a hearing officer may be asked to provide services without such notice.
- F. Assure that the record in any matter shall be complete when the hearing concludes, the Commission submits a complete transcript of the hearing to the

- Hearing Officer (if any), and the Hearing Officer receives any requested or permitted post-hearing submissions.
- G. Produce and deliver to the Commission's Secretary (or, in the absence of a Secretary, to such person as the Commission may designate) (the "Secretary") (i) a written report and recommendations in regard to the matter, which shall include findings of fact and conclusions of law explicitly labeled as such and a recommendation of a particular penalty or sanction, if the Hearing Officer determines that a charged party is culpable of conduct for which a sanction or penalty is recommended, and (ii) the complete record in the matter, including a record of all testimony given; any exhibits received into evidence (labeled and organized as such); exhibits not received into evidence (labeled and organized as such); and all materials, papers, briefs, correspondence, arguments or other submissions submitted by the litigants in the matter, including any post-hearing submissions (organized and labeled appropriately). Such report and recommendations shall include findings of fact and conclusions of law (labeled as such) that clearly address each and every charge alleged in the matter with their scope reasonably related to the scope of the hearing. Such final report and recommendations and the complete record shall be submitted to the Secretary not later than 30 days after the final hearing record has been received by the Hearing Officer to an email address designated by the Secretary, unless the Secretary grants an extension of time for good cause shown, in the discretion of the Secretary. Submission of a report and recommendations that is not reasonably related to the scope of the hearing, or that is late, may result in diminution of compensation for the matter.
- H. Perform at all times faithfully, impartially, industriously and to the best of the Hearing Officer's ability, experience and talent all responsibilities and other duties that may be required of the Hearing Officer in the Hearing Officer's capacity as an administrative hearing officer.
- I. Cooperate fully and in a professional and impartial manner with the Commission and with litigants before the Commission.
- J. Perform and complete any duties or obligations required of a hearing officer by law, rule, or regulation.
- I. Be capable of using, sending, and receiving correspondence, notices, decisions, reports, and other documents, in a secure and confidential electronic format acceptable to the Commission, including, but not limited to thumb/zip/USB drives and electronic mail.
- J. Complete and submit any forms or reports required by the Commission relating to performance of duties under the Contract.

PART 2 – GENERAL INFORMATION

2.1 GENERAL INFORMATION

The Commission is the only office authorized to clarify, modify, amend, alter or withdraw the provisions of this RFQual. Bidders are responsible for checking the Commission's website https://www.gaming.ny.gov/about/procurement_opp.current.php for updated information relative to the procurement process and the RFQual. The Commission will not be responsible for a bidder's failure to obtain updated information.

In the RFQual, the Commission has defined a series of objectives and requirements that will represent its best interests in conformance with Commission policies and New York State statutes and regulations. Bid submissions must include the information and documentation requested throughout this RFQual.

The contents of this RFQual, any modifications and the Bid will become contractual obligations if a contract ensues. By submission of a Bid in response to this RFQual, the bidder agrees to the terms of the Contract in the form incorporated into the RFQual (**Appendix B**), or as revised through the RFQual process. The Commission does not intend to negotiate terms of the Contract form after receipt of a bidder's submission. Failure of the successful bidder to accept these obligations may result in cancellation of the award.

Each bidder must inform himself or herself by personal examination of the specifications, location, and extent of the proposed service and, by such other means as the bidder may select, of the character, nature, quality, and extent of the work to be performed and the condition under which the Contract is to be executed.

To assist bidders in the completion and submittal of the required documents, a **Document Submittal Checklist** is incorporated into this RFQual as **Attachment 2**.

2.2 SCHEDULE

The following dates are established for information and planning purposes. The Commission reserves the right to make adjustments to this schedule.

RFQual issued:	March 15, 2023
Questions from Bidders Due:	March 24, 2023
Answers to Questions from the Commission:	April 3, 2023
Responses Due by 3:00pm (ET):	April 11, 2023

2.3 RFQual APPENDICES AND ATTACHMENTS

The following documents are incorporated into this RFQual:

- Appendix A: Standard Clauses for New York State Contracts
- Appendix B: Contract Form (incorporates Appendix A)
- Appendix C: Procurement Lobbying – Bidder/Offeror Disclosure Form
- Appendix D: Non-Collusive Bidding Certification
- Appendix E: Substitute Form W-9 - Vendor Identification Number
- Appendix F: Vendor Assurance of No Conflict of Interest or Detrimental Effect
- Appendix G: Consultant Disclosure – Forms A and B
- Appendix H: NY Subcontractors and Suppliers
- Appendix I: EEO and M/WBE Program
- Appendix J: EO 16 Certification
- Appendix K: EO 177 Certification
- Appendix L: Certification of Compliance with State Finance Law § 139-l

- Attachment 1: Bidder Acknowledgement of Addendum
- Attachment 2: Document Submittal Checklist
- Attachment 3: No Bid Response

2.4 BIDDER/CONTRACTOR DIFFERENTIATION

Throughout this RFQual the terms “applicant”, “bidder”, and “proposer” may be used interchangeably in reference to the preparation and submission of the response to this opportunity and any requirements preceding the award of the final contracts. In describing post-contract award requirements, an effort is made to use the term “successful bidder”, “contractor” and “consultant.”

2.5 HEADINGS

The headings used in this RFQual are for convenience only and shall not affect the interpretation of any of the terms and conditions of this RFQual.

2.6 PERMISSIBLE CONTACTS

Consistent with the public policy established by the Procurement Lobbying Law, described below, the Contract Management Specialists designated below are the only permissible points of contact with regard to matters relating to this RFQual, unless additional points of contact are designated by them.

ALL BIDDERS RESPONDING TO THIS RFQual AND ALL COMMUNICATIONS CONCERNING THIS PROCUREMENT MUST BE ADDRESSED IN WRITING TO THE CONTRACT MANAGEMENT SPECIALISTS NOTED BELOW:

New York State Gaming Commission
Contracts Office, 4th Floor
One Broadway Center - Schenectady, NY 12305

Stacey Relation, Contract Management Specialist 3
Stacey.Relation@gaming.ny.gov

Alysan Bowers, Contract Management Specialist 2
Alysan.Bowers@gaming.ny.gov

2.7 PROCUREMENT LOBBYING RESTRICTIONS

By execution of the Contract, Contractor certifies that all information Contractor has provided to the Commission with respect to New York State's State Finance Law §§ 139-j and 139-k is complete, true and accurate.

The Procurement Lobbying – Bidder/Offeror Disclosure Form, included with this RFQual as Appendix C, must be completed and submitted with the response.

2.8 QUESTIONS AND INQUIRIES

Questions from bidders regarding this RFQual must be submitted via electronic mail to Stacey.Relation@gaming.ny.gov and Alysan.Bowers@gaming.ny.gov no later than the date and time specified in the Schedule. **Faxed, hard copy mailed, and telephoned questions are not acceptable.** If questions are provided via an attachment to electronic mail, the questions must be provided in Microsoft Word format.

Responses to all questions, and any changes to the RFQual resulting from such questions, will be communicated via published addenda, which will be posted on the Commission's website.

A Bidder Acknowledgement of Addendum Form, incorporated into this RFQual as **Attachment 1**, will be provided with each addendum. Bidders are required to include a signed Acknowledgement Form for each addendum with their respective bids.

2.9 NON-COLLUSIVE BIDDING REQUIREMENT

In accordance with Section 139-d of New York State's State Finance Law, if the Contract is awarded based upon the submission of bids, the bidder must warrant, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Each bidder must further warrant that, at the time the bidder submitted its bid, an authorized and responsible person

executed and delivered to the Commission a Non-Collusive Bidding Certification on bidder's behalf.

The Non-Collusive Bidding Certification Form, included in this RFQual as Appendix D, must be completed and submitted with the bid.

2.10 DESIGNATION OF PROPRIETARY INFORMATION (FOIL)

During the evaluation process, the content of each bid will be held in confidence and details of any bid will not be revealed (except as may be required under the New York State Freedom of Information Law ("FOIL") or other State law). FOIL provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause substantial injury to the competitive position of a commercial enterprise. This exception applies both during and after the evaluation process.

If the bidder believes that the bidder's bid contains any such trade secrets or other confidential information, the bidder must submit a request with the bid to exempt such information from disclosure. Such request must: (i) identify the specific material in the bid; (ii) identify the location (section, page number) of such material; and (iii) state the reasons why the information should be exempt from disclosure.

Requests for exemption of the entire contents of a bid from disclosure have generally not been found to be meritorious and are discouraged. Please limit any requests for exemption of information from disclosure to bona fide trade secrets or specific information, the disclosure of which would cause a substantial injury to the competitive position of the bidder's firm.

Upon receipt of proprietary designations, the Commission's legal staff, as notified by the Permissible Contacts, will review each designation and communicate with the bidder in the determination of such designation. The designation shall not become final until accepted by the Commission in writing. Once the designation is final, the bidder will be required to submit a redacted version of the bid consistent with the accepted designation. The redacted version will be the material that is released upon a FOIL request.

2.11 CONFLICTS OF INTEREST

Throughout the procurement process bidders must identify, and bring to the attention of the Commission, actual or apparent conflicts of interest as knowledge of such conflicts arise, as follows:

- A. Disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary or affiliated firm, that would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other

- clients/customers of the bidder, or in former officers and employees of the Commission, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, please describe how the bidder's firm would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the agencies of, and resolve any such conflicts.
- B. Disclose whether the bidder, or any of the bidder's members, shareholders of 5% or more, parents, subsidiaries, or affiliated firms with which the bidder has a relationship have been the subject of any investigation or disciplinary action by the New York State Commission on Ethics and Lobbying in Government or its predecessor State entities (collectively, "the Ethics Commission"), and if so, a brief description must be included indicating how any matter before the Ethics Commission was resolved or whether it remains unresolved.
- C. Indicate whether the bidder has performed work for vendors now active or seeking to become active in the provision and/or management of gaming systems in lottery jurisdictions and disclose the nature of such work and when performed. It is incumbent on the bidder to clearly demonstrate that such work could have no real or perceived effect on the bidder's independence and impartiality in the performance of the work required herein. If the bidder not performed work for vendors as described above, please indicate so.

In addition, the bidder must complete and return with its Proposal, the **Vendor Assurance of No Conflict of Interest or Detrimental Effect** form, incorporated into this RFP as **Appendix F**.

Any bidder awarded a contract under this RFP will have an ongoing obligation to inform the Commission of any actual or apparent conflicts of interest.

2.12 NEWS RELEASES

A news release pertaining to this RFQual or the services, evaluation, or project to which this RFQual relates may not be made without prior written Commission approval, and then only in accordance with express written instructions from the Commission. No results of the award process may be released without prior approval by the Commission and then only to persons designated by the Commission.

2.13 ADVERTISING

Each bidder agrees not to use the Commission's name, logos, images, nor any data or results arising from this RFQual or resulting Contract as part of any commercial advertising without prior written approval by the Commission, and then only in consultation and cooperation with the Commission.

2.14 CLARIFICATION PROCESS

The Commission may request clarification from a bidder to resolve any ambiguity or questioning information presented in the bid. Clarifications are an opportunity to explain, but not to make changes to, a bid. Responses must be submitted to the Commission within the time stipulated at the time of the request. As applicable, clarifications will be treated as addenda to the bid.

2.15 DISCLOSURE AND INVESTIGATIONS DURING BID

Following bid submission, the Commission may initiate investigations into the backgrounds of the bidder, and individuals or entities related to any officers, directors, members, principals, investors, owners, employees or any other individuals or entities related to the bidder, as the Commission may deem appropriate, in the discretion of the Commission. Such background investigations may include fingerprint identification by the New York State Division of Criminal Justice Services and the Federal Bureau of Investigation, and such additional investigation as may be required.

The Commission may reject a bid based upon the results of these background checks. Each bidder is advised that any bidder who knowingly provides false or intentionally misleading information in connection with any investigation by the Commission may cause the bid of such bidder to be rejected, or a Contract to be canceled by the Commission, in the sole discretion of the Commission.

If a bidder is a subsidiary of a parent entity, the Commission may, in its sole discretion, require the above disclosures from the parent entity.

2.16 DISCLOSURE OF LITIGATION AND OTHER INFORMATION

A bidder shall list and summarize pending or threatened litigation, administrative or regulatory proceedings or similar matters that could materially affect the bidder. As part of its disclosure requirement, a bidder must state whether the bidder or any of the owners, officers, directors or partners of such bidder have ever been convicted of a felony. Failure to disclose any such matter may result in rejection of the bid or in termination of a Contract. Such disclosures must be included with the bid.

This disclosure obligation is a continuing requirement. Any such matter commencing after submission of a bid and, with respect to the successful bidder after the approval of a Contract, must be disclosed in writing to the Commission in a timely manner.

2.17 NEW YORK STATE PUBLIC OFFICERS LAW

Contractors, consultants and vendors may hire former State agency or authority employees. However, as a general rule and in accordance with New York State's

Public Officers Law, former employees of a State agency or authority may neither appear nor practice before the same State agency or authority, nor receive compensation for services rendered on a matter before the State agency or authority, for a period of two years following their separation from such State agency or authority service. In addition, former State agency or authority employees are subject to a "lifetime bar" from appearing before a State agency or authority or receiving compensation for services regarding any transaction in which they personally participated, or which was under their active consideration, during their tenure with such State agency or authority.

2.18 ETHICS REQUIREMENTS

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

2.19 STATE'S RESERVED AUTHORITY

In addition to any authority set forth elsewhere in this RFQual, the Commission reserves the authority to:

- A. Award a contract for all, part, or none of the services requested by this RFQual;
- B. Waive any informality or technical defect if, in the judgment of the Commission, the best interest of the Commission will be so served;
- C. Eliminate any non-material mandatory specification(s) that cannot be complied with by any of the prospective bidders;

- D. Amend the RFQual and direct bidders to submit bid modifications accordingly;
- E. Change any of the scheduled dates stated herein;
- F. Reject any or all bids received in response to this RFQual, and reissue a modified version of this RFQual;
- G. Withdraw the RFQual at any time, at the sole discretion of the Commission;
- H. Seek clarifications and revisions to bids;
- I. Use information obtained through site visits, interviews and investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the request by the Commission for clarifying information in the course of evaluation and/or selection under this RFQual;
- J. Disqualify any bidder whose conduct and/or bid fails to conform to the requirements of this RFQual;
- K. Negotiate with the successful bidder within the scope of the RFQual in the best interests of the State;
- L. Set aside the original successful bidder if the Commission determines that the bidder is non-responsible or nonresponsible. The Commission may then award a contract to a responsive and responsible bidder.
- M. Stop the work covered by this RFQual and the Contract at any time that it is deemed the successful bidder is unable or incapable of performing the work to the Commission's satisfaction. In the event of such, the Commission shall have the right to arrange for the completion of the work in such a manner as it may deem advisable, and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety shall be liable to the State of New York for any such cost thereof. In the event the Commission orders the work be stopped and provides the reason for the order, Contractor shall have ten working days to respond thereto before any such stop order shall become effective.

2.20 ANTI-DISCRIMINATION

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

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

Generally, the Human Rights Law applies to all employers, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment.

In accordance with Executive Order No. 177, the Bidder must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. The certification is included with this RFQual as **Appendix K, EO 177 Certification**.

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

2.21 CERTIFICATION OF COMPLIANCE WITH STATE FINANCE LAW § 139-I

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, under penalty of perjury, that the bidder currently has an implemented, written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of New York State Labor Law § 201-g.

Contractor certification of compliance with State Finance Law § 139-I is included with this RFQual as **Appendix L, Statement on Sexual Harassment**.

2.22 EXECUTIVE ORDER NO. 16 CERTIFICATION

On March 17, 2022, Governor Kathy Hochul issued Executive Order No. 16, which states: "All Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia."

On March 24, 2022, the United States, in coordination with the European Union and the Group of Seven (G-7), imposed sanctions on an additional 400 Russian individuals and entities. The federal sanctions include efforts to block moves by

Russian entities and individuals to evade the sanctions imposed or to use international reserves.

While the federal sanctions seek to target specific entities and individuals within Russia, Executive Order No. 16 is intended to ensure that New York State is not entering into contracts with entities conducting business in Russia and thereby indirectly supporting Russia's unjustified war against the Ukrainian people.

As an Affected State Entity, the Commission must obtain a certification from bidders as part of this RFQual. The certification is included with this RFP as **Appendix J, EO 16 Certification.**

2.23 VENDOR RESPONSIBILITY

- A. Contractor shall at all times during the Contract term remain responsible within the meaning of the New York State's State Finance Law. As a condition of this Contract, Contractor has provided a Vendor Responsibility Questionnaire and Certification (the "Questionnaire"). Any misrepresentation of fact in the Questionnaire, or in any vendor responsibility information that may be requested by the Commission, may result in termination of this Contract. During the term of this Contract, any changes in the provided Questionnaire shall be disclosed to the Commission, in writing, in a timely manner. Failure to make such disclosure may result in a determination of non-responsibility or nonresponsibility and termination of the Contract.
- B. Contractor agrees, if requested by the Commission's Executive Director, or his or her designee (collectively "Executive Director"), to present evidence of the Contractor's continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- C. The Executive Director, in the Executive Director's 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 Contractor. In the event of such suspension, Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Executive Director issues a written notice authorizing a resumption of performance under the Contract.
- D. Should it be determined at any time that a Contractor is not responsible, the Commission will notify the Contractor in writing setting forth the basis for the determination and affording the Contractor reasonable time in which to refute the determination, justify why the basis for the determination is not relevant to this Contract or to take corrective action to eliminate the responsibility impediment. If the responsibility impediment cannot be reconciled to the

satisfaction of the Commission, the Contract or contract offer will be terminated by written notification given by the Commission to the Contractor.

PART 3 – BID RESPONSE & SUBMISSION

3.1 BID RESPONSE

A. Qualifications

Individuals interested in this opportunity must provide a signed transmittal letter that includes the information below to demonstrate their qualifications:

- A one-page transmittal letter describing interest and qualification for this opportunity, including geographic areas of interest;
- Resume, including relevant experience;
- A brief writing sample (not to exceed five pages) created solely by the bidder, without oversight or correction by others;
- Signed Contract form (Appendix B of this RFQual), acknowledging agreement to the Contract's terms, if awarded; and
- Two references, including contact information (email address and phone number) and information related to work experience, if applicable.

B. Required Documents

Interested individuals must provide required documentation described throughout this RFQual and as summarized in the **Document Submittal Checklist – Attachment 2**.

3.2 SUBMISSION OF BID

A. Format

Both hardcopy and electronic versions of the bid are acceptable. Electronic submissions may be submitted to the Permissible Contacts listed in **Section 3.2.E** below.

B. Timeliness of Bids

A bid must be received by the Commission on or before the due date and time specified in the Schedule of this RFQual. The bidder is responsible for the Commission's timely receipt of its bid and should plan for delivery accordingly. Failure of a bidder to submit a bid by the specified time may result in rejection or disqualification of the bid.

C. Multiple Bids Prohibited

A bidder shall submit only a single bid. Submission of multiple bids is not permitted. If multiple bids are submitted, none of the bids shall be considered.

D. Costs Associated with Preparation of Bids

The Commission and State shall not be liable for any of the costs incurred by a bidder in preparing or submitting a bid, and, therefore, the Commission or State will not assume any responsibility or liability for any costs incurred by a bidder prior to the award and approval of a Contract. The responsibilities and liabilities of the Commission and State shall be limited to those set forth in the Contract.

E. Bid Submission

Bids must be submitted to the attention of **Stacey Relation, Contract Management Specialist 3** or **Alysan Bowers, Contract Management Specialist 2, New York State Gaming Commission, Contracts Office -- 4th Floor, One Broadway Center, Schenectady, NY 12305**. If a bid is to be delivered by a method other than through the U.S. Postal Service, the bidder should contact one of the Permissible Contacts identified in this RFQual prior to delivery, to ensure proper receipt of the bid. **Emailed submissions are also acceptable and may be submitted to: officer.contracting@gaming.ny.gov.**

F. Bid Receipt

If a bid is hand-delivered to the Commission, an individual from the Commission's Contracts Office will provide a receipt to the person delivering the bid indicating when the bid is received at the Lottery Security Desk in the Commission's Lobby on the ground floor of One Broadway Center, Schenectady, NY 12305. The time noted on this receipt will be the official time of receipt. In addition, whether hand-delivered or delivered by any other method, the Commission will confirm receipt by electronic mail.

G. No Bid Response

Bidders choosing not to submit a bid in response to this RFQual are requested to submit the **No Bid Response** form, included in this RFQual as **Attachment 3**, as the information is useful to the Commission in the planning and development of future RFQuals and bidders' lists.

PART 4 – CONTRACTUAL PROVISIONS

4.1 GOVERNING LAW

The response submission process, the evaluation of responses, the award procedure and any contract resulting from this RFQual shall be governed by the laws of the State of New York and shall be interpreted according to New York State law. Any and all disputes of claims arising under this RFQual or any contract resulting from this RFQual, other than as specifically set forth in this RFQual, shall be brought exclusively in the appropriate court of the State of New York; and, by submitting a response, a bidder waives access to any other court or forum that may have concurrent jurisdiction within or outside New York State to hear or resolve any such dispute or claim.

4.2 FORM OF CONTRACTUAL AGREEMENT

The final contract will be in the form incorporated into the RFQual as **Appendix B** (the “Contract”), or as revised through the RFQual amendment process. The Contract will become binding and effective after approval by the Commission and the New York State Office of the Attorney General (“OAG”) and Office of the New York State Comptroller (“OSC”).

Every successful bidder responding to this RFQual must include in its response a signed Contract in the form attached as **Appendix B**. Signing the Contract form and submitting it as part of the response serves as the bidder’s acknowledgment and agreement to the terms of the Contract if deemed the successful bidder under the RFQual process. **The Commission does not intend to negotiate any changes in the provisions of the Contract following the receipt of bids.** Therefore, any requested exception to the Contract must be raised in a bidder question submitted to the Commission pursuant to the Schedule and in accordance with the Question and Answer process set forth in this RFQual. **Failure to comply with this requirement will deem a later request for exception as untimely and such request shall not be considered.**

4.3 STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

Appendix A, Standard Contract Clauses for New York State Contracts, is attached. **Appendix A** becomes part of all New York State Contracts and is incorporated in the Contract form, **Appendix B**, of this RFQual.

4.4 CONTRACT ELEMENTS

The Contract resulting from this RFQual will include the following parts:

- Appendix A – Standard Clauses for New York State Contracts;
- Appendix B – Contract;

- RFQual; and
- Bidder's bid.

In the event of a conflict in any provisions of these documents, the order of precedence shall be as listed above from the highest to the lowest.

4.5 SEVERABILITY

If a court of competent jurisdiction determines any portion of the Contract to be invalid, it shall be severed, and the remaining portion of the Contract shall remain in effect.

4.6 SUBCONTRACTING

Subcontracting will not be permitted under the Contract(s) awarded from this RFQual.

4.7 DELEGATION AND/OR ASSIGNMENT

No delegation or assignment of duties will be permitted under a Contract awarded from this RFQual.

4.8 CONTRACT TERM

The term of each Contract(s) resulting from this opportunity will commence upon execution of such contract by the Commission and be in effect for two years, with three additional one-year renewal options only available to be implemented within the Commission's discretion.. Any such renewal shall be at the same terms, conditions, and rates set forth herein.

4.9 COMPENSATION

The total compensation paid under each Contract awarded through this opportunity shall not exceed \$49,999.99. Details of compensation are defined in the Contract.

4.10 CONTRACT INVOICING AND PAYMENT

Payment under the Contract will be in accordance with New York State Prompt Payment Law (Article 11-A of New York State's State Finance Law). The Commission shall promptly process all payments, including all travel, due to Contractor that conform to the provisions of this RFQual and resulting Contract and are approved by Commission staff. See Section 3 in Appendix B (Contract form).

4.11 VENDOR IDENTIFICATION NUMBER

Substitute Form W-9: To do business with the State of New York, each bidder is required to obtain a NYS Vendor Identification Number for use in the Statewide Financial System (“SFS”). If the bidder does not already have a Vendor ID Number, the Substitute Form W-9 must be completed and submitted directly to the Commission upon notification of award. The purpose of the Substitute Form W-9, which will capture Contractor’s taxpayer identification number, business name and business contact person, is to allow the State to establish a vendor file in the Statewide Financial System. Note: IRS Form W-9 is not acceptable for this purpose.

The Substitute Form W-9 is included in this RFQual as Appendix E.

4.12 CONSULTANT DISCLOSURE

Contractor must comply with the requirements of New York State’s State Finance Law § 163(4)(g), which imposes certain reporting requirements on contractors doing business as vendors with New York State. In furtherance of these reporting requirements, Contractor agrees to complete and submit Contractor’s Planned Employment Report (**Appendix G – Form A**) within two business days after receiving notice of a Contract award and Contractor’s Annual Employment Report (**Appendix G – Form B**) by May 15th for each fiscal year (April 1 – March 31) the Contract term is in effect. Page two of each form provides the necessary addresses for submitting the form.

While the Planned Employment Report (Form A) is a one-time projection of the planned employment under the upcoming Contract term, the Annual Employment Report (Form B) is a reporting of the actual employment history for the previous fiscal year.

Forms A and B should be completed as follows:

- **Employment Category:** Contractor must use specific occupation titles as listed in the O*net occupational classification system found through the U.S. Department of Labor’s Employment and Training Administration (www.online.onetcenter.org). The classification system provides a code for various occupational titles; Contractor should use the code that best defines the employment titles to be utilized under the Contract.
- **Number of Employees:** Enter the number of employees in the employment category employed to provide services (Form A), or who have performed services (Form B), during the reporting period, including part-time employees.
- **Number of Hours Worked or to be Worked:** Enter the number of hours to be worked (Form A) or worked (Form B) under the employment category for the reporting period.

- **Amount payable or paid under the Contract:** Enter the estimated amount to be paid (Form A), or actually paid (Form B) for each employment category for the reporting period.
- **Scope of Contract** (Form B only): Choose the category that best describes the predominate nature of the services performed under the Contract.

4.13 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY/WOMEN-OWNED BUSINESSES.

By submission of a Bid in response to this solicitation, the bidder agrees with all the terms and conditions of Clause 12 of Appendix A – Equal Employment Opportunities for Minorities and Women.

In accordance with Article 15-a of the New York State Executive Law and in conformance with the regulations promulgated by the Minority and Women’s Business Development Division of the New York State Department of Economic Development set forth at 5 NYCRR Parts 140-144, the bidder/Contractor agrees to be bound by provisions to promote equality of economic opportunity for minority group members and women, and the facilitation of minority and women-owned business enterprise participation.

The EEO and M/WBE requirements are set forth in Appendix I of this RFQual.

The M/WBE goal established under this RFQual is 30%.

4.14 NEW YORK STATE SERVICE-DISABLED VETERAN-OWNED BUSINESSES

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

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

The requirements under this program as they pertain to this RFQual are detailed in Appendix I.

The SDVOB goal established under this RFQual is 6%.

4.15 NEW YORK STATE SUPPLIERS

Bidders are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as suppliers, protégés or other supporting roles.

Supplier requirements are set forth in Appendix H of this RFQual.

4.16 CODE OF CONDUCT FOR CONTRACTOR

The Commission is an extremely sensitive enterprise because of the nature of the business and because it is government-operated. Therefore, it is essential that its operation and the operation of other enterprises that would be linked to it in the public mind, avoid not only impropriety but also the appearance of impropriety. Due to this, contractors associated with the Commission are expected to:

- A. Offer goods and services only of the highest standards;
- B. Use their best efforts to prevent the industry from becoming embroiled in unfavorable publicity;
- C. Make sales presentations in a responsible manner; and when it is necessary to point out the superiority of their goods or services over those of their competitors, to do so in such a manner as to avoid unfavorable publicity for the industry;
- D. Avoid promotional activities that could be interpreted as improper and result in embarrassment to the industry;
- E. Report security problems or potential security problems promptly to the Commission;
- F. Not offer or give any gift, gratuity, favor, entertainment, loan or any other thing of material monetary value to any Commission employee, or to any individual influencing the outcome of this bid process; and
- G. At any point during the procurement and resulting Contract, a bidder must identify, and bring to the attention of the Commission, actual or apparent conflicts of interest as knowledge of such conflicts arise.

4.17 NON-EXCLUSIVE RIGHTS

Nothing in this RFQual or the Contract resulting from this RFQual shall preclude the Commission from obtaining services from other sources.

4.18 COMMISSION SECURITY REQUIREMENTS

Contractor, including its employees, officers and agents, shall be required to comply with all present and future security policies of the Commission. In addition, Contractor, project managers, their employees, officers and agents, and any and all persons involved in work assignments under the Contract will be required, prior to access to any of the Commission's sites, to be given a security clearance by the Commission. Anyone seeking access to a Commission site must provide his or her name, address, date of birth, company affiliation and a company point of contact for employment verification, at least one week prior to any site visit. Once preliminary access approval is granted by the Commission, all visitors to a site must provide two forms of valid identification, including one photo ID, and written authorization that they are acting on behalf of a designated employer or contractor. Only after site authorization is confirmed will access to the Commission's site be approved.

A. Physical Security During the Delivery of Contracted Services

1. Contractor shall be solely responsible for the safety and security of the hearing sites, facilities and components utilized for services under the Contract, with the exception that Contractor is not responsible for overall building security at locations under the control and management of the Commission, State, local or federal agencies. Contractor remains responsible, however, for security of hearing components or equipment within such buildings (e.g., secure equipment enclosures within the space provided by such agencies). Contractor shall be responsible for and shall correct its failure or theft of any components or portion of the project due to Contractor's inadequate physical and/or information security at its cost and expense.
2. The physical security and the information security of data shall be provided at a level commensurate with that normally established for a similar system in today's heightened security environment. All components of site security shall be of suitable strength and design and shall reasonably withstand attempts to gain unauthorized access.
3. Access by Personnel
 - a. Contractor, its officers, agents and employees, shall be required to comply with all applicable facility and information security policies and procedures of the Commission and the State in performing the scope of work under this Contract. Such policies and procedures shall be communicated to Contractor as a condition precedent to Contractor's obligations under this paragraph.
 - b. Contractor warrants that each individual performing work under this Contract is legally eligible to work in the United States and that such

eligibility shall be maintained at all times during the Contract term while the individual is accessing any Commission site, information systems or data contained therein.

- c. Prior to accessing any Commission site, project information systems or data contained therein, Contractor, and its officers, agents and their collective employees performing work under this Contract, shall be required to:
 - i. obtain security clearance from the Commission, which may include, at the Commission's discretion, a criminal history and/or background investigation of each individual proposed to perform work under this Contract. Each individual assigned to the project by or through Contractor shall be required to submit identifying information to the Commission.
 - ii. obtain from the Commission and prominently display on their person, Commission-issued identification cards at all times while physically present at any Commission site.
- d. When an emergency or other circumstance occurs, which renders immediate compliance with the foregoing requirements impractical, the Commission may, in its sole judgment, defer an individual's compliance with the foregoing requirements and grant temporary access. Such deferment shall not be construed as a waiver of the Commission's right to subsequently require security clearance as to any individual previously granted such temporary access; provided, however, that even in such circumstances, the Commission shall approve such individual's access prior to such individual accessing a site, system or data and the Commission may accompany such individuals at all times when on-site.
- e. The Commission reserves the right, in its sole discretion, and without liability to Contractor's officers, agents and their collective employees assigned to work under this Contract, to withhold approval of and refuse to permit access prior to Commission facilities, electronic information systems or data contained therein to an individual accessing a site, system or data and the Commission may accompany such individual at all times when on-site, to any individuals proposed by or through Contractor who refused to comply with security procedures outlined in this Section, or where the Commission determines that the individual may present a risk to the Commission's security interests. The Commission shall not be liable for payments or damages of any kind if Contractor is delayed or unable to perform under this Contract as a result of the Commission's denial of access to any individual(s) pursuant to this Section.

4.19 COMPENSATION INVOICING AND PAYMENT

A. Compensation, Travel, Invoicing and Payment

Contractor will be compensated for services and actual and necessary expenses incurred by Contractor while presiding at scheduled hearings and/or attending conferences sponsored by the Commission at the approved rates that are in effect at the time of the hearing(s) or conferences(s) as set forth in the Contract Form (Attachment B). Prices quoted shall remain for the term of the Contract. All payments shall be made in arrears. The Commission will not make any advance deposits.

B. Invoicing

Invoices for expenses incurred shall be submitted to the Commission monthly or at completion of each hearing project as desired by Contractor.

C. Payment

Payment under the Contract will be in accordance with New York State Prompt Payment Law (Article 11-A of the New York State's State Finance Law). The Commission shall promptly process all payments, including all travel, due to Contractor that conform to the provisions of this RFQual and resulting Contract and are approved by the Commission staff.

Sales tax should not be included on invoices as New York State Agencies are tax exempt (a tax-exempt certificate will be provided to Contractor, if needed).

All invoices shall be submitted as a PDF attachment and directed to the New York State Business Service Center at accountspayable@ogs.ny.gov and a copy must be directed to the Commission's Finance Office at the following email address: accountspayable@gaming.ny.gov.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, 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 § 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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of 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 (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by 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 Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of

\$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women 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 clause. The

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

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

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

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

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

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

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

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

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

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

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and

women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the 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 § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or 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: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

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

During the term of the Contract, should 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.

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

**Contract for
Hearing Officer Services
T202209A-F**

This CONTRACT is made effective this ____ day of _____, 20__ by and between the NEW YORK STATE GAMING COMMISSION, an executive agency of the State of New York having an office at One Broadway Center, Schenectady, New York 12305 (the “Commission”) and [Name] having an office at _____ (the “Hearing Officer”);

WHEREAS, the Commission, pursuant to Section 104 of the Racing, Pari-Mutuel Wagering and Breeding Law and Article 34 of the Tax Law conducts hearings pertaining to violations of such Law, Commission regulations, and other laws, including without limitation with respect to disciplinary actions upon license holders;

WHEREAS, the Commission issued a Request for Qualifications (“RFQual”) on March 15, 2023, to solicit responses from qualified individuals to provide hearing officer and related services; and

WHEREAS, the Hearing Officer submitted a response, dated _____ (the “Response”) and was deemed, by reason of the Hearing Officer’s competence, work ethic, legal experience and integrity, to be well qualified to act as a hearing officer at such hearings; and

WHEREAS, the Commission is desirous of retaining the Hearing Officer in accordance with the provisions of this Contract;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth, the parties agree as follows:

1. **Scope of Services.**

The Hearing Officer agrees to provide the Commission with services, as more fully set forth in the RFQual and the Response. Both the RFQual and the Response are hereby

incorporated into this Contract with the same force and effect as if they were fully set forth herein.

2. **Term.**

The term of this Contract will commence upon execution of such Contract by the Commission and be in effect for two years, with three additional one-year renewal options only available to be implemented within the Commission's discretion. Any such renewal shall be at the same terms, conditions, and rates set forth herein.

Any amendment to the provisions of this Contract must be in writing and agreed to by signature of both parties.

3. **Compensation, Invoicing and Payment.**

a. Compensation shall be payable for services rendered by the Hearing Officer at the rates specified below. Total compensation for services provided under this Contract, including reimbursement for travel expenses, shall in no event exceed the sum of \$49,999.99 for the full term of the Contract, including any renewals. No minimum amount is guaranteed by this Contract and the Hearing Officer shall not have any right to make a claim therefor.

1. The Hearing Officer shall be paid \$100 per hour (billed in one-quarter hour or one-tenth hour increments based on cumulative actual time spent per matter, per day) for time reasonably spent in performing the duties of an administrative hearing officer, as may be assigned by the Commission from time to time. More than one hearing may be held on a scheduled hearing day. Unless advised to the contrary specifically by the Commission, the Hearing Officer is not to review materials or conduct any research related to an administrative hearing prior to such hearing. Pre-hearing preparation shall not be deemed time reasonably spent and shall not be compensable, unless prior approval of the Commission's Counsel's Office has been obtained.

2. The Hearing Officer shall manage time spent so as to maximize time spent in each unit billed. By way of illustration, the Hearing Officer shall work and bill all time on a single matter cumulatively per day, totaling all actual minutes spent on a single matter per day to calculate a total cumulative quarter-hour or tenth-hour calculation, rather than billing separate, multiple quarter-hours or one-tenth hours in the same day.
3. If practicable, the Hearing Officer shall be provided with written notice (either electronically or by hard copy) or telephone notice of the adjournment of a scheduled hearing at least 24 hours prior to the scheduled hearing. In the event that all of the hearings on a scheduled hearing day have been adjourned, and the Commission has not provided the Hearing Officer with at least 24 hours' notice of the adjournment of all of the hearings scheduled for that day, the Hearing Officer may be compensated \$200 in lieu of any other fees, at the sole discretion of the Commission.
4. Subject to the rules, regulations and policies of the Commission, the Hearing Officer shall be reimbursed for actual and necessary expenses incurred by the Hearing Officer while presiding at scheduled hearings and/or attending conferences sponsored by the Commission, at the approved rates that are in effect for New York State Management/Confidential Employees at the time of the hearing(s) or conference(s), as such rates may be amended from time to time. A list of such rates can be currently found at <http://www.gsa.gov/portal/category/100120>, and such rates are subject to amendment from time to time without notice.

The Hearing Officer, while in travel status, shall be reimbursed for all actual and necessary transportation expenses incurred while using a common carrier. If the Commission gives authorization for use of a personally-owned vehicle for reimbursed travel, reimbursement will be based on proper, supported receipts and in accordance with the prevailing allowances established by the State of New York for Management/Confidential Employees. For more information please

refer to the New York State Travel Manual at: <http://www.osc.state.ny.us/agencies/travel/manual.pdf>. For current mileage reimbursement rates please visit: <http://www.gsa.gov/portal/content/104877>.

Reimbursement shall be based upon the rates that are in effect at the time expenses are incurred. The Hearing Officer shall submit a request for reimbursement of such expenses in such form as the Commission may require.

5. The Hearing Officer shall attend and participate in all Hearing Officer trainings and conferences, which may be live or via an electronic format (such as a webcast), to be held or required at the discretion of the Commission. The Hearing Officer shall be reimbursed for actual and necessary expenses incurred to attend and participate in any Hearing Officer training or conference.
6. The Hearing Officer shall maintain adequate records to substantiate all claims for payment and, at the Commission's request, shall make such records available at the Commission's offices in Schenectady, New York for examination and copying.
7. The Hearing Officer will be compensated as provided herein for work begun by the Hearing Officer during the term of the Contract but completed after the Contract term end date.
8. The Hearing Officer may bill only for time reasonably spent by the Hearing Officer, and it is agreed that time and effort spent by the Hearing Officer's support staff, or for traditional and expected expenses incurred for telephone and Internet connectivity, legal research, and copying costs, are considered overhead expenses that are not compensable.
 - b. Invoices shall be submitted, on a monthly basis, as a PDF email attachment and directed to the New York State Business Service Center at accountspayable@ogs.ny.gov and copied to the Commission's Finance Office at accountspayable@gaming.ny.gov.

The Commission shall promptly process all payments due to the Hearing Officer that conform to the provisions of this Contract and are approved by the Commission's Finance Officer, or designee staff.

Invoices shall be submitted following completion of the Hearing Officer's report and include the following information:

1. The Hearing Officer's taxpayer identification number and New York State Vendor Identification Number;
2. Detailed description of services provided by date(s) of service, including the hearing case number;
3. Itemized documentation of travel, overnight lodging and meal expenses sufficient to demonstrate conformance with applicable State reimbursement rates;
4. Total amount billed for services and expenses for the invoice period and the beginning and ending dates of the billing period included in the invoice.

c. Payment under the Contract will be in accordance with New York State Prompt Payment Law (Article 11-A of the New York State's State Finance Law). Payment for services will be made upon completion of the services, in accordance with the terms of this RFQ, and upon receipt by the Commission of a proper invoice.

4. **Approvals Required.**

This Contract, and any extension of the term of this Contract or any amendment of the provisions of this Contract, shall not be effective and binding upon the Commission, the State of New York, or the Hearing Officer unless and until approved by the Commission in writing.

5. **Mutual Cooperation.**

The objective of this Contract is to provide fair, reasonable, and reliable hearing officer services to the Commission as set forth in this Contract. The parties agree to cooperate fully in

good faith and to assist each other, to the extent reasonably practicable, in order to accomplish that objective.

6. **Standards of Performance.**

The Hearing Officer warrants that the Hearing Officer possesses the experience, knowledge, character, and licenses necessary to perform the scope of services described in the Contract. The Hearing Officer shall perform such services in a competent and professional manner to the satisfaction of the Commission.

7. **Independent Contractor.**

The relationship of the Hearing Officer to the Commission arising out of this Contract shall be that of an independent contractor. The Hearing Officer, in accordance with the Hearing Officer's status as an independent contractor, agrees that the Hearing Officer will conduct himself or herself consistent with such status, that the Hearing Officer will neither hold himself or herself out as, nor claim to be, an officer or employee of the Commission or the State by reason hereof, and that the Hearing Officer will not by reason hereof, make any claim, demand or application for any right or privilege applicable to an officer or employee of the Commission or the State, including, but not limited to, Workers' Compensation coverage, Unemployment Insurance benefits, Social Security coverage, or Retirement membership or credit. Nothing in this Contract shall impose any liability or duty on the Commission or the State, on account of any acts, omissions, liabilities or obligations of the Hearing Officer for taxes of any nature, including, but not limited to, unemployment insurance and workers' compensation, and the Hearing Officer hereby agrees to indemnify and hold harmless the Commission and the State against any such liabilities.

8. **Subcontracting.**

Subcontracting is not permitted under this Contract.

9. **Liability and Indemnification.**

The Hearing Officer shall be responsible for all damages to life and property due to activities of the Hearing Officer, as well as the agents or employees of the Hearing Officer

in connection with performance of services under this Contract. The Hearing Officer shall indemnify, defend, and save harmless the Commission and the State of New York, and their officers, employees, agents, assigns and retailers from and against any and all third-party claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees, which may be incurred, suffered, or required in whole or in part by an actual or alleged act or omission of the Hearing Officer or the Hearing Officer's officers, employees, agents, successors and assigns.

10. Confidentiality and Non-Disclosure.

a. "Confidential Information" means any information not generally known to the public, whether oral or written, that the Commission identifies as confidential and discloses to the Hearing Officer so that the Hearing Officer can provide services to the Commission pursuant to this Contract. Confidential Information may include, but is not limited to: (a) operational and infrastructure information relating to bid documents, plans, drawings, specifications, reports, product information; (b) business and security processes and procedures; personnel and organizational data, and financial statements; (c) information system IP addresses, passwords, security controls, architectures and designs; (d) such other data, information and images that the Commission deems confidential. The Commission will identify written Confidential Information by marking it with the word "Confidential" and will identify oral Confidential Information as confidential at the time of disclosure to the Hearing Officer.

b. Confidential Information does not include information that, at the time of Commission disclosure to the Hearing Officer: (a) is already in the public domain or becomes publicly known through no act of the Hearing Officer; (b) is already known by the Hearing Officer free of any confidentiality obligations; (c) is information that the Commission has approved in writing for disclosure; or (d) is required to be disclosed by the Hearing Officer pursuant to law so long as the Hearing Officer provides the Commission with notice of such disclosure requirement and opportunity to defend prior to any such disclosure.

c. The Hearing Officer may use Confidential Information solely for the purposes of providing services to the Commission pursuant to this Contract. The Hearing Officer shall not make copies of any written Confidential Information without the express written permission of the Commission. The Commission's disclosure of Confidential Information to the Hearing Officer shall not convey to the Hearing Officer any right to or interest in such Confidential Information and the Commission shall retain all right and title to such Confidential Information at all times.

d. The Hearing Officer shall hold Confidential Information confidential to the maximum extent permitted by law. The Hearing Officer shall safeguard Confidential Information with at least the same level of care and security, using all reasonable and necessary security measures, devices and procedures that the Hearing Officer uses to maintain the Hearing Officer's own confidential information.

e. Upon written request by the Commission, the Hearing Officer shall return all written Confidential Information to the Commission, including any copies or images of the same.

11. **Responsibility.**

a. The Hearing Officer shall at all times during the Contract and any extended term, remain responsible as "responsible" and "non-responsible" or "nonresponsible" are treated in New York State's State Finance Law. The Hearing Officer agrees, if requested by the Commission's Executive Director or his or her designee (collectively "Executive Director"), to present evidence of the Hearing Officer's continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

b. The Commission's Executive Director, in the Executive Director's sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when the Executive Director discovers information that calls into question the responsibility of the Hearing Officer. In the event of such suspension, the Hearing Officer will be given written

notice outlining the particulars of such suspension. Upon issuance of such notice, the Hearing Officer must comply with the terms of the suspension. The Hearing Officer may resume performance of this Contract at such time as the Commission's Executive Director issues a written notice authorizing such resumption.

12. **Conflicts of Interest.**

a. The Hearing Officer shall provide a completed "Vendor Assurance of No Conflict of Interest or Detrimental Effect" form (or any updated form identified by the Commission for the same purpose), signed by the Hearing Officer, attesting that the Hearing Officer's performance of the services neither creates a conflict of interest with, nor positions the Hearing Officer to breach, any other contract currently in force with the State of New York; and that the Hearing Officer will not act in any manner that is detrimental to any State project on which the Hearing Officer is rendering services.

b. The Hearing Officer hereby reaffirms the attestations made in the Hearing Officer's Response, and covenants and represents that there is, and shall be, no actual or potential conflict of interest that could prevent the Hearing Officer's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this Contract. The Hearing Officer shall have a duty to notify the Commission immediately of any actual or potential conflicts of interest.

c. The Commission and the Hearing Officer recognize that conflicts may occur in the future due to existing or new relationships the Hearing Officer may have. The Commission will review the nature of any relationship and reserves the right to terminate this Contract if, in the judgment of the Commission, a real or potential conflict of interest cannot be cured.

13. **Termination.**

a. The Commission shall have the right to terminate this Contract by providing written notice to the Hearing Officer in accordance with Section 15 of this Contract for any of the following:

- i. convenience; or

- ii. a finding that the certification filed by the Hearing Officer in accordance with New York State's State Finance Law § 139-k was intentionally false or intentionally incomplete.

b. The Commission shall have the right to terminate this Contract for any of the following causes:

- i. the Hearing Officer's fraudulent or otherwise criminal act against the Commission;
- ii. a material breach by the Hearing Officer of any of the provisions of this Contract;
- iii. the Hearing Officer's filing for bankruptcy in a court of competent jurisdiction;
- iv. a determination by a court of competent jurisdiction that the Hearing Officer is bankrupt or insolvent;
- v. a good faith determination by the Commission that continuation of the Contract could place the integrity or public perception of the Commission in jeopardy;
- vi. a determination by the Commission's Executive Director that the Hearing Officer is "non-responsible" or "nonresponsible"; or
- vii. a conviction of the Hearing Officer or any of the Hearing Officer's employees, of any criminal offense which, in the sole reasonable opinion of the Commission's Executive Director, would be prejudicial to public confidence in the Commission.

If the Commission exercises the right to terminate this Contract for cause, the Commission shall give the Hearing Officer a written notice that states the cause for which termination is sought. The Hearing Officer shall be entitled to a period of thirty (30) days from receipt of such notice to correct or cure the cause to the reasonable satisfaction of the Commission.

If termination is sought due to a criminal conviction described in subparagraph (vii) of paragraph (b) of this Section, the cause for termination shall be deemed to be cured if the

Hearing Officer causes or obtains the dismissal, resignation, retirement or other removal of the person convicted of such offense during such thirty (30) day period.

Where the Hearing Officer is determined by the Commission's Executive Director to be "non-responsible" or "nonresponsible" described in subparagraph (vi) of paragraph (b) of this Section upon written notice to the Hearing Officer, and a reasonable opportunity to be heard with appropriate Commission officials or staff, the Contract may be terminated by the Executive Director at the Hearing Officer's expense. In such event, the Executive Director may complete the contractual requirements in any manner the Executive Director may deem advisable and pursue available legal or equitable remedies for breach.

c. In the event that the Contract is terminated under the provisions of (a) or (b) of this section, the Hearing Officer shall be entitled to payment for services rendered and materials provided prior to the termination, and subject to setoff, if any, for claims by the Commission against the Hearing Officer. In no event shall the Commission be liable to the Hearing Officer for lost profits, incidental, consequential, or special damages based upon the exercise of the Commission's termination rights.

14. **Records Retention.**

Records required by this Contract to be retained by the Hearing Officer shall be retained for the periods specified in **Appendix A**, dated October 2019, attached hereto, unless otherwise directed. Such records may be retained in their original form or in any other reliable and readily retrievable format, at the option of the Hearing Officer.

15. **Notices.**

All notices required by this Contract shall be sufficient if in writing and sent by certified mail return receipt requested and all other communications shall be sufficient if communicated in writing to the following addresses or to such other addresses, as may be designated from time to time by the parties in writing:

a. As to the Commission:

General Counsel
New York State Gaming Commission
One Broadway Center
Post Office Box 7500
Schenectady NY 12301-7500

b. As to the Hearing Officer:

[Name and Address]

16. Force Majeure.

A Force Majeure occurrence is an event, condition, or effect that is caused by facts and circumstances that are beyond the reasonable control of such party and leads to non-performance, but that cannot be reasonably anticipated or controlled and occurs without the fault or negligence of the non-performing party. As herein used, Force Majeure includes, but is not limited to, the enactment, imposition or modification of any law that occurs, takes effect or is applied after the date of the Contract and that prohibits or materially impedes the performance of the obligations of the Commission and/or the Hearing Officer, whether caused by new or pre-existing conditions including, but not limited to, riot, sabotage, boycott, embargo, or civil or military disturbances; interruption of or delay in transportation; national emergency; acts of terrorism; inability to procure material; rationing; failure of electricity or other utilities; restrictive laws, regulations or orders, or any act or failure to act, or interference of any federal, state or local government or governmental agency or authority; confiscation or seizure by any governmental authority; condemnations by any governmental authority; riots or insurrection; war or war-like actions; earthquake, flood, storm, wash-outs, fire, lightning or other severe inclement weather or action of the elements, or other acts of God; explosions or other accidents; nuclear reaction or radiation; epidemic, pandemic, or other public health crisis or emergency, whether national or local; interruption or loss of internet, computer, telephone, broadcast or other communications or service; strikes, lockouts or other labor stoppage, disturbance, or disruption; or any other cause which is beyond the control of the party affected, and which, by the exercise of reasonable diligence, said party is unable to prevent delays arising as a result thereof or to predict and through advance planning avoid such delays.

Except as otherwise provided in the Contract, neither the Hearing Officer nor the Commission shall be liable to the other for any delay in, or failure of performance of, any covenant contained herein, nor shall any such delay or failure of performance constitute default hereunder, to the extent that such delay or failure is caused by a Force Majeure occurrence. The existence of such causes of delay or failure shall extend the schedule for performance to such extent as may be necessary to complete performance in the exercise of reasonable diligence after the causes of delay or failure have been removed, if approval for such extension is given by the Commission. During any period of non-performance due to a Force Majeure occurrence, payments from the Commission to the Hearing Officer will be suspended.

While any such delay in or failure of performance shall not in and of itself give rise to any liability for damages, the Commission may elect to terminate the Contract for cause should the Commission's continuing operations, in its sole judgment, be materially threatened or harmed by reason of extended delay or failure of performance, even if the delay or failure of performance is due to a Force Majeure occurrence.

17. Documents Incorporated.

Appendix A, Standard Clauses for New York State Contracts, dated October 2019, is hereby incorporated herein to the same force and effect as if set forth at length herein.

18. Order of Precedence.

Any conflict between the provisions of this Contract and the documents incorporated herein shall be resolved according to the following order of precedence, from the highest to the lowest:

- a. Appendix A - Standard Clauses for New York State Contracts, dated October 2019;
- b. Any amendments to the Contract;
- c. Contract;
- d. RFQual and any clarifying responses by the Commission; and
- e. Response and any clarifying responses by the Hearing Officer.

19. Miscellaneous Provisions.

a. If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected, but shall remain binding and effective as against all parties hereto.

b. The headings contained in this Contract are intended for ease of reference only and shall not be interpreted to limit or modify any of the provisions of this Contract.

c. A waiver of enforcement of any provision of this Contract shall not constitute a waiver of any other provision of this Contract nor shall it preclude the affected party from subsequently enforcing such provision.

d. This Contract shall not be assigned or otherwise transferred by either party without prior written consent of the parties.

e. This Contract may be executed in counterparts, each of which shall be deemed an original. Executed copies of this Contract may be sent by facsimile (fax) or as PDF copies sent by email, and any signatures thereon shall be considered for all purposes to be binding as originals.

IN WITNESS WHEREOF, the parties hereto have executed this Contract to be effective as of the day and year first above written.

[HEARING OFFICER]

NEW YORK STATE
GAMING COMMISSION

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Acknowledgement of Hearing Officer

ACKNOWLEDGEMENT BY INDIVIDUAL

STATE OF _____)
) ss.:
COUNTY OF _____)

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

Notary Public

ACKNOWLEDGEMENT BY UNINCORPORATED ASSOCIATION

STATE OF _____)
) ss.:
COUNTY OF _____)

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

Notary Public

ACKNOWLEDGEMENT BY CORPORATION

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, in the year 20____, before me personally came _____, to me known, who, being by me duly sworn did depose and say that he/she resides in _____; that he/she is the _____ of the _____, the corporation described in and which executed the above instrument; and that he/she signed his/her name(s) thereto by authority of the board of directors of said corporation.

Notary Public

BIDDER/OFFERER DISCLOSURE/CERTIFICATION FORM

CONTRACT/PROJECT DESCRIPTION: Hearing Officer Services

CONTRACT/PROJECT NUMBER: T202209A-F

RESTRICTED PERIOD FOR THIS PROCUREMENT: March 15, 2023 through contract approval

PERMISSABLE CONTACTS: Stacey Relation and Alysan Bowers

1. CONTACTS - Contractor affirms that it understands and agrees to comply with the procedures on procurement lobbying restrictions regarding permissible contacts in the restricted period for a procurement contract in accordance with State Finance Law §§ 139-j and 139-k. I agree

2. BIDDER/OFFERER DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS Pursuant to Procurement Lobbying Law (SFL §139-j)

(a) Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?

Yes No

If yes, please answer the following question:

(b) Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?

Yes No

(c) If "Yes" was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?

Yes No

If "Yes", please provide details regarding the finding of non-responsibility:

Governmental Entity: _____

Date of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility (attach additional sheets if necessary):

(d) Has any governmental agency terminated or withheld a procurement contract with the above-named individual or entity due to the intentional provision of false or incomplete information?

Yes No

If yes, provide details:

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: (add additional pages if necessary)

3. TERMINATION CLAUSE:

Contractor certifies that all information provided to the Agency with respect to State Finance Law §§139 (j) and 139 (k) is complete true and accurate. If found to be in violation of State Finance Law §§139 (j) and 139 (k), the contract will result in termination.

I agree

Name of Contractor's Firm/Company: _____

Contractor Address: _____

Contractor's signature: _____

I understand that my signature represents that I am signing and responding to both certifications listed above

Print Name: _____

Occupation of Person signing this form: _____

Email Address: _____

**Non-Collusive Bidding Certification
Required By Section 139-D of the State Finance Law**

By submission of this bid, bidder and each person signing on behalf of bidder certifies, under penalty of perjury, that to the best of his/her knowledge and belief:

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

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

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day _____, 20__.

Title

Signature



**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
SUBSTITUTE FORM W-9:
REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION**

TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.

Part I: Vendor Information

1. Legal Business Name:	2. Business name/disregarded entity name, if different from Legal Business Name:
-------------------------	--

3. Entity Type (Check one only): <input type="checkbox"/> Individual Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Co. <input type="checkbox"/> Corporation <input type="checkbox"/> Not For Profit <input type="checkbox"/> Trusts/Estates <input type="checkbox"/> Federal, State or Local Government <input type="checkbox"/> Public Authority <input type="checkbox"/> Disregarded Entity <input type="checkbox"/> Other _____	<input type="checkbox"/> Exempt Payee
---	--

Part II: Taxpayer Identification Number (TIN) & Taxpayer Identification Type

1. Enter your TIN here: (<i>DO NOT USE DASHES</i>) See instructions.	<table border="1" style="width:100%; height: 20px;"> <tr> <td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td> </tr> </table>										
2. Taxpayer Identification Type (check appropriate box):											
<input type="checkbox"/> Employer ID No. (EIN) <input type="checkbox"/> Social Security No. (SSN) <input type="checkbox"/> Individual Taxpayer ID No. (ITIN) <input type="checkbox"/> N/A (Non-United States Business Entity)											

Part III: Address

1. Physical Address:	2. Remittance Address:
Number, Street, and Apartment or Suite Number	Number, Street, and Apartment or Suite Number
City, State, and Nine Digit Zip Code or Country	City, State, and Nine Digit Zip Code or Country

Part IV: Certification and Exemption from Backup Withholding

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (TIN), and
- I am a U.S. citizen or other U.S. person, and
- (Check one only):
 - I am not subject to backup withholding.** I am (a) exempt from back up withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding), or
 - I am subject to backup withholding.** I have been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, and I have not been notified by the IRS that I am no longer subject to back withholding.

Sign Here:

_____	_____	_____
Signature	Title	Date
_____	_____	_____
Print Preparer's Name	Phone Number	Email Address

Part V: Vendor Primary Contact Information – Executive Authorized to Represent the Vendor

Primary Contact Name: _____	Title: _____
Email Address: _____	Phone Number: _____

DO NOT SUBMIT FORM TO IRS — SUBMIT FORM TO NYS ONLY AS DIRECTED

NYS Office of the State Comptroller Instructions for Completing Substitute Form W-9

New York State (NYS) must obtain your correct Taxpayer Identification Number (TIN) to report income paid to you or your organization. NYS Office of the State Comptroller uses the Substitute Form W-9 to obtain certification of your TIN in order to ensure accuracy of information contained in its payee/vendor database and to avoid backup withholding.¹ We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States. You are required to give us the information.

Any payee/vendor who wishes to do business with New York State must complete the Substitute Form W-9. Substitute Form W-9 is the only acceptable documentation. We will not accept IRS Form W-9.

Part I: Vendor Information

1. **Legal Business Name:** For individuals, enter the name of the person who will do business with NYS as it appears on the Social Security card or other required Federal tax documents. An organization should enter the name shown on its charter or other legal documents that created the organization. Do not abbreviate names.
2. **Business name/disregarded entity name, if different from Legal Business Name:** Enter your DBA name or another name your entity is known by.
3. **Entity Type:** Check the Entity Type doing business with New York State.

Part II: Taxpayer Identification Number (TIN) and Taxpayer Identification Type

The TIN provided must match the name in the "Legal Business Name" box to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, refers to IRS W-9 instructions for additional information. For other entities, it is your employer identification number (EIN). If you do not have a number or if the account is in more than one name, refer to IRS W-9 instructions for additional information.

1. **Taxpayer Identification Number:** Enter your nine-digit Social Security Number, Individual Taxpayer Identification Number (ITIN) or Employer Identification Number (EIN).
2. **Taxpayer Identification Type:** Check the type of identification number provided.

Part III: Address

1. **Physical Address:** Enter the location of where your business is physically located.
2. **Remittance Address:** Enter the address where payments should be mailed.

Part IV: Certification and Exemption from Backup Withholding

Check the appropriate box indicating your exemption status from backup withholding. Individuals and sole proprietors are not exempt from backup withholding. Corporations are exempt from backup withholding for certain types of payments. Refer to IRS Form W-9 instructions for additional information. The signature should be provided by the individual, owner, officer, legal representative, or other authorized person of the entity listed on the form. Certain exceptions to the signature requirement are listed in the IRS instructions for form W-9.

Part V: Vendor Primary Contact Information

Please provide the contact information for an executive at your organization. This individual should be the person who makes legal and financial decisions for your organization.

¹ According to IRS Regulations, OSC must withhold 28% of all payments if a payee/vendor fails to provide OSC its certified TIN. The Substitute Form W-9 certifies a payee/vendor's TIN.

Vendor Assurance of No Conflict of Interest or Detrimental Effect

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

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

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;
2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;
3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;
4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFQ;
5. During the negotiation and execution of any contract resulting from this RFQ, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFQ, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment,

hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

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

Name, Title:

Signature:

Date:

This form must be signed by an authorized executive or legal representative.

FORM A

**New York State Consultant Services
Contractor's Planned Employment**
From Contract Start Date Through the End of the Contract Term

State Agency Name: NYS Gaming Commission
 State Agency Department ID: 20050 Agency Business Unit:
 Contractor Name: Contract Number:
 Contract Start Date: / / Contract End Date: / /

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

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

Form A--Consultant Disclosure Instructions

The State Consulting Services Contractor's Planned Employment Report (this Form A) is due within two (2) business days after receiving notice of a contract award. The completed Report must be submitted to the Gaming Commission at officer.contracting@gaming.ny.gov.

Complete Form A for contracts for consulting services in accordance with the following:

Employment category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees anticipated to be providing services under the contract. (Note: Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration website at www.online.onetcenter.org.)

Number of employees: the total number of employees in the employment category employed anticipated to provide services under the contract, including part time employees and employees of subcontractors.

Number of hours to be worked: the total number of hours anticipated be worked by the employees in the employment category.

Amount payable under the contract: the total amount payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services to be provided during the Report Period.

If you have any questions regarding this requirement under the Consultant Disclosure Law, please contact the Contract Unit at officer.contracting@gaming.ny.gov or at (518) 388-0924.

FORM B

<p>New York State Consultant Services Contractor's Annual Employment Report Report Period: April 1, to March 31,</p>

Contracting State Agency Name: NYS Gaming Commission	
Contract Number:	Agency Business Unit: 20050
Contract Term: / / to / /	Agency Department ID:
Contractor Name:	
Contractor Address:	
Description of Services Being Provided:	

Scope of Contract (Choose one that best fits):

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

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

Name of person who prepared this report:

Title:

Phone #:

Preparer's Signature: _____

Date Prepared: / /

(Use additional pages, if necessary)

The completed Report must be submitted to OSC, DCS, and the Gaming Commission:
CDMOST@osc.ny.gov; SubmitformB@cs.ny.gov; officer.contracting@gaming.ny.gov.

OSC: CDMOST@osc.ny.gov
or
NYS Office of the State Comptroller Bureau of Contracts
110 State Street, 11th Floor Albany, NY 12236
Attn: Consultant Reporting

DCS: SubmitformB@cs.ny.gov
or
NYS Department of Civil Service
Empire State Plaza
Albany, NY 12239

NYS Gaming Commission: officer.contracting@gaming.ny.gov
or
NYS Gaming Commission
1 Broadway Center
Schenectady, NY 12305

Submit the completed Form B by May 15 for the period April 1 through March 31, and annually by May 15th thereafter for each State fiscal year (or portion thereof) the contract is in effect, in accordance with the following:

Scope of Contract: a general classification of the single category that best fits the predominate nature of the services provided under the contract.

Employment Category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract. (Note: Access the O*NET database, through the US Department of Labor's Employment and Training Administration website at www.online.onetcenter.org.)

Number of Employees: the total number of employees in the employment category employed that provided services under the contract during the Report Period, including part time employees and employees of subcontractors.

Number of hours worked: the total number of hours worked during the Report Period by the employees in the employment category.

Amount Payable under the Contract: the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.

If you have any questions regarding this requirement under the Consultant Disclosure Law, please contact the Contract Unit at officer.contracting@gaming.ny.gov or at (518) 388-0924.

**ENCOURAGING USE OF NEW YORK STATE BUSINESSES
IN CONTRACT PERFORMANCE**

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

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

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

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

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

Will New York State Businesses be used in the performance of this contract?
Yes No

If yes, identify New York State businesses that will be used and attach identifying information.

Firm Name: _____

Signature: _____

Date: _____

EEO, MWBE AND SDVOB PROGRAMS

Forms:

- I-1: EEO Policy Statement
- I-2: MWBE Staffing Plan
- I-3: MWBE and SDVOB Utilization Plan
- I-4: MWBE and SDVOB Waiver
- I-5: Monthly SDVOB Compliance Report

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The New York State Gaming Commission (the “Commission”) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the Commission, to fully comply and cooperate with the Commission in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.
- C. Failure to comply with all the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix and such other remedies are available to the Commission pursuant to the Contract and applicable law.

II. MWBE Contract Goals

- A. For purposes of this solicitation, the Commission hereby establishes an overall goal of **30%** for MWBE participation based on the current availability of qualified MBEs and WBEs.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>. Additionally, the Contractor is encouraged to contact the Division of Minority and Women's Business Development at (212) 803-2414 or mwbebusinessdev@esd.ny.gov to discuss additional methods of maximizing participation by MWBEs on the Contract.
- C. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a supplier that shall be 60% of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
- D. The Contractor must document "good faith efforts," pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:
1. Evidence of outreach to MWBEs;
 2. Any responses by MWBEs to the Contractor's outreach;
 3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
 4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the Commission with MWBEs; and,
 5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

III. Equal Employment Opportunity ("EEO")

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

B. In performing the Contract, the Contractor shall:

1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination, and rates of pay or other forms of compensation.
2. The Contractor shall submit an EEO policy statement to the Commission within seventy-two (72) hours after the date of the notice by the Commission to award the Contract to the Contractor.
3. If the Contractor, or Subcontractors, does not have an existing EEO policy statement, the Commission may provide the Contractor or Subcontractor a model statement (see Form I-1 Minority and Women-Owned Business Enterprises --Equal Employment Opportunity Policy Statement).
4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Staffing Plan—Form I-2

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

D. Workforce Audit Report

1. The Contractor shall submit a quarterly Workforce Audit Report, and shall require each of its subcontractors to submit a Workforce Audit Report, by the 10th day following the end of each quarter during the term of the contract. The form shall be submitted through the New York State Contract System (“NYSCS”) at <https://ny.newnycontracts.com>.
2. Separate forms shall be entered by the Contractor and any Subcontractors.
3. Pursuant to Executive Order #162, Contractors and Subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

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

IV. MWBE Utilization Plan – Form I-3

- A. The Contractor shall complete a **proposed** MWBE Utilization Plan on Form I-3 and submit it as part of their bid or proposal. Upon execution of the contract, the Contractor shall submit a MWBE Utilization Plan through the NYSCS at <https://ny.newnycontracts.com>.
- B. The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.
- C. The Contractor further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Commission shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

V. Waivers—Form I-4

- A. If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver on Form I-4. Such waiver request must be supported by evidence of the Contractor's good faith efforts to achieve the maximum feasible MWBE participation towards the applicable Contract Goals. The Commission shall evaluate the request and issue a written notice of approval or denial.
- B. If the Commission, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued regarding such non-compliance, the Commission may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

The Contractor will be required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS at <https://ny.newnycontracts.com> by the 10th day following the end of each quarter during the term of the Contract.

VII. Liquidated Damages - MWBE Participation

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

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

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

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

I. SBVOB Contract Goals

- A. The Commission hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to the Commission’s Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).
 1. Evidence of outreach to SDVOBs;
 2. Any responses by SDVOBs to the Contractor’s outreach;
 3. Copies of advertisements for participation by SDVOBs in appropriate general circulation,
 4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the Commission with SDVOBs; and,
 5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for SDVOB participation.

II. SDVOB Utilization Plan – Form I-3

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed **proposed** SDVOB Utilization Plan on Form I-3 with their bid or proposal.
- B. The Contractor agrees to adhere to such SDVOB Utilization Plan in the performance of the Contract.
- C. The SDVOB Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the SDVOB Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of an SDVOB Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to the Commission.
- D. The Commission will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of the Commission's acceptance or issue a notice of deficiency.
- E. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to the Commission a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Commission to be inadequate, the Commission shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by the Commission, a request for a partial or total waiver of SDVOB participation goals on Form I-4. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- F. The Commission may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - 1. If a Bidder fails to submit an SDVOB Utilization Plan;
 - 2. If a Bidder fails to submit a written remedy to a notice of deficiency;
 - 3. If a Bidder fails to submit a request for waiver; or
 - 4. If the Commission determines that the Bidder has failed to document good faith efforts.
- G. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

- H. Contractor further agrees that a failure to use SDVOBs as agreed in the SDVOB Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Commission shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver—Form I-4

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at the Commission for guidance at gam.sm.gamingcompliance@gaming.ny.gov.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form I-4, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Commission at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, the Commission shall evaluate the request and issue a written notice of acceptance or denial.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to the Commission, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If the Commission, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (Form I-5) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, the Commission may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to the Commission at:

gam.sm.gamingcompliance@gaming.ny.gov.

IV. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

1. Copies of solicitations to SDVOBs and any responses thereto.
2. Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.

3. Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by the Commission with certified SDVOBs whom the Commission determined were capable of fulfilling the SDVOB goals set in the Contract.
4. 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 SDVOBs.
5. Other information deemed relevant to the waiver request.

V. Monthly SDVOB Contractor Compliance Report- Form I-5

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to the Commission during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using Form I-5 and should be completed by the Contractor and submitted to the Commission, by the 10th day following the end of each month during the term of the Contract, for the preceding month's activity to: gam.sm.gamingcompliance@gaming.ny.gov.

VI. Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

MWBE and SDVOB Participation / Equal Employment Opportunity Policy Statement

I, _____ (CONTRACTOR OR GRANT REPRESENTATIVE),
the _____ (GRANTEE/COMPANY NAME)
agree to adopt the following policies with respect to the project being developed or services rendered at
_____.

NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY POLICY

- (a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.
- (b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.
- (c) At the request of the Commission, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.
- (d) Organization shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The organization and its sub-vendors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- (e) The organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this contract.

MWBE PARTICIPATION (MWBE)

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

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to MWBE contractor associations.

- (2) **Request a list of State-certified MWBEs from** the Commission or search the directory in the NYS Contract System (newnycontracts.com) and solicit bids from the listed vendors directly.
- (3) **Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective MWBEs.**
- (4) **Where feasible, divide the work into smaller portions to enhanced participations by MWBEs and encourage the formation of joint venture and other partnerships among MWBE contractors to enhance their participation.**
- (5) **Document and maintain records of bid solicitation, including those to MWBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting MWBE contract participation goals.**
- (6) **Ensure that progress payments to MWBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage MWBE participation.**

SDVOB PARTICIPATION (SDVOB)

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

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

Agreed on this _____ day of _____ 20_____.

By: _____
(SIGNATURE)

Print Name: _____

Title: _____



Minority & Women-owned Business Enterprise-Equal Employment Opportunity Liaison

_____ (name of designated contractor/grantee liaison) is designated as the Minority and Women-owned Business Enterprise Liaison responsible for administering the Minority and Women-owned Business Enterprises-Equal Employment Opportunity (MWBE-EEO) program.

MWBE Contract Goals

_____ % Minority Business Enterprise Participation
_____ % Women’s Business Enterprise Participation
_____ % **TOTAL/OVERALL MWBE Participation Goal**

EEO Contract Goals

NOT APPLICABLE % Minority Labor Force Participation
NOT APPLICABLE % Female Labor Force Participation

SDVOB Contract Goals

_____ % Service Disabled Veteran Business Participation

(Signature of Contractor’s Authorized Representative)

***Name:** _____
***Company:** _____
***Title:** _____
***Phone:** _____
***Fax:** _____
***Address:** _____

STAFFING PLAN

Submit with Bid or Proposal – Instructions on page 2

Solicitation No.:	Reporting Entity:	Report includes Contractor's/Subcontractor's: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
Offeror's Name:		<input type="checkbox"/> Offeror <input type="checkbox"/> Subcontractor Subcontractor's name _____
Offeror's Address:		

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

EEO-Job Category	Total Work force	Work force by Gender			Work force by Race/Ethnic Identification																				
		Total	Total	Total	White			Black			Hispanic			Asian			Native American			Disabled			Veteran		
		Male (M)	Female (F)	X (X)	(M)	(F)	(X)	(M)	(F)	(X)	(M)	(F)	(X)	(M)	(F)	(X)	(M)	(F)	(X)	(M)	(F)	(X)	(M)	(F)	(X)
Officials/Administrators																									
Professionals																									
Technicians																									
Sales Workers																									
Office/Clerical																									
Craft Workers																									
Laborers																									
Service Workers																									
Temporary /Apprentices																									
Totals																									

PREPARED BY (Signature):	TELEPHONE NO.: EMAIL ADDRESS:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):	Submit completed with bid or proposal MWBE 101 (Rev 03/11)	

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (MWBE 101) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the OMWBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, 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. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - 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.
- **GENDER** Male, Female, or X



MWBE and SDVOB Utilization Plan

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This MWBE and SDVOB Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (MWBE) and/or Service Disabled Veteran Owned Business (SDVOB) under the contract. Attach additional sheets if necessary.

* indicates mandatory fields

* Contractor Name: _____

Address: _____

* Representative Name: _____

Town, State & Zip: _____

* Phone: _____

* Contract/Project Number: _____

* Fax: _____

RFP/RFQ/Solicitation Number: _____

* Email: _____

* MWBE Goal: MBE _____% + WBE _____% = MWBE GOAL _____%

* Total Dollar Value of Contract/Grant: \$ _____

* SDVOB Goal: _____%

1. * Certified MWBE or SDVOB Firm Name, Contact Person's Name, Address, Phone and Email.	2. * Check All That Apply	3. * Federal ID No.	4. * Detailed Description of Work (Attach additional sheets, if necessary, Attach Contract if available)	5. * Check Firm Type That Applies for Work Completed on this Project	6. * Dollar Value of Contract (if unavailable or yet undetermined, indicate \$1)
A.	<u>NYS CERTIFIED</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB			<input type="checkbox"/> Subcontractor <input type="checkbox"/> Subconsultant <input type="checkbox"/> Materials Supplier <input type="checkbox"/> Trade Agents/Brokers	
B.	<u>NYS CERTIFIED</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB			<input type="checkbox"/> Subcontractor <input type="checkbox"/> Subconsultant <input type="checkbox"/> Materials Supplier <input type="checkbox"/> Trade Agents/Brokers	



MWBE and SDVOB Utilization Plan

7. If unable to fully meet the MWBE and/or SDVOB goals set forth in the contract, the Contractor must submit a Waiver Request form.

PREPARED BY (Signature): _____ DATE: _____

Preparer's Name (Print or Type): _____

Preparer's Title: _____

Date: _____

SUBMISSION OF THIS FORM CONSTITUTES THE CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE MWBE AND SDVOB REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW ARTICLES 15-A AND 17-B, 5 NYCRR PART 143, 9 NYCRR PART 252, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.

The MWBE Certification status of the firms listed on this form **MUST** be verified using the New York State Contract System's Directory of Certified Minority and Women-owned Business Enterprises.
This directory is available at <https://ny.newnycontracts.com>.

The SDVOB Certification status of the firms listed on this form **MUST** be verified using the Directory of New York State Certified Service-Disabled Veteran-Owned Businesses.
This directory is available at <https://online.ogs.ny.gov/SDVOB/search>.

TELEPHONE NO.:	EMAIL ADDRESS:
<p><u>Policy Regarding Use of MWBE Suppliers and Brokers</u></p> <p>Only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal.</p> <p>FOR CONSTRUCTION/CAPITAL PROJECTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.</p> <p>FOR ALL OTHER PROJECTS - The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.</p>	
** FOR COMMISSION USE ONLY **	
REVIEWED BY:	DATE:
<p>UTILIZATION PLAN APPROVED?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> PARTIAL <input type="checkbox"/> NO Date: _____</p>	

Waiver Request Form

Request for Waiver		
Contractor Name:	Fed ID No.:	
Full Address:	Contract / Project Number:	
Project Details (Project Name, Project Location):	Have you Previously submitted a Waiver Request? (YES/NO)	
Current Contract Value:	MWBE Goal: MBE % + WBE % Overall MWBE Goal: % SDVOB Goal: %	
<p>By submitting this form and the required information, the Contractor certifies that every “Good Faith Effort” has been taken to promote MWBE and SDVOB participation pursuant to the MWBE and SDVOB requirements set forth under the contract. Review 5 NYCRR § 142.8 and 9 NYCRR § 252, Contractor’s Good Faith Efforts, for the precise definition of “Good Faith Effort.” Failure to adequately demonstrate Good Faith Efforts will result in a denial of your Waiver Request. It is the Contractor’s responsibility to ensure that adequate, clear and complete information is presented to the Commission.</p>		
<p>*UTILIZATION VALUE MET:</p> <p style="text-align: center;">MBE: \$ _____ WBE: \$ _____ SDVOB: \$ _____</p>		
<p>*CONTRACTOR IS REQUESTING :</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> MBE Waiver – A waiver of the MBE Goal for this procurement is requested. REQUESTED MBE GOAL: _____% 2. <input type="checkbox"/> WBE Waiver – A waiver of the WBE Goal for this procurement is requested. REQUESTED WBE GOAL: _____% 3. <input type="checkbox"/> OVERALL MWBE Waiver – A waiver of the MWBE Goal for this procurement is requested. REQUESTED MWBE GOAL: _____% 4. <input type="checkbox"/> SDVOB Waiver – A waiver of SDVOB Participation Goal for this procurement is requested. REQUESTED SDVOB GOAL: _____% 		
<p>PREPARED BY (Signature): _____ Date: _____</p> <p>SUBMISSION OF THIS FORM CONSTITUTES THE CONTRACTOR’S ACKNOWLEDGEMENT AND AGREEMENT THAT IT HAS MADE GOOD FAITH EFFORTS, PURSUANT TO 5 NYCRR §142.8 AND/OR 9 NYCRR §252, TO INCLUDE THE PARTICIPATION OF NEW YORK STATE CERTIFIED MINORITY AND WOMEN OWNED BUSINESSES AND SERVICE DISABLED VETERAN OWNED BUSINESSES IN THE ABOVE PROJECT OR CONTRACT. CONTRACTOR HEREBY AGREES TO PROVIDE ANY AND ALL RELEVANT DOCUMENTATION IN SUPPORT OF THE DEMONSTRATION OF ITS GOOD FAITH EFFORTS AND ACKNOWLEDGES THAT IT HAS PROVIDED WITH THIS WAIVER REQUEST ALL AVAILABLE DOCUMENTATION SUPPORTING ITS GOOD FAITH EFFORTS.</p>		
*Name and Title of Preparer:	*Telephone Number:	*Email:

Waiver Request Form

Contractor's Good Faith Efforts

- (a) Contractors must document their good faith efforts toward utilizing certified firms, including but not limited to, those identified within a utilization plan. Such documented efforts, shall include, at a minimum:
- (1) Copies of its solicitations of certified firms enterprises and any responses thereto;
 - (2) If responses to the contractor's solicitations were received, but a certified firm was not selected, the specific reasons that such firm was not selected;
 - (3) Copies of any advertisements for participation by certified firms timely published in appropriate general circulation, trade, MWBE and SDVOB oriented publications, together with the listing(s) and date(s) of the publication of such advertisements;
 - (4) 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 firms 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;
 - (5) 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 firms.
- (b) In addition to the information provided by the contractor in subdivision (a) above, the State agency may also consider the following to determine whether the contractor has demonstrated good faith efforts:
- (1) where applicable, whether the contractor submitted an amended utilization plan consistent with the subcontract or supplier opportunities in the contract;
 - (2) the number of certified firms in the region listed in the directory of certified businesses that could, in the judgment of the State agency, perform work required by the State contract scope of work;
 - (3) the actions taken by the contractor to contact and assess the ability of certified firms located outside of the region in which the State contract scope of work is to be performed to participate on the State contract;
 - (4) whether the contractor provided relevant plans, specifications or terms and conditions to certified firms sufficiently in advance to enable them to prepare an informed response to a contractor request for participation as a subcontractor or supplier;
 - (5) the terms and conditions of any subcontract or provision of suppliers offered to certified firms and a comparison of such terms and conditions with those offered in the ordinary course of the contractor's business and to other subcontractors or suppliers of the contractor;
 - (6) whether the contractor offered to make up any inability to comply with the certified firms goals in the subject State contract in other State contracts being performed or awarded to the contractor;
 - (7) the extent to which contractor's own actions, including but not limited to, any failure by contractor to discharge contractor's duties pursuant to this Part, Articles 15-A or 17-B of the Executive Law, contributed to contractor's inability to meet the maximum feasible portion of the contract goals;
 - (8) whether the contractor knowingly utilized one or more certified firms, in the performance of the subject State contract, that contractor knew or reasonably should have known could not perform a commercially useful function.

Waiver Request Form

- (9) whether the contractor submitted compliance reports, which identified certified firms that contractor knew or reasonably should have known did not perform a commercially useful function on a State contract on which goals were assigned. and
- (10) any other information that is relevant or appropriate to determining whether the contractor has demonstrated a good faith effort.

<p>Submit with the Bid or Proposal.</p>	***** FOR COMMISSION USE ONLY *****	
	REVIEWED BY:	DATE:
	<p> Waiver Granted: <input type="checkbox"/> YES MBE: <input type="checkbox"/> WBE: <input type="checkbox"/> SDVOB: <input type="checkbox"/> <input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver <input type="checkbox"/> *Conditional <input type="checkbox"/> Notice of Deficiency Issued _____ * Comments: <hr/><hr/><hr/><hr/><hr/><hr/> </p>	



CONTRACTOR'S MONTHLY SDVOB COMPLIANCE REPORT (DUE ON THE 10TH DAY OF EACH MONTH FOR THE PRECEDING MONTH'S ACTIVITY AS EVIDENCE TOWARDS ACHIEVEMENT OF THE SDVOB GOALS ON THE CONTRACT

Contract No.: _____

Contractor/Vendor Name, Address and Phone No.:	Contractor/Vendor Federal ID No.:	SDVOB Goals	Reporting Period		
			%	Month	Year
SDVOB Firm Name, Address and Phone Number (List All Firms)	Description of Work or Supplies Provided	SDVOB Payment	Total Monthly Payments from NYS		
Federal ID No.:		<input type="checkbox"/> No Payment This Month			
Federal ID No.:		<input type="checkbox"/> No Payment This Month			
Federal ID No.:		<input type="checkbox"/> No Payment This Month			
Federal ID No.:		<input type="checkbox"/> No Payment This Month			

_____ Signature	_____ Print Name and Title	_____ Date
Submission of this form constitutes the Contractor's acknowledgement as to the accuracy of the information contained herein. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, suspension and/or termination of the Contract.		For Commission's Use Only
		<table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">Reviewed By:</td> <td style="width: 50%;">Date:</td> </tr> </table>
Reviewed By:	Date:	

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

Executive Order No. 16 provides that “all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.” The complete text of Executive Order No. 16 can be found [here](#).

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in the case of some solicitations.

As defined in Executive Order No. 16, an “entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

Is Vendor an entity conducting business operations in Russia, as defined above? Please answer by checking one of the following boxes:

1. No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.
- 2.a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion.)
- 2.b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)
3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16.

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

Vendor Name: _____
(legal entity)

By: _____
(signature)

Name: _____

Title: _____

Date: _____

EO 177 Certification

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

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

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law 3.

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

Contractor:

Signature: _____

Printed Name:

Title:

Date:

The Certification is to be submitted prior to contract award by all successful bidders on all Covered contracts and contract renewals.

Statement on Sexual Harassment

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

Contractor certifies that this statement provided to the Agency with respect to State Finance Law §139 (l) is complete, true and accurate.

Authorized Signatory

Signature

Title

Company Name



RFQual.: T202209A-F – Hearing Officer Services

BIDDER ACKNOWLEDGEMENT OF ADDENDUM

Amendment Number: _____

Date Issued: _____

Summary:

By signing below, the bidder attests to receiving and responding to the amendment number indicated above.

FIRM NAME: _____

REPRESENTATIVE SIGNATURE: _____



DOCUMENT SUBMITTAL CHECKLIST - RFQual. T202209A-F

All items should be submitted with the Proposal, unless otherwise noted (checkbox is shaded out). Refer to sections in RFQual for details of each requirement.

Submit with Response to RFQual	RFQual Section	✓
Qualifications	1.3, 1.4	
Appendix B: Contract Form (incorporates Appendix A), must be signed	3.1, 4.2	
Appendix C: Procurement Lobbying - Bidder/Offeror Disclosure	2.7	
Appendix D: Non-Collusive Bidding Certification	2.9	
Appendix F: Vendor Assurance of No Conflict of Interest or Detrimental Effect	2.11	
Appendix H: NY Subcontractors and Suppliers	4.15	
Appendix I: EEO and M/WBE Program:	4.13	
I-1 EEO - Policy Statement	4.13	
I-2 EEO Work Force Employment Staffing Plan	4.13	
I-3 EEO Work Force Employment Periodic Report - Due Quarterly	4.13	
Appendix J: EO 16 Certification	2.22	
Appendix K: EO 177 Certification	2.20	
Appendix L: Certification of Compliance with State Finance Law §139 (l)	2.21	
Attachment 1: Bidder Acknowledgment of Addendum (for each addendum)	2.8	
Designation of Proprietary Information (FOIL)	2.10	
Disclosure of Litigation and Other Information	2.16	

Due Subsequent to Award		
Appendix E: Substitute Form W-9 - Vendor Identification Number - Due subsequent to award	4.11	
Appendix G: Consultant Disclosure - Forms A - Due within 2 Business Days of notice of award	4.12	
Appendix G: Consultant Disclosure - Forms B - Due by May 15th each year	4.12	

Company Name: _____



NO BID RESPONSE

RFQual.: #T202209A-F – Hearing Officer Services

If your company will not be submitting a response to the RFQual, it would be helpful in the preparation of future bidding opportunities to understand why your company is not submitting a bid. Please help us by selecting your reason from the choices below or selecting “Other” with a brief explanation.

_____ Although the bid is within the scope of our business, and we are interested in principle, at present, we are unable to respond, due to other commitments.

_____ The services / products described in the subject RFQual are not within our area of expertise.

_____ We do not have the staffing / resources available at this time to provide the services requested.

_____ There were certain requirements or restrictions stated in the RFQual that preclude our company from bidding. Those requirements are:

_____ Other: _____

This form may be emailed to: officer.contracting@gaming.ny.gov, or mailed to:

New York State Gaming Commission
Contract Unit, 4th Floor
One Broadway Center
Schenectady, NY 12305



Please be advised that **no response** may result in removal of your company from our bidders' List.