

State University of New York College at Geneseo

Procurement Number TRU42023

PROJECT SPECIFICATIONS

Residence Hall Bathroom Resurfacing

SUNY Discretionary Procurement pursuant to NYS Education Law 355(5)(a)

Proposals are due by 11am on 4/3/24.

Procurement Description

The State University of New York College at Geneseo is currently seeking proposals to resurface bathrooms in two (2) residence hall bathrooms on campus.

Contract Period

It is expected that the selected supplier will commence services following the award of this purchase and all work will take place over the College's summer break between May 20th through August 9th, 2024.

Scope of Services

Onondaga Hall: Repair resurfaced areas in bathrooms 237, 238, 242, 244, 342, 337, 338, 344, 437, 438, 442, and 444.

Suffolk Hall: Repair resurfaced areas in bathrooms 1A, 1B, 2A, 2B, 2C, 2D, 3A, 3C, 3D, 4C, and 4D

1. Work must be completed during College's summer break (5/20/24-8/9/24).
2. Prevailing Wage applies. PRC# 2024003013
3. Repair or refinish all or part of floors,
4. Peeling areas on Partitions,
5. Drying areas pans, walls, and some partitions
6. Shower tile walls, and tub rooms. In bathroom numbers
7. Surface refinishing using multi-layer process of hi-tech acrylic coating applied with HVLP equipment. Use MM4 Bonding Agent – 2 Coats of Primer- 2Coats Natural Accents to Match-2 Coats of Clear Acrylic

Onondaga Hall Details

1. 237: Respray both shower pans and stalls,
2. 238: Peeling on drying bench, both shower pans peeling on edges, Access door respray
3. 242: Respray floor, both shower walls and drying area walls need to be resprayed, toilet walls reshoot and blend,
4. 244: Both Shower pans and shower stalls walls peeling and the drying bench area peeling, toilet area peeling, reshoot
5. 342: Shower Stall Full Strip & Reshoot Shower Pans Clean up and re-clear coat, Floors are staining clean up and touch up as needed.
6. 344: Shower Lower Shower walls. Various Scraping in and around sinks.
7. 337: Toilet Back Wall needs to be resprayed, Both Shower Pans & tile walls need to be touched up, small touch-up on the Shower bench.
8. 338: Both shower stall's lower walls, Upper side wall needs to blend and recoat, Both Drying area benches will need to touch up. Tub cut caulk out and recalks, staining on floor clean and re-clear
9. 437: The drying area partition wall needs to be resprayed, Miner peel on the shower stall lower wall, and the Toilet tile floor is discolored and will need to be resprayed.
10. 438: toilet floor small peeling touch-up, and both shower stalls' lower wall needs to be repaired. small chip out of the shelf above the sink. The floor under the toilet.
11. 442: Peeling on Shelf above the sink, Spray floors, peeling on overflow on the tub, Drying area shelf re-spray, Discoloring of Both shower pans, and peeling above the pan on walls.

12. 444: Respray Shower pans, peel in the shower stalls, peel on the drying bench, respray floor.

Suffolk Hall Details

13. 1A Tub drain area has chipping, lower right area of shower has 8" area peeled off.
14. 1B Tub drain area has chipping, lower left area of shower has 8" area peeled off.
15. 2A Tub drain area has chipping and corners of tub.
16. 2B Tub drain area has chipping, shower drain area has chipping.
17. 2C Tub drain area has chipping, shower base has multiple small 2" areas.
18. 2D Tub drain area has chipping, shower base edge has cracking/peeling.
19. 3A Tub drain area has chipping, both showers have large 24" areas peeled off on 2 walls each.
20. 3C Tub drain area has chipping, shower has lower left area 4" area peeled off.
21. 3D Tub drain area has chipping; shower has long hair line crack in product needs repaired.
22. 4C Tub edge has cracking/peeling, both showers where walls meet base the edges need attention.
23. 4D Tub drain has chipping, tub edge has cracking and peeling.

Content of Proposals

All proposals should include the following information:

1. A **work plan**, that includes details on the supplier's approach to this engagement, and a project timeline.
2. A **cost proposal**. Suppliers should bid an all-inclusive flat fee in dollars. The all-inclusive flat fee **must include** all of the suppliers' costs of doing business.
3. **Certification regarding NYS Executive Order No. 16**. All bidders must complete and submit the certification found at the following website location:
https://ogs.ny.gov/system/files/documents/2022/04/eo16_certification.pdf
4. **Certification of compliance with NYS Finance Law 139-j and 139-k**. All bidders must complete and submit the two (2) certifications found at the following website locations.
 - Form B – Affirmation with respect to NYS Finance Law 139-j and 139-k
https://www.suny.edu/sunypp/documents.cfm?doc_id=282
https://www.suny.edu/sunypp/documents.cfm?doc_id=282
 - Form C – Disclosure and Certification with respect to State Finance Law §§139-j and 139-k
https://www.suny.edu/sunypp/documents.cfm?doc_id=283
5. Completed required **MWBE/SDVOB forms** as described below.

Site Visit

For suppliers who have not been on campus previously to inspect the bathrooms detailed above, a site visit is required to submit a response this request for quote. Please contact the designated contact, Thomas Underwood, Associate Director of Purchasing & Central Services, at underwoo@geneseo.edu before close of business Wednesday, March 27, 2024 to request a site visit, so that it can be scheduled.

Questions

Email questions to the designated contact, Thomas Underwood, Associate Director of Purchasing & Central Services, at underwoo@geneseo.edu before close of business Wednesday, March 27, 2024. The Associate Director of Purchasing will work with our Facilities maintenance staff on answering any questions and will respond in writing.

Submission of Proposals

Proposals are due by 11:00am Wednesday, April 3, 2024. Proposals will be accepted by email only. Hard copy proposals will not be accepted. Please do not submit your proposals as a zip file.

Please email your proposal to:

Thomas Underwood
Associate Director of Purchasing & Central Services
SUNY Geneseo
underwoo@geneseo.edu

In accordance with NYS Procurement Lobbying Law, the Restricted Period for this procurement has begun and will continue through contract approval. During this time, bidders, potential bidders and interested vendors only may contact the designated contact identified above. All communication pertaining to this procurement must be directed to the designated contact.

Do not contact any other SUNY Geneseo official. Doing so may jeopardize the procurement and/or may lead to disqualification of the bidder's proposal.

SUNY Exhibit A

SUNY Exhibit A (Standard Contract Clauses State University of New York) will apply and be incorporated into the agreement resulting from this discretionary procurement opportunity. A copy of SUNY Exhibit A may be found at the end of these Project Specifications.

STATE UNIVERSITY OF NEW YORK
MINORITY AND WOMEN'S ENTERPRISES REQUIREMENT FOR COMMODITY AND SERVICE CONTRACTS

Consistent with the State University of New York's commitment to and in accordance with Article 15-A of the New York State Executive Law, contractors are required to ensure that good faith efforts are made to include meaningful participation by Minority and Women-Owned Business in SUNY's MWBE Program. These requirements apply to all SUNY commodity and service contracts in excess of \$25,000. Receipt of MWBE documentation is required with submittal of a bid or proposal for commodities and services contracts. The MWBE forms identified below must be submitted by all bidders.

- a. MWBE Utilization Plan ([Form 7557-107](#)) provided by the University-wide MWBE Program Office.
- b. MWBE – EEO Staffing Plan ([Form 7557-108](#)) provided by the University-wide MWBE Program Office.
- c. Vendor/Contractor EEO Policy ([Form 7557-104](#)) provided by the University-wide MWBE Program Office.

If the MWBE participation rate on the MWBE Utilization Plan is below 20.00% (10% MBE, 10% WBE), the contractor will receive a written notice of Utilization Plan deficiency from the campus within twenty (20) business days of its submission, as required under 5 NYCRR Part 142.6(c). The notice will include, but not be limited, to the following:

- a. A list of NYS certified MWBEs that the contractor could potentially use inside the work scope of the contract.
- b. A list of NYS certified MWBEs that the contractor could potentially use outside the work scope of the contract for the contractor's operation (i.e. office supplies, equipment, etc.).
- c. Any other information which the MWBE Program Coordinator determines to be relevant to developing an approvable MWBE Utilization Plan.

The contractor must respond to the notice of deficiency by submitting to the MWBE Program Coordinator a revised MWBE Utilization Plan within seven (7) business days, as required by 5 NYCRR Part 142.6 (e).

If the deficiency is not rectified and the MWBE participation rate on the MWBE Utilization Plan remains below 30.00% (9.4% MBE, 20.6% WBE), the contractor should request a Waiver or Partial Waiver. The Waiver Request submitted by the contractor will include, but will not be limited, to the following:

- a. A request for partial or total waiver of MWBE goals as required by 5 NYCRR Part 142.6 (f) on a Request for Waiver form ([Form 7557-114](#)) provided by the University-wide MWBE Program Office.
- b. A copy of the deficient Utilization Plan.
- c. The contract's Scope of Work. If there are subcontracting opportunities, please provide documentation d, e, and f.
- c. Screenshot of search result for available MWBEs in NYS MWBE Directory located at the following website location: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=447>
- d. Email blast sent to MWBEs on the list of search result. The email blast should notify the recipients the subcontracting opportunity and inquire as to their ability and interests in participating in the contract.
- e. Responses from email blast recipients.

Please submit the MWBE Forms 7557-107, 7557-108, and 7557-104, described above and attached hereto, with your proposal to:

Thomas Underwood
Associate Director of Purchasing & Central Services
SUNY Geneseo
underwoo@geneseo.edu

Information regarding this legislation may be found at:

http://www.esd.ny.gov/MWBE/Data/Final_Proposed_MWBE_Regulation.pdf

**SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISE REQUIREMENTS:
COMMODITY AND SERVICE CONTRACTS**

Consistent with the State University of New York (SUNY) 's commitment and in accordance with Article 17-B of the New York State Executive Law and its implementing regulations, state agencies and contractors are required to ensure that good faith efforts are made to include meaningful participation by Service-Disabled Veteran-Owned Business. The requirements apply to all SUNY commodity and service contracts in excess of \$25,000.

Bidders must submit SDVOB documentation with all of the bids or proposals for commodities and services contracts when SDVOB goals apply. The SDVOB forms identified below shall be submitted by all bidders.

a. SDVOB Utilization Plan (Form 7564-107)

If the Bidder's SDVOB participation rate shown on its SDVOB Utilization Plan is below 6%, the campus MWBE Program Coordinator will provide a written notice of deficiency of the Utilization Plan within twenty (20) business days of its submission to the Contractor, as required under 9 NYCRR § 252.2(l)(4).

The notice will include but not be limited to the following:

- a. A list of NYS certified SDVOBs that the Contractor could potentially use within the contract scope of work.
- b. Any other information which the MWBE Program Coordinator determines to be relevant to developing an approvable SDVOB Utilization Plan.

The Contractor shall respond to the notice of deficiency by submitting a revised SDVOB Utilization Plan within seven (7) business days, as required by 9 NYCRR § 252.2(l)(5) to the MWBE Program Coordinator.

If the deficiency is not corrected and the SDVOB participation rate on the SDVOB Utilization Plan is still below 6%, the Contractor should request a waiver.

The Waiver Request Form submitted by the Contractor will include but not limited to the following:

- a. A request for partial or total waiver of SDVOB goals are required by (9 NYCRR § 252.2(m) (2) on Request for Waiver Form (Form 7564-114) provided by the University-wide MWBE Program Office.
- b. Copy of the deficient Utilization Plan.
- c. Work Scope of this contract. If there are subcontracting opportunities, please provide documentation d, e, and f.
- d. Screenshot of searching result for available SDVOBs in Directory of NYS Certified SDVOBs located at the following website location: <https://ny.newnycontracts.com/>
- e. Copy of email messages containing the request for quote along with the responses from MWBEs.

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

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

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

3. COMPTROLLER'S APPROVAL. (a) In accordance with Section 112 of the State Finance Law and Section 355 of the Education Law, the State Comptroller's approval is required for the following contracts: (i) goods, services, construction, and construction-related services for State University hospital or healthcare facilities valued at \$150,000 or more; (ii) purchases utilizing an Office of General Services (OGS) centralized contract valued at \$200,000 or more (iii) goods, services, construction, and construction-related services not described in (i) or (ii) and valued at \$75,000 or more;

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

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 competitive bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to SUNY a non-collusive bidding certification on Contractor's behalf.

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as SUNY and any other agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. SUNY shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate SUNY official, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, SUNY's or the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. SUNY shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, SUNY shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

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

19. **MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 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, NY 12245
Tel: 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 SUNY;

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain.

NOTE: As of 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, § 899-bb; State Technology Law § 208).

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

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

use of child labor; or (b) bidder's failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

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

26. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this contract is a contract as defined by Tax Law § 5-a, if the Contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the contract, if SUNY determines that such action is in the best interests of the State.

27. IRAN DIVESTMENT ACT. By entering into this contract, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>
<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 SUNY receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, SUNY will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then SUNY shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

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

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

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

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

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

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

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

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