

Request for Proposals  
Weatherization Assistance Program  
Funding for Targeted Multi-Family Buildings  
Temporary Weatherization Subgrantees

**RFP Section 5: Required Contract Materials**

*(With the exception of Exhibit 3, these items are not required at this time as part of a proposal submission; they will however, be required from successful applicants before a contract is offered.)*

Appendix A	Standard Clauses for NYS Contracts
Exhibit 1	Non-Collusive Bidding Certification
Exhibit 2	Non-Discrimination in Employment in Northern Ireland
Exhibit 3	Vendor Responsibility Questionnaire <i>(Provided separately; must be submitted with Proposal)</i>
Exhibit 4	Procurement Lobbying Provisions/Forms
Exhibit 5	Consultant Services Forms
Appendix B	Minority and Women-Owned Business Requirements
Appendix C	Worker's Compensation Insurance Requirements
Appendix D	Recovery Act Job Posting Requirements (Rider A)
Appendix E	Prevailing Wage Requirements
Appendix F	Recovery Act Protection of Whistle Blowers
Appendix G	Buy American (only for projects involving public buildings)

## **APPENDIX A**

### **Legal Requirements Applicable to Procurements and Contracts**

A number of federal and New York State laws, rules, and regulations impact on NYS procurements. Appendix A, Standard Clauses for all New York State contracts, summarizes many of the requirements and will be attached to each applicable procurement and/or contract.

- EXHIBIT 1 Non-Collusive Bidding Certification
- EXHIBIT 2 Non-Discrimination in Employment in Northern Ireland
- EXHIBIT 3 Vendor Responsibility Questionnaire
- EXHIBIT 4 Procurement Lobbying Provisions and Forms
- EXHIBIT 5 Consultant Services Forms

**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 previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

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

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

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

performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

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

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

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

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

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

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

(a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, 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 New York State's Central Accounting System by the Director of Accounting Operations, 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, 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:

(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, 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; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office 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 State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §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  
30 South Pearl St -- 7<sup>th</sup> Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>

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  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
Telephone: 518-292-5250  
Fax: 518-292-5803  
<http://www.empire.state.ny.us>

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

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

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

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

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

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

**22. PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

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EXHIBIT 1

**NON-COLLUSIVE BIDDING CERTIFICATION-1**

**REQUIRED BY SECTION 139-D OF THE STATE FINANCE LAW**

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

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

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

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

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

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

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

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

**NON-COLLUSIVE BIDDING CERTIFICATION-2**

**IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:**

**NAMES OF PARTNERS OR PRINCIPALS**

**LEGAL RESIDENCE**

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**IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:**

**NAME**

**LEGAL RESIDENCE**

President: \_\_\_\_\_

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Secretary: \_\_\_\_\_

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Treasurer: \_\_\_\_\_

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President: \_\_\_\_\_

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Secretary: \_\_\_\_\_

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Treasurer: \_\_\_\_\_

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**EXHIBIT 2**

**NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:**

**MACBRIDE FAIR EMPLOYMENT PRINCIPLES**

In accordance with section 165 of the State Finance Law, the bidder, by submission of this bid certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership in the bidder, either: (answer yes or no to one or both of the following, as applicable),

(1) has business operations in Northern Ireland;

Yes\_\_\_\_\_ or No\_\_\_\_\_

if yes:

(2) shall take lawful steps in good faith to conduct any business operations that it has in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

Yes\_\_\_\_\_ or No\_\_\_\_\_

\_\_\_\_\_  
Signature



### EXHIBIT 3

<b>12.</b>	<b>Does the vendor use, or has it used in the past 10 (ten) years, any other business name, FEIN, or D/B/A other than those listed in items 2-4?</b>	<input type="checkbox"/>	<input type="checkbox"/>																														
<b>13.</b>	<p><b>Within the past (5) five years, has the vendor, any individuals serving in a managerial or consulting capacity, principle owners, officers, major stockholders (10% of voting shares for publicly traded companies, 25% or more for all other companies), affiliate<sup>2</sup>, or any person involved in the bidding or contracting process:</b></p> <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 5%; text-align: center;">Yes</th> <th style="width: 5%; text-align: center;">No</th> </tr> </thead> <tbody> <tr> <td>a) been suspended, disbarred, or terminated by a local, state, or federal authority in connection with a contract or contracting process?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>b) been disqualified for cause as a bidder?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>c) entered into a voluntary exclusion agreement from bidding/contracting?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>d) had a bid rejected on a NYS contract for non-compliance with the MacBride Fair Employment Principles or failure to meet statutory Affirmative action or M/WBE requirements?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>e) had status as a W/MBE Enterprise denied, de-certified, revoked, or forfeited?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>f) been subject to administrative or civil action seeking restitution in connection with any local, state, or federal government contract?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>g) been denied an award of local, state, or federal government contract or had a contract suspended or terminated for non-responsibility ?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>h) been indicted, convicted, or received a judgment against them for any business related local, state, or federal crime including liens, fines, penalties, or injunctions?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>i) been issued a citation, notice, violation order, or are pending an administrative hearing or determination for violations of any local, state, or federal laws, rules, or regulations?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		Yes	No	a) been suspended, disbarred, or terminated by a local, state, or federal authority in connection with a contract or contracting process?	<input type="checkbox"/>	<input type="checkbox"/>	b) been disqualified for cause as a bidder?	<input type="checkbox"/>	<input type="checkbox"/>	c) entered into a voluntary exclusion agreement from bidding/contracting?	<input type="checkbox"/>	<input type="checkbox"/>	d) had a bid rejected on a NYS contract for non-compliance with the MacBride Fair Employment Principles or failure to meet statutory Affirmative action or M/WBE requirements?	<input type="checkbox"/>	<input type="checkbox"/>	e) had status as a W/MBE Enterprise denied, de-certified, revoked, or forfeited?	<input type="checkbox"/>	<input type="checkbox"/>	f) been subject to administrative or civil action seeking restitution in connection with any local, state, or federal government contract?	<input type="checkbox"/>	<input type="checkbox"/>	g) been denied an award of local, state, or federal government contract or had a contract suspended or terminated for non-responsibility ?	<input type="checkbox"/>	<input type="checkbox"/>	h) been indicted, convicted, or received a judgment against them for any business related local, state, or federal crime including liens, fines, penalties, or injunctions?	<input type="checkbox"/>	<input type="checkbox"/>	i) been issued a citation, notice, violation order, or are pending an administrative hearing or determination for violations of any local, state, or federal laws, rules, or regulations?	<input type="checkbox"/>	<input type="checkbox"/>		
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i) been issued a citation, notice, violation order, or are pending an administrative hearing or determination for violations of any local, state, or federal laws, rules, or regulations?	<input type="checkbox"/>	<input type="checkbox"/>																															
<b>14.</b>	<p><b>Within the past three (3) years, has the vendor had any governmental audit that revealed material weaknesses in its internal controls?</b> <i>If yes, indicate finding(s).</i></p>	<input type="checkbox"/>	<input type="checkbox"/>																														
<b>15.</b>	<b>Have any bankruptcy proceedings been initiated by or against the vendor or its affiliates within the past seven (7) years?</b>	<input type="checkbox"/>	<input type="checkbox"/>																														
<b>16.</b>	<b>Is the vendor currently insolvent or have reason to believe that an involuntary bankruptcy proceeding may be brought against them?</b>	<input type="checkbox"/>	<input type="checkbox"/>																														
<b>17.</b>	<p><b>Has vendor been a contractor or subcontractor on any contract with NYS in the past five (5) years?</b> <i>If yes, indicate organization's name, nature of contract, and dates.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>																														

<sup>2</sup> "Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principle owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purpose of this questionnaire.



## EXHIBIT 4

### PROCUREMENT LOBBYING PROVISIONS AND FORMS

#### **Policy and Prohibitions Regarding Permissible Contacts During a Covered Procurement**

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between DHCR/HTFC and an offerer/bidder during the procurement process. An offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by the DHCR/HTFC and, if applicable, Office of the State Comptroller to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified on the first page of this solicitation. DHCR/HTFC employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the offerer/bidder is debarred from obtaining governmental procurement contracts. Further information about these requirements can be found on the Office of General Services' website at <https://www.ogs.state.ny.us/aboutogs/regulations/defaultAdvisoryCouncil.html>

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#### **Contract Termination Provision**

The DHCR/HTFC reserves the right to terminate this contract in the event it is found that the certification filed by the offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the DHCR/HTFC may exercise its termination right by providing written notification to the offerer/bidder in accordance with the written terms of this contract.

**Affirmation of Understanding of  
and Agreement Pursuant to  
State Finance Law §139-j (3) and §139-j (6) (b)**

Offerer affirms that it understands and agrees to comply with the procedures of the DHCR/HTFC relative to permissible Contacts as required by State Finance Law §§ 139-j (3) and 139-K (6) (b).

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

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

\_\_\_\_\_

---

**Certification of Compliance  
With State Finance Law §139-k (5)**

Offerer certifies that all information provided to the DHCR/HTFC with respect to State Finance Law §139-k is complete, true, and accurate.

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

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

\_\_\_\_\_

**Offerer Disclosure of  
Prior Non-Responsibility Determinations**

Name of Individual or Entity Seeking to Enter into the Procurement Contract:  
\_\_\_\_\_

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

Name and Title of Person Submitting this Form: \_\_\_\_\_  
\_\_\_\_\_

Contract Procurement Number: \_\_\_\_\_

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

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):  
                                    No                                    Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):  
                                    No                                    Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):  
                                    No                                    Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):  
                                    No                                    Yes

6. If yes, please provide details below.

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

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

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

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

Title: \_\_\_\_\_

**EXHIBIT 5**  
**STATE CONSULTANT SERVICES FORMS**

**Instructions for Completion of  
State Consultant Services Forms A and B**

Chapter 10 of the Laws of 2006 amended the State Finance Law §§ 8 and 163 [1] resulting in the requirement for additional disclosure concerning employment information on all Consultant Services contracts above \$15,000. The definition of contracts for consultant services is expanded to include any contract entered into with a State agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, or similar services.

To enable compliance with the law, State Consultant Services Forms A and B and certification are incorporated into this procurement.

FORM A - to be completed and submitted by the vendor with the initial contract for planned employment data prospectively from the start date of the contract through the end of the contract term.

FORM B – to be completed and submitted by the vendor by May 15<sup>th</sup> annually for each year that the contract is in effect reporting, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31).

The following definitions apply to the completion of both Form A and B unless otherwise indicated:

- **Scope of Contract (Form B only):** 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 describes the employees 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, on-line at [online.onetcenter.org](http://online.onetcenter.org) to find a list of occupations.)

- **Number of Employees:** the total number of employees in the employment category employed to provide services under the contract during the Report Period, including part time employees and employees of subcontractors.
- **Number of hours (to be) worked:** for Form A, the total number of hours to be worked, and for Form B, 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.

## REPORT SUBMISSION

Completed Form B must be sent to the contracting agency, the NYS Office of the State Comptroller, and the NYS Department of Civil Service at the addresses listed below.

By mail: **NYS Division of Housing & Community Renewal**  
Office of Financial Administration  
38-40 State Street, 3rd Floor  
Albany, NY 12207

By Fax: 518-486-3552

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By mail: **NYS Office of the State Comptroller**  
Bureau of Contracts  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236  
Attn: Consultant Reporting

By fax: 518-474-8030 or 518-473-8808

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By mail: **NYS Department of Civil Service**  
Alfred E. Smith Office Building  
Albany, NY 12230

No faxes allowed.



**FORM B**

<p><b>OSC Use Only:</b>                  Reporting Code:                  Category Code:</p>
--

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

<p>Contracting State Agency Name: _____ Agency Code: _____                  Contract Number: _____                  Contract Term:    /    /      to    /    /                  Contractor Name: _____                  Contractor Address: _____                  Description of Services Being Provided: _____</p>
--

<p><b>Scope of Contract (Choose one that best fits):</b>                  Analysis <input type="checkbox"/>    Evaluation <input type="checkbox"/>    Research <input type="checkbox"/>    Training <input type="checkbox"/>                  Data Processing <input type="checkbox"/>    Computer Programming <input type="checkbox"/>    Other IT consulting <input type="checkbox"/>                  Engineering <input type="checkbox"/>    Architect Services <input type="checkbox"/>    Surveying <input type="checkbox"/>    Environmental Services <input type="checkbox"/>                  Health Services <input type="checkbox"/>    Mental Health Services <input type="checkbox"/>                  Accounting <input type="checkbox"/>    Auditing <input type="checkbox"/>    Paralegal <input type="checkbox"/>    Legal <input type="checkbox"/>    Other Consulting <input type="checkbox"/></p>
---

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page			
Grand Total			

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



## APPENDIX B

### Minority and Women-Owned Business Participation

In connection with this Contract, the Subgrantee agrees to abide by the provisions of Article 15-A of the Executive Law as may be amended from time to time (the "Statute") and the regulations promulgated thereunder by the Division of Minority and Women's Business Development of the New York State Department of Economic Development as may be amended from time to time (the "Regulations"). The Subgrantee also agrees to include the provisions of this appendix in every contract and subcontract in such a manner that the requirements of the provisions will be binding upon each contractor and subcontractor as to work in connection with this Contract. The Subgrantee agrees that the NYS Division of Housing and Community Renewal ("DHCR") shall be deemed a third-party beneficiary of the provisions of this appendix with respect to any contracts and subcontracts thereunder and shall have the full right of enforcement thereof.

1. Cooperation with DHCR.

The Subgrantee shall at all reasonable times make available and provide to DHCR's Office of Fair Housing and Equal Opportunity ("OFHEO"), DHCR or its agents all material and documents relating to this Contract and shall allow representatives of DHCR access to the location of the Work and the individuals employed thereon to verify compliance with this Contract.

2. Reports.

After the award of this Contract, the Subgrantee shall submit to OFHEO such reports, in form and manner and at such times as is required by DHCR.

3. Minority and Women-owned Business Participation Goals.

(a) Participation goals have been adopted to ensure the opportunity for meaningful participation of minority and women-owned business enterprises in the Work to be undertaken by the Subgrantee and financed with funds provided by DHCR. These goals are expressed as a percentage of the total value of all Work under the Contract. These percentages are \_\_\_ for minority-owned business enterprises ("MBEs") and \_\_\_ for women-owned business enterprises ("WBEs"). The Subgrantee agrees to make good faith efforts to achieve these participation goals.

(b) The Directory of Certified Minority and Women-Owned Businesses published by the Division of Minority and Women's Business Development of the New York State Empire State Development lists the only enterprises which are recognized as minority or women-owned business enterprises for the purpose of meeting the participation goals.

4. Contract Attachment Requirements.

Each contract or subcontract entered into by the Subgrantee for the Work shall include the following contract clauses:

(a) Equal Employment Opportunity Pledge. The subgrantee will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, 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. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrades, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) Policy Statement. As a precondition to entering into this Contract, the subgrantee shall submit an Equal Employment Opportunity Policy Statement to OFHEO. The Policy Statement shall contain and the Subgrantee shall, during the performance of this Contract, agree to the following:

(i) The Subgrantee will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, 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.

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

(iii) At the request of the DHCR, the Subgrantee 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 employment agency, union or representative will affirmatively cooperate in the implementation of the Subgrantee's obligations.

(c) Minority-owned Business Enterprises/Women-owned Business Enterprises.

(i) Good Faith Efforts to Achieve Participation Goals. The Subgrantee will, and will cause its contractors and subcontractors to take the following good faith actions to achieve the participation goals:

(a) Actively and affirmatively solicit bids for contracts and subcontracts from qualified MBEs or WBEs, including circulation of solicitations to minority and women contractor associations.

(b) The Directory of Certified Minority and Women-owned Businesses can be accessed at [www.empire.state.ny.us](http://www.empire.state.ny.us). Bids may be solicited from MBEs and WBEs in the Directory.

(ii) The Subgrantee and its subcontractors shall at all reasonable times make available to DHCR or its agents all materials and documents relating to this Contract and

shall allow the representatives of DHCR access to the location of the Work and the individuals employed thereon to verify compliance with this Contract.

The parties agree as a condition of entering into such contract or subcontract to be bound by the provisions of Section 316 of the Executive Law.

5. Work Completed by Subgrantee Crews and Subcontractors.

Subgrantees that employ dedicated crews to complete weatherization work are exempt from the requirements of this Appendix.

Subgrantees that employ subcontractor's to complete weatherization work in excess of \$100,000 are subject to the requirements of this Appendix. In addition, contracts in excess of \$25,000 for labor, services, supplies, equipment and materials are also subject to the requirements of this Appendix.

6. M/WBE Documents.

M/WBE forms and goals for your region are included with the contract package as Addendum 1. These forms are not to be submitted as part of your contract package. All M/WBE forms and any questions regarding the M/WBE process should be directed to Jeanette South of OFHEO at 38-40 State Street, Albany, New York, 12207. Jeanette can be reached by telephone at 518-474-6157.

MINORITY AND WOMEN-OWNED BUSINESS REGIONAL  
GOALS

MBE = 22% WBE = 7%

PMSA: Nassau- Suffolk, New York (Nassau/Suffolk)

PMSA: New York, New York  
(Bronx/Kings/New York/Putnam/Queens/Richmond)

Area: Rockland County, New York (Rockland)

Area: Westchester County, New York (Westchester)

PMSA: Newburgh, New York

MBE = 15% WBE = 5%

PMSA: Buffalo-Niagara Falls, New York (Erie/Niagara)

MSA: Rochester, New York (Genesee/Livingston/Monroe/Ontario/Orleans/Wayne)

MBE = 13% WBE = 5%

MSA: Albany-Schenectady-Troy (Albany/Montgomery/Rensselaer/Saratoga  
Schenectady/Schoharie)

MSA: Binghamton, New York  
(Broome/Tioga)

PMSA: Dutchess County, New York (Dutchess)

MSA: Syracuse, New York (Cayuga/Madison/Onondaga/Oswego)

MSA: Utica-Rome, New York (Herkimer/Oneida)

MBE = 6% WBE = 3%

MSA: Elmira, New York  
(Chemung)

MSA: Jamestown, New York  
(Chautauqua)

MSA: Glens Falls, New York  
(Warren/Washington)

Non-Metropolitan Counties -

Allegany	Cattaraugus	Chenango	Clinton	Columbia
Cortland	Delaware	Essex	Franklin	Fulton
Greene	Hamilton	Jefferson	Lewis	Otsego
St Lawrence	Schuyler	Seneca	Steuben	Sullivan
Tompkins	Ulster	Wyoming	Yates	Orange

## Minority and Women Owned Business Enterprise (M/WBE) Certification

Relative to the receipt and expenditure of American Recovery and Reinvestment Act (ARRA) funds, we affirm our obligation under Article 15-A of Executive Law to promote employment and business opportunities on state contracts for minorities and women and to follow minority and women-owned business enterprises (M/WBE) procurement and reporting procedures in our efforts to reach the provided M/WBE goals.

We will ensure, to maximize the participation of M/WBEs in projects requiring sub-contracted labor and to meet our obligations, outreach and promotional activities will be realized to include qualified minority contractors, as certified in New York State by the Empire State Development Corporation, in the bid process and/or add said qualified contractors to any existing contractor lists maintained by this agency. NYS certified M/WBEs can be found at [www.empire.state.ny.us](http://www.empire.state.ny.us).

M/WBE reporting forms are attached to this contract as Addendum #1. All M/WBE reporting requirements relative to this contract will be met and submitted in a timely manner to:

Jeanette South  
Chief of Staff/Minority Business Specialist  
Office of Fair Housing & Equal Opportunity  
38-40 State St.  
Hampton Plaza  
4<sup>th</sup> Floor North  
Albany, NY 12207  
518-474-6157

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Print Name

---

Print Agency Name

---

Executive Director (signature)

## APPENDIX C

### Workers Compensation/Disability Requirements

In connection with this Contract, the Subgrantee agrees to abide by the provisions of Section 57 of the Workers Compensation Law (WCL) which requires all State and municipal entities, prior to issuing any permits, licenses or entering into contracts, to ensure that businesses applying for those permits, licenses or entering into contracts have appropriate workers' compensation insurance coverage. To comply with coverage provisions of the WCL, businesses must:

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

In addition, a Subgrantee agrees to obtain and submit to the Division of Housing and Community Renewal one of the following proofs of Workers' Compensation insurance:

- (a) CE-200 – Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits. This form can be used for proof of both Workers' Compensation and Disability coverage.
- (b) C-105.2 (9/07) or U-26.3 – Certificate of Workers' Compensation Insurance.
- (c) SI-12 – Certificate of Workers' Compensation Self-Insurance (this form can be obtained from the Workers Compensation Board's Self-Insurance Office at 518-402-0247).
- (d) GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance.

If a subgrantee does not use the CE-200 certificate (see above) as its proof of Disability Insurance, it must provide a DB120.1 – Certificate of Disability Benefits Insurance or DB-155 – Certificate of Disability Benefits Self Insurance.

**PLEASE REFER TO WORKER'S COMPENSATION WEBSITE FOR MORE INFORMATION: [WWW.WCB.STATE.NY.US](http://WWW.WCB.STATE.NY.US)**

## WORKERS COMPENSATION/DISABILITY INSURANCE REQUIREMENTS & INSTRUCTIONS

All contracts with the New York State Division of Housing and Community Renewal (and all other state agencies) are subject to Section 57 of the Workers Compensation Law which restricts the issuance of new contracts unless insurance is secured and proof is provided. More specifically:

- ✓ Section 57 of the Workers' Compensation Law (WCL) requires all State and municipal entities, prior to issuing any permits, licenses or entering into contracts, to ensure that businesses applying for those permits, licenses or entering into contracts have appropriate workers' compensation insurance coverage.
- ✓ To comply with coverage provisions of the WCL, businesses must:
  - Be legally exempt from obtaining Workers' Compensation insurance coverage; or
  - Obtain such coverage from insurance carriers; or
  - Be a Board-approved self-insured employer or participate in an authorized group self-insurance plan.
- ✓ To assist State and municipal entities in enforcing WCL Section 57, businesses requesting permits or seeking to enter into contracts **MUST** provide **ONE** of the following forms of **Workers' Compensation** insurance to the government entity issuing the permit or entering into a contract:
- ✓ **CE200** – Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage (Form CE-200 can be filled out electronically on the Board's website, [www.wcb.state.ny.us](http://www.wcb.state.ny.us) under the heading "Forms." Applicants filing electronically are able to print a finished Form CE-200 immediately upon completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract.)  
**PLEASE NOTE:** This form can be used for proof of both Workers' Compensation and Disability coverage.
  - (a) **C-105.2 (9/07)** – Certificate of Workers' Compensation Insurance (the insurance carrier will send this form to the government entity upon request). **PLEASE NOTE:** The State Insurance Fund provides its own version of this form, the U-26.3, which **IS** acceptable.
  - (b) **SI-12** – Certificate of Workers' Compensation Self-Insurance (the business calls the Workers Compensation Board's Self-Insurance Office at 518-402-0247).
  - (c) **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance (the business's Group Self-Insurance Administrator will provide this form to the government entity upon request).

If a business does not use the CE-200 certificate (see above) as its proof of Disability Insurance, it **MUST** provide **ONE** of the following forms of Disability Insurance to the government entity issuing the permit or entering into a contract:

- **DB-120.1** – Certificate of Disability Benefits Insurance
- **DB-155** – Certificate of Disability Benefits Self Insurance

**PLEASE NOTE:** The following forms are **NOT** acceptable proof of Workers' Compensation or Disability Insurance coverage:

- ACCORD Forms
- C-105 Postings
- DB-120 Postings

BUSINESSES WITH QUESTIONS REGARDING THE LAW AND ITS REQUIREMENTS ARE ENCOURAGED TO CONTACT **STEVE CARBONE** DIRECTLY AT THE WORKERS' COMPENSATION BOARD BUREAU OF COMPLIANCE AT 518-486-6307 OR VIA EMAIL AT [STEVE.CARBONE@WCB.STATE.NY.US](mailto:STEVE.CARBONE@WCB.STATE.NY.US)

## APPENDIX D

### ARRA Job Posting Requirement

#### American Recovery and Reinvestment Act (ARRA) Subgrantee Obligations:

Since this contract contains ARRA stimulus funds, subgrantees and participating contractors are required to post any jobs that are being created or filled as a result of the stimulus funding through the NYS Department of Labor, (<http://labor.state.ny.us>), notwithstanding any other posting they might make. Any advertisement posted by subgrantees or contractors for positions pursuant to ARRA must indicate that the position is funded with stimulus funds. The department may waive the requirements of this section at its discretion. Posting for job positions through the NYS Department of Labor may be accomplished as follows:

Option 1: The preferred approach is for the subgrantee or contractor to initially register through the NYS Department of Labor's Job Exchange website (<http://www.labor.state.ny.us>) for an employer account. This service allows the subgrantee or contractor to directly manage their job orders status throughout the recruitment process. Approval for access is received within three business days which allows the employer to then list their job orders. The job orders are open to the public on this website and the job orders also roll over into the Department of Labor's One Stop Operating System (OSOS) for local One-Stop service.

Option 2: The subgrantee or contractor can complete a job order form and fax it to either of the following as appropriate. For jobs that are located in New York City the subgrantee or contractor may use the New York City Fast Fax form ([http://www.labor.state.ny.us/formsdocs/does/ES515\\_584.pdf](http://www.labor.state.ny.us/formsdocs/does/ES515_584.pdf)) and fax it to 718-780-9458. Regarding jobs that are located outside of New York City, the subgrantee or contractor may use the NYS Fast Fax Form (<http://www.labor.state.ny.us/formsdocs/does/es515.pdf>) and fax to 518- 485-1333.

Option 3: Subgrantees or contractors may e-mail job orders using a fillable NYS Job Order Form (<http://www.labor.state.ny.us/businessservices/PDFs/FastFax%20Electronic.rft>). If the jobs are located in New York City, the employer would email the completed form to [DoES\\_LO584@labor.state.ny.us](mailto:DoES_LO584@labor.state.ny.us). For jobs located outside of New York City, the employer would email the completed form to [nysjobbank.does@labor.state.ny.us](mailto:nysjobbank.does@labor.state.ny.us).

Option 4: The employer can speak with a representative concerning the placement of a job order. If the jobs are located in New York City, the employer should call 718-780-9499. If the jobs are located outside of New York City, the employer should call 1-888-4-NYS-DOL.

Subgrantees must maintain detailed records of their expenditure of ARRA stimulus funds in connection with this contract and submit reports as requested by the State of New York. The State of New York as the recipient of funds under the ARRA is subject to quarterly reporting requirements and oversight by federal agency inspectors. Additional reports may be required under this contract.

## APPENDIX E

### Prevailing Wage Requirements (Davis-Bacon)

In connection with this Contract, the Subgrantee agrees to abide by all prevailing wage requirements set forth in the American Recovery and Reinvestment Act (ARRA) as follows:

- (1) All laborers and mechanics on projects funded directly by or assisted in whole or in part by and through funding appropriated by the American Recovery and Reinvestment Act (ARRA) will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act), and in accordance with any future guidance on prevailing wage requirements that DOE issues. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (60 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code. This contract will be funded with ARRA funds.
- (2) The Department of Labor has long held that governmental agencies (such as States or their political subdivisions) are not considered “contractors” or “subcontractors” within the meaning of the Davis-Bacon Act when the construction is performed by their own employees on a “force account” basis. See 29 CFR 5.2(h). In essence, the governmental agency receiving the grant decides not to contract out the work but actually performs it with its own employees. Laborers and mechanics employed by a private, non-profit Community Action Agency cannot be considered as force account labor and will be covered under the Davis-Bacon labor standards requirements when performing ARRA-assisted weatherization work.
- (3) When a Community Action Agency contracts out work on a DOE weatherization project that is assisted with ARRA funding, the Community Action Agency must apply the Davis-Bacon labor standards – the contract clauses set forth at 29 CFR 5.5 and the appropriate Davis-Bacon wage determination – to the contracts for such work. Thus, repair crews performing the duties of laborers or mechanics for a Community Action Agency or its contractors must be paid at least the Davis-Bacon prevailing wages. However, certain activities such as energy audits and inspection work are not usually viewed as construction work performed by laborers and mechanics within the meaning of the Davis-Bacon Act and, thus, technicians conducting energy audits would not be subject to the Davis-Bacon requirements.
- (4) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30. DHCR will provide additional guidance on this subject as it becomes available.

## APPENDIX F

### Protection of Whistleblowers

**Prohibition on Reprisals:** An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency or their representatives, information that the employee believes is evidence of:

- gross management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds;
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds

**Agency Action:** Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- order the employer to take affirmative action to abate the reprisal;
- order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay; compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken;
- order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

**Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration:** Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

**Requirement to Post Notice of Rights and Remedies:** Any employer receiving covered funds under the Recovery Act shall post notice of the rights and remedies as required therein. See [www.Recovery.gov](http://www.Recovery.gov) for specific requirements of this section and prescribed language for the notices.

**APPENDIX G**  
**Buy American**  
(For projects involving public buildings)

In connection with this Contract, the Subgrantee agrees to abide by the provisions of American Reinvestment and Recovery Act Article 15-A Buy American, Sec. 1605 for the use of American Iron, Steel, and Manufactured Goods.

- (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.
- (b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that:
  - (1) Applying subsection (a) would be inconsistent with the public interest;
  - (2) Iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
  - (3) Inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.
- (c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.
- (d) This section shall be applied in a manner consistent with the United States obligations under international agreements.