

**NEW YORK STATE PROCUREMENT BULLETIN  
BEST PRACTICES  
DETERMINING VENDOR RESPONSIBILITY**

**I. Introduction**

Article XI §163(3)(a)(ii) of the State Finance Law states that “commodities contracts shall be awarded on the basis of lowest price to a responsive and responsible offerer,” and §163(4)(d) states that “service contracts shall be awarded on the basis of best value to a responsive and responsible offerer.” Article XI §163(9)(f) states that “Prior to making an award of contract, each state agency shall make a determination of responsibility of the proposed contractor.”

Responsibility is described in the New York State Procurement Guidelines Section II – General Policy. Included within that definition are the responsibility requirements of Financial Capacity (F), Legal Authority (L), Integrity (I) and Past Performance (P), commonly known as the FLIP review.

The agency must conduct an affirmative review of the responsibility of any contractor to whom they propose to make a contract award and determine that such contractor is responsible before it can award the contract to such contractor and execute any contract. Agencies must administer a process in which offerers are required to provide assurances that they are a responsible contractor in accordance with the FLIP review requirements.

Responsibility of a contractor is different from the responsiveness of a contractor in that responsibility generally applies to the offerer and responsiveness applies to the extent to which the offerer has complied with the specifications or requirements of the solicitation document.

This “best practices” document has been developed to assist agencies by describing the general scope of a responsibility determination; identifying specific information which might be considered in a responsibility determination; and, providing samples of vendor responsibility questionnaires and responsibility issues. Agencies should adopt their own internal responsibility review procedures based on these guidelines and the OSC Bulletin G-221.

**II. Scope of Vendor Responsibility Determinations**

Each agency is responsible for establishing a vendor responsibility review and determination process. While all contracts must be awarded to a responsible bidder, the scope of agency responsibility review efforts is generally based on the agency’s determination of its level of risk. One risk factor may be the dollar value of the contract.

Apart from dollar value and contract complexity, other factors related to the procurement may be considered. For example, procurements that are critical to the agency’s mission may require extensive vendor reviews as would a procurement in which a low bid is significantly lower than those of the competition.

Responsibility determinations should involve a review of the following four major categories: Financial Capacity, Legal Authority, Integrity and Past Performance (FLIP review). Agencies may identify and emphasize the evaluation of certain criteria it deems critical depending upon the nature and scope of the proposed contract. For example, a responsibility determination for a management or information technology consulting contract may emphasize a vendor’s past performance, resumes of project team members, etc., while a commodity award may focus on the firm’s capacity to produce and/or supply the commodity.

Responsibility criteria focus the agency’s analysis of the vendor’s financial capacity to fully perform the contract requirements and the business integrity to justify the award of public contracts. The vendor’s legal authority review determines the vendor’s compliance with legal requirements and past performance review considers prior experience. Each contract award must be considered on a case-by-case basis after a comprehensive weighing of all factors. An unfavorable determination in one or more areas of evaluation may not result in a non-responsibility determination but does require an agency determination that it has reasonable assurance that the proposed contractor is responsible or non-responsible, as applicable.

### III. Vendor Responsibility Criteria

Under the general scope of vendor responsibility, agencies may consider the following criteria:

- (i) adequacy of financial resources;
- (ii) satisfactory technical qualifications;
- (iii) satisfactory experience;
- (iv) satisfactory record of performance;
- (v) adequacy of the organization, material, equipment, facilities and personnel resources;
- (vi) expertise necessary to carry out the work and meet required delivery or performance schedules;
- (vii) necessary licenses, insurance and bonds;
- (viii) satisfactory record of business integrity; and
- (ix) compliance with public policy issues and statutory requirements.

Agencies may detail specific requirements within these criteria or they may add additional standards or criteria to the procurement's terms and conditions to reflect special contract requirements. In all cases, these standards must be rational, and based on demonstrated needs. They should not be used to artificially limit competition.

Depending upon the nature and scope of the contract requirements, certain responsibility criteria may overlap with issues of responsiveness. For example, a bid proposal in which a vendor indicates the firm cannot meet a required project deadline may be deemed either non-responsive (i.e. not meeting specifications) or non-responsible based on failure to meet (vi) above. As a practical matter, agencies would reject the bid proposal as non-responsive rather than non-responsible. A finding of non-responsibility requires a more extensive review on the part of the agency and has a negative impact on the vendor.

### IV. Obtaining Information for Vendor Responsibility Evaluation

A Vendor Responsibility Questionnaire requires vendors to disclose information necessary to assess vendor responsibility in a uniform manner and to certify the accuracy of their responses. Attachments A and B are examples of questionnaires that address a broad range of responsibility issues in a concise manner. Attachment A may be appropriate for use in procurements of lower dollar value or risk, while Attachment B is recommended for procurements at or over \$100,000 with the most detailed review to be used in high value, high risk, mission critical or complex procurements. An agency may also elect to utilize other questionnaires, such as the CCA-1 or the OSC Vendor Responsibility Questionnaire.

Both Attachments A and B incorporate references, with some variations, which broaden the applicability of the responsibility inquiry to include the firm, each principal, owner, officer, major stockholder, affiliate or any person involved in the bidding, contracting or leasing process within the past five years. Depending on the nature and scope of the procurement, agencies may require the firm to detail the specific nature of its relationships with other firms; to provide the names and addresses of key personnel, and to identify past ownership positions or officer status these personnel have had with other firms over the past five years. Responsibility review may then be applicable to those firms as well.

Attachment C provides a more comprehensive listing of evaluation factors that may be considered in a responsibility determination.

Agencies may also use a variety of resources to obtain or to verify vendor information. For example:

- Vendor reliability and past performance can be verified by contacting vendor references or other contracting agencies.
- Vendor financial capacity can be verified by obtaining a credit rating service report or obtaining certified financial statements. On-line business services such as Edgar Online (<http://www.sec.gov/edgar.shtml>) provide free summaries of ownership and Securities and Exchange Commission filings of publicly traded companies with detailed information available through subscription.

#### **IV. Obtaining Information for Vendor Responsibility Evaluation (continued)**

- Information regarding liens, bankruptcies, civil and criminal court actions, federal or state agency legal actions, affiliates, key personnel, federal debarments, etc., can be obtained from a commercial service such as Lexis/Nexis (available on state contract) or OSHA Data for regulatory compliance history information (<http://www.oshadata.com/>); or, by contacting the appropriate federal or state agency.
- Information regarding vendor debarments with the federal government may be found at the Excluded Parties list System (<http://www.epls.gov/>). State debarment information may be found at the Department of Labor site: <http://www.labor.state.ny.us/pdf/debarred.pdf>.

The OSC Bulletin G-221 includes additional resources to verify a vendor's responsibility (<http://www.osc.state.ny.us/vendrep/webresources.htm>).

In obtaining vendor data from outside sources, agencies should be aware of any potential problems with the reliability, accuracy and timeliness of the data. Agencies should independently verify information which negatively reflects a vendor's responsibility.

#### **V. Review of Responsibility Information**

If a vendor discloses adverse information, or if an agency's responsibility review reveals such information, the agency should take affirmative steps to verify the information before a non-responsibility determination is made. The agency should:

Contact the Vendor – The most direct way to resolve issues and confirm the accuracy of any adverse information is to contact the vendor in writing and request additional information or clarification.

Have the Vendor Address the Specific Problem – Certain problems, such as a vendor's failure to pay taxes, may be readily resolved and corrective action by the vendor may result in the vendor being deemed responsible.

Assess the Information and Contracting Options – Not all adverse information may be sufficient to result in a non-responsibility determination; and in some cases an agency may need to contract with a vendor even if there are strong indications of non-responsibility. In such cases, agencies must document in the Procurement Record the rationale for continuation of award and may require additional review to monitor the contractor's performance or may wish to award based on a vendor certification that it is in compliance, or will comply, with any specific responsibility conditions imposed by the agency under the contract terms.

Agencies must make a risk analysis decision and where it is necessary to contract with a vendor which has responsibility issues, an agency may minimize the risk to the state by requiring the contractor to agree to early termination language, surety bonds, contract monitoring provisions, partial awards, etc.

An agency's vendor responsibility determination is documented in a Vendor Responsibility Profile. Significant responsibility issues which are considered by the agency in its responsibility review are identified in the Profile. The recommended Profile form is Attachment D

#### **VI. Non-Responsibility Determinations**

Pre-Bid – If an agency has previously found a vendor to be non-responsible, or has knowledge of a vendor's past violations, convictions, non-performance, etc., the agency must still provide the vendor with an opportunity to bid and then consider the issue of responsibility on a contract-by-contract basis.

Pre-Award – Before considering a vendor non-responsible, the contracting agency should provide the vendor the opportunity for due process and notify the vendor in writing of the issues which may result in a non-responsibility determination. The vendor should be provided the opportunity to submit additional information, clarification or explanation and may also be invited to a hearing (meeting) to discuss the issues prior to award.

**VI. Non-Responsibility Determinations** (continued)

Agencies must include information concerning a non-responsibility determination in the Procurement Record provided to the Office of the State Comptroller including the process that was followed in making such determination.

Adopted by the New York State Procurement Council - September 2005

**Attachment A**

**VENDOR RESPONSIBILITY**

Within the past five years has your firm, any affiliate, any predecessor company or entity, owner, director, officer, partner or proprietor been the subject of:

- A. an indictment, judgment, conviction, or a grant of immunity, including pending actions, for any business-related conduct constituting a crime under governmental law?
- B. a government suspension or debarment, rejection of any bid or disapproval of any proposed subcontract, including pending actions, for lack of responsibility, denial or revocation of prequalification or a voluntary exclusion agreement?
- C. any governmental determination of a violation of any public works law or regulation, or labor law or regulation, or any OSHA violation deemed "serious or willful"?
- D. a consent order with NYS Department of Environmental Conservation, or a governmental enforcement determination involving a construction-related violation of federal, state or local environmental laws?
- E. a finding of non-responsibility by a governmental agency or Authority for any reason, including but not limited to the intentional provision of false or incomplete information as required by State Finance Law §139-j?

**ANSWER ALL QUESTIONS**

\_\_\_\_\_ YES \_\_\_\_\_ NO

\_\_\_\_\_ YES \_\_\_\_\_ NO

\_\_\_\_\_ YES \_\_\_\_\_ NO

\_\_\_\_\_ YES \_\_\_\_\_ NO

\_\_\_\_\_ YES \_\_\_\_\_ NO

If yes to any of above, please provide details regarding the finding.

ENTITY MAKING FINDING:

YEAR OF FINDING:

BASIS OF FINDING:

---



---



---



---



---



---

(ATTACH ADDITIONAL SHEETS IF NECESSARY)

USEFUL INFORMATION MAY BE ACCESSED AT:

<http://www.ogs.state.ny.us>

AND

<http://www.osc.state.ny.us/vendrep/index.htm>

\* \* \* \* \*

## Attachment B

# New York State Standard Vendor Responsibility Questionnaire

Each Contracting Agency conducts a review of prospective contractors (“vendors”) to provide reasonable assurances that the vendor is responsible. This questionnaire is used for all non-construction contracts with a contract value of \$100,000.00 or more and is designed to provide information to assess a vendor’s authorization to do business in New York State, as well as your business integrity, financial and organizational capacity, and performance history. (Review of construction contractors will be based upon the Uniform Contracting Questionnaire developed by the Council of Contracting Agencies.)

Each vendor must answer every question contained in this questionnaire. Where a response requires additional information, the vendor must attach a written response that adequately details the requested information. Please number each response to match the question number. The completed questionnaire and attached responses will become part of the procurement record.

In order to expedite the required review, when providing additional information for a “YES” answer to Questions 14 a-s, or any other response which requires additional explanation, your information and responses should address the relationship of the issue to the proposed contract. Be brief, concise and to the point. Discuss as appropriate the following:

- Provide a description of the issue and identify the actions taken or currently being implemented to ensure that the issue will not occur again.
- State whether the staff and/or organizational component involved in the identified issue(s) will work on the proposed contract. If so, provide information to assure the agency that the issue will not be repeated.
- Identify the relationship (or lack thereof) between the product/services involved in the issue and the type of product/services proposed for this contract.
- State whether the issue will affect your financial or organizational ability to perform under the proposed contract.
- Provide copies of relevant documents or any other information that would assist the agency in its vendor responsibility evaluation.

It is imperative that the person completing the vendor responsibility questionnaire be knowledgeable about the proposing vendor’s business and operations, as an owner or officer of the vendor must attest to the questionnaire information. Please be advised that at the end of this questionnaire, you must certify, under oath, all responses given.

### New York State Standard Vendor Responsibility Questionnaire

1. LEGAL BUSINESS NAME: \_\_\_\_\_
2. FEDERAL EMPLOYER ID NO. (FEIN): \_\_\_\_\_
3. D/B/A — Doing Business As (if applicable): \_\_\_\_\_  
COUNTY FILED: \_\_\_\_\_
4. WEBSITE ADDRESS (if applicable): \_\_\_\_\_
5. PRINCIPAL PLACE OF BUSINESS ADDRESS: \_\_\_\_\_
6. TELEPHONE NUMBER: \_\_\_\_\_ 7. FAX NUMBER: \_\_\_\_\_
8. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE:  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
E-mail: \_\_\_\_\_
9. TYPE OF BUSINESS: (please check appropriate box and provide additional information)
  - a)  Corporation State of Incorporation: \_\_\_\_\_
  - b)  Sole Proprietor State/County filed in: \_\_\_\_\_
  - c)  General Partnership State/County filed in: \_\_\_\_\_
  - d)  Not-for-Profit Corporation Charities Registration Number: \_\_\_\_\_
  - e)  Limited Liability Company (LLC) Jurisdiction filed: \_\_\_\_\_
  - f)  Limited Partnership State/County filed in \_\_\_\_\_
  - g)  Other — Specify: \_\_\_\_\_ Jurisdiction Filed (if applicable) \_\_\_\_\_
10. IF NOT INCORPORATED OR FORMED IN NEW YORK STATE, PLEASE PROVIDE A CURRENT CERTIFICATE OF GOOD STANDING FROM YOUR STATE OR APPLICABLE LOCAL JURISDICTION.
11. LIST NAME AND TITLE OF EACH PRINCIPAL, OWNER, OFFICER, MAJOR STOCKHOLDER (10% OR MORE OF THE VOTING SHARES FOR PUBLICLY TRADED COMPANIES, 25% OR MORE OF THE SHARES FOR ALL OTHER COMPANIES), DIRECTOR AND MEMBER, as applicable:
  - a) \_\_\_\_\_
  - b) \_\_\_\_\_
  - c) \_\_\_\_\_
  - d) \_\_\_\_\_
  - e) \_\_\_\_\_
  - f) \_\_\_\_\_
  - g) \_\_\_\_\_
  - h) \_\_\_\_\_
12. AUTHORIZED CONTACT FOR THE PROPOSED CONTRACT:  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
E-mail: \_\_\_\_\_

### New York State Standard Vendor Responsibility Questionnaire

VENDOR FEIN: \_\_\_\_\_

13. DOES THE VENDOR USE, OR HAS IT USED IN THE PAST FIVE (5) YEARS, ANY OTHER BUSINESS NAME, FEIN, OR D/B/A OTHER THAN WHAT IS LISTED IN QUESTIONS 1-3 ABOVE?  Yes  No

**If yes**, provide the name(s), FEIN(s) and d/b/a(s) and the address for each such company and d/b/a on a separate piece of paper and attach to this response.

14. WITHIN THE PAST FIVE (5) YEARS, HAS THE VENDOR, ANY PRINCIPAL, OWNER, OFFICER, MAJOR STOCKHOLDER (10% OR MORE OF THE VOTING SHARES FOR PUBLICLY TRADED COMPANIES, 25% OR MORE OF THE SHARES FOR ALL OTHER COMPANIES), AFFILIATE<sup>1</sup> OR ANY PERSON INVOLVED IN THE BIDDING, CONTRACTING OR LEASING PROCESS BEEN THE SUBJECT OF ANY OF THE FOLLOWING:

- (a) a judgment or conviction for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (b) a criminal investigation or indictment for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (c) an unsatisfied judgment, injunction or lien for any business related conduct obtained by any federal, state or local government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any federal, state or local government agency?  Yes  No
- (d) an investigation for a civil or criminal violation for any business related conduct by any federal, state or local agency?  Yes  No
- (e) a grant of immunity for any business-related conduct constituting a crime under federal, state or local governmental law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (f) a federal, state or local government suspension or debarment from the contracting process?  Yes  No
- (g) a federal, state or local government contract suspension or termination for cause prior to the completion of the term of a contract?  Yes  No
- (h) a federal, state or local government denial of a lease or contract award for non-responsibility?  Yes  No
- (i) an administrative proceeding or civil action seeking specific performance or restitution in connection with any federal, state or local contract or lease?  Yes  No

<sup>1</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 principal 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 purposes of this questionnaire.

### New York State Standard Vendor Responsibility Questionnaire

**VENDOR FEIN:** \_\_\_\_\_

- (j) a federal, state or local determination of a willful violation of any public works or labor law or regulation?  Yes  No
- (k) a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license?  Yes  No
- (l) a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local environmental laws?  Yes  No
- (m) an Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful?  Yes  No
- (n) a rejection of a bid on a New York State contract or a lease with the State for failure to comply with the MacBride Fair Employment Principles?  Yes  No
- (o) a citation, violation order, pending administrative hearing or proceeding or determination issued by a federal, state or local government for violations of:
  - health laws, rules or regulations  Yes  No
  - unemployment insurance or workers' compensation coverage or claim requirements  Yes  No
  - ERISA (Employee Retirement Income Security Act)  Yes  No
  - human rights laws  Yes  No
  - federal U.S. Citizenship and Immigration Services laws  Yes  No
  - Sherman Act or other federal anti-trust laws  Yes  No
- (p) entered into an agreement to a voluntary exclusion from contracting with a federal, state or local governmental entity?  Yes  No
- (q) a denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status?  Yes  No
- (r) a rejection of a low bid on a federal, state or local contract for failure to meet statutory affirmative action or Minority or Women's Business Enterprise or Disadvantaged Business Enterprise status requirements on a previously held contract?  Yes  No
- (s) a finding of non-responsibility by an agency or authority due to a violation of State Finance Law §139-j?  Yes  No

**FOR EACH YES ANSWER TO QUESTIONS 14 a-s, PROVIDE DETAILS ON ADDITIONAL SHEETS REGARDING THE FINDING, INCLUDING BUT NOT LIMITED TO CAUSE, CURRENT STATUS, RESOLUTION, ETC.**

15. DURING THE PAST THREE YEARS, HAS THE VENDOR FAILED TO:

- (a) FILE RETURNS OR PAY ANY APPLICABLE FEDERAL, STATE OR LOCAL GOVERNMENT TAXES?  Yes  No

**If yes,** identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount the company failed to file/pay and the current status of the liability:

- (b) FILE RETURNS OR PAY NEW YORK STATE UNEMPLOYMENT INSURANCE?  Yes  No

**If yes,** indicate the years the company failed to file/pay the insurance and the current status of the liability:

\_\_\_\_\_

### New York State Standard Vendor Responsibility Questionnaire

**VENDOR FEIN:** \_\_\_\_\_

16. HAVE ANY BANKRUPTCY PROCEEDINGS BEEN INITIATED BY OR AGAINST THE VENDOR OR ITS AFFILIATES WITHIN THE PAST SEVEN YEARS (WHETHER OR NOT CLOSED) OR IS ANY BANKRUPTCY PROCEEDING PENDING BY OR AGAINST THE VENDOR OR ITS AFFILIATES, REGARDLESS OF THE DATE OF FILING?

Yes  No

**If yes**, indicate if this is applicable to the submitting vendor or one of its affiliates:

If it is an affiliate, include the affiliate's name and FEIN: \_\_\_\_\_

Provide the court name, address and docket number: \_\_\_\_\_

Indicate if the proceedings have been initiated, remain pending or have been closed: \_\_\_\_\_

If closed, provide the date closed: \_\_\_\_\_

17. DOES VENDOR HAVE THE FINANCIAL RESOURCES NECESSARY TO FULFILL THE REQUIREMENTS OF THE PROPOSED CONTRACT?

Yes  No

### New York State Standard Vendor Responsibility Questionnaire

**VENDOR FEIN:** \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) **ss:**

**CERTIFICATION:**

The undersigned, personally and on behalf of the vendor identified in questions 1-3 above, does hereby state and certify to the \_\_\_\_\_ (Agency) that the information given above is true, accurate and complete. It is further acknowledged that the State of New York and the \_\_\_\_\_ (Agency) will rely upon the information contained herein and in any attached pages for purposes of evaluating our company for vendor's responsibility for contract award and the State may, in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein. It is further acknowledged that intentional submission of false or misleading information may constitute a felony under Penal Law Section 175.35 or may constitute a misdemeanor under Penal Law Sections 175.30, 210.35 or 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination.

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Typed Copy of Signature

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Title

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public:  
Registration No: \_\_\_\_\_  
State: \_\_\_\_\_

## Attachment C

### RESPONSIBILITY FACTORS

The following listing is intended to serve as a quick reference for agencies regarding the type of information which may be solicited and/or evaluated for the purposes of making a vendor responsibility determination. The listing includes but is not limited to:

#### Financial Capacity

- Credit rating agency (e.g., Dun & Bradstreet)
- SEC 10K
- Bankruptcy/Reorganization Filings
- Liens, Judgments
- Delinquent Taxes
- Bonding Capacity
- Insurance Coverages
- Audited Financial Statements to show assets, liabilities, etc.

#### Legal Authority Issues for Business Related Conduct relating to Federal, State or Local Government

- Sanctions imposed as a result of judicial or administrative proceedings relative to business or professional licenses/certifications
- Willful Violation of any public works or labor laws or regulations
- Consent Order Involving Environmental Laws
- Citations and notification of penalty concerning serious or willful violations of Occupational Safety and Health Act
- Citations, violation orders, pending administrative hearing or proceeding or determination for violations of health laws, rules or regulations, unemployment insurance or workers' compensation coverage or claim requirements, ERISA (Employee Retirement Income Security Act), human rights laws, federal U.S. Citizenship and Immigration Services Laws and Sherman Act or other federal anti-trust laws
- Failure to comply with tax laws, filing returns or paying taxes

#### Integrity Issues for Business Related Conduct relating to Federal, State or Local Government

- Criminal Judgments/Convictions
- Criminal Investigation or Indictments
- Unsatisfied Judgment, Injunction or lien
- Investigation for civil or criminal violation
- Government Suspension or debarment from the contracting process
- Contract Suspension or Termination for cause
- Denial of a lease or contract award for non-responsibility
- M/WBE, Disadvantaged Business denial, decertification, revocation or forfeiture of status
- Executive Order 127 finding of non-responsibility
- State Finance Law §139-j finding of non-responsibility

#### Past Performance

- Firm History/Experience
- Type of Business (Corporation, Partnership, Etc.)
- Ownership/Major Stockholders/Affiliates
- Directors/Principals/Key Personnel
- Primary Place of Business
- M/WBE, Small Business Status, Disadvantaged Business Status
- Previous contract terminations/breach of contract/debarments
- References
- Personnel resources and expertise
- Prior State contracts

**Attachment D**

**STANDARD VENDOR RESPONSIBILITY PROFILE**

**Part I. - Complete For All Contract Transactions**

- 1. Agency Code: \_\_\_\_\_
- 2. Agency Name: \_\_\_\_\_
- 3. Batch No: \_\_\_\_\_
- 4. Contract No. or Purchase Order No.: \_\_\_\_\_
- 5. Vendor Name: \_\_\_\_\_
- 6. Vendor Federal Employer Identification Number: \_\_\_\_\_
- 7. Contract Amount: \$ \_\_\_\_\_
- 8. Description of Contract: \_\_\_\_\_

9. **Responsibility Determination** – The contracting agency has reviewed the proposed contractor and made the following determination regarding the proposed contractor’s responsibility:
- The proposed contractor meets the appropriate standards.
  - The proposed contractor meets the requirements of State Finance Law §§ 139-j and 139-k.
  - Responsibility issues identified have been addressed by remedial actions of the vendor to the satisfaction of the contracting agency. <sup>[1]</sup>
  - Responsibility issues identified have been addressed by a formal agreement with the vendor to the satisfaction of the contracting agency. <sup>[1]</sup>
  - Non-Responsible - The proposed contractor was found non-responsible. <sup>[1]</sup>

<sup>[1]</sup> *Attach and list in item 12 below additional documentation, if needed.*

**Part II. Complete For Contract Transactions Valued At \$100,000 Or More**

10. Did the contracting agency require vendor disclosure in each of the following areas? Legal Authority, Integrity, Financial & Organizational Capacity, Performance? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If No, identify area(s) for which disclosure was not required and the reason:
- 

11. What methods were used to obtain these disclosures and any other information used in making the responsibility determination?
- Solicitation Document.
  - Standard Vendor Responsibility Questionnaire.
  - Uniform Contracting Questionnaire.

**Part III – Complete For All Contract Transactions**

12. Identify any vendor responsibility issues found:
- No issues known or found.
  - Minor issues clarified and accepted as not impacting vendor’s responsibility.
  - Issues found. Describe on separate sheet.
13. Attachments
- Completed Vendor Questionnaire
  - Other (list)

The \_\_\_\_\_ (Agency) has undertaken an affirmative review of the proposed contractor’s responsibility and based upon such review, is proceeding with the contract award to this contractor.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name \_\_\_\_\_  
of Signor: \_\_\_\_\_ Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
E-mail: \_\_\_\_\_