

REQUEST FOR PROPOSAL

**State University of New York Upstate Medical University
Contracts Office, Suite 209MT
60 Presidential Plaza
Syracuse, New York 13202**

Bid No.: S-977
Desired Services: Computer Consulting Services-Clinical Campus, Binghamton, NY
Proposal Due Date: Friday, April 8, 2011 3:00 p.m. EST

- **Refer to Section IV of this Request for Proposal for General Instructions on Submission of Proposals.**
- **If your company is either unable or unwilling to submit a bid proposal, complete the enclosed Decline to Participate Form in its entirety and return to the address listed on the Form.**
- **Be sure to have the Acknowledgement Form completed by a Notary Public.**
- **Complete all information requested below.**

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Bidder Name	Street Address
<hr/>	<hr/>
City	State & Zip Code
<hr/>	<hr/>
Signature	Federal ID No.
<hr/>	<hr/>
Name of Signatory (Printed or Typed)	Title of Signatory (Printed or Typed)
<hr/>	<hr/>
Phone	Fax
<hr/>	<hr/>
E-mail Address	

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- Acknowledgement Form
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**SPECIFICATIONS FOR COMPUTER SUPPORT OF THE BINGHAMTON
CLINICAL CAMPUS**

I. GENERAL SCOPE/BACKGROUND

The State University of New York (SUNY) Upstate Medical University (University) is requesting proposals from qualified contractors (Contractor/Bidder) for the provision of computer consulting services for the SUNY Upstate Medical University Clinical Campus at Binghamton (Clinical Campus) located at 425 Robinson Street, Binghamton, NY 13904.

Clinical Campus in many respects represents a typical office setting with a small Microsoft based network. There are approximately thirty (30) computers running Windows XP and Microsoft Office 2003. The computers are connected via a gigabit network to the main server running Microsoft Windows Server 2008. This main server serves primarily as a file server. A second server running Windows Server 2003 serves primarily as a database server. This server also provides fax and print services. It hosts two fairly small database applications. One is a FileMaker Pro database accessed by approximately ten staff. The other is a customized SQL database accessed by approximately five individuals. The Clinical Campus and the main campus in Syracuse have standardized on GroupWise for e-mail and calendaring. HP printers are used and most of the staff has their own printers. These printers may be attached directly to their computer or they may be networked. Some additional complexity results from the need to access databases at the main campus via a VPN. Another network function is frequent use of Polycom equipment for IP based video conferencing with the main campus and another campus in Sayre, PA

There are also approximately fifteen (15) computers running Windows XP along with miscellaneous printers located at offsite locations, which also need to be supported by the vendor. These sites are located throughout the Southern Tier (Binghamton, Endicott, Johnson City, and Vestal, NY) area and in Sayre, PA.

Most of the IT equipment is fairly new. The file servers are two to three years old. Desktop computers are Dell Optiplex 780 purchased new in 2010. It is anticipated that during the course of this three year contract the vendor selected will be responsible for upgrading all computers to run Windows 7 and Microsoft Office 2007. The timing of this upgrade will depend on when the Information Management Technology (IMT) department at Upstate has adequately tested and is prepared to support Windows 7.

II. REQUIREMENTS AND SPECIFICATIONS

A. Mandatory requirements

1. Bidder must have the ability to provide a one hour on-site and remote emergency response time and a one day general response time.
2. Bidder must have a local branch office located within a sixty mile radius of the Binghamton, NY campus.
3. Bidder must have at least five years of experience serving a comparable educational institution.
4. Bidder must have a Microsoft Certified IT Professional and a Cisco Certified Network Associate or higher certified individual on staff.

5. Bidder should have individual on staff with appropriate skills and experience, preferably, certified to repair HP printers.
6. Bidder should have expertise and proven experience upgrading users from Windows XP to Windows 7 and providing necessary support for this migration.
7. Bidder should have expertise and proven experience implementing server and desktop virtualization.

B. Bidder Information, Experience and References

Bidders shall at a minimum provide with their proposals:

1. Name and address of operating company
2. Number of years and detail of experience in providing computer support and consultation
3. A list of a minimum of three client references, giving client name, contact person, address and telephone number where computer support service has been provided during the past five years.
4. Number of years and detail of experience in providing computer support and consultation. Successful vendor must have at least five years of experience serving comparable educational institutions.
5. **List of staff holding required certifications as detailed in lines 4 and 5 of mandatory requirements.**
6. At least one example of a client of comparable size or larger for whom you have provided support for the migration from Windows XP to Windows 7.
7. At least one example of a virtualization project you implemented for a client, the objectives of the project, and the ultimate benefits.
8. A list of former clients, if applicable, where accounts are no longer held, along with an explanation for the termination of service.

C. Description of Computer Support to Be Provided

1. On-site support at the Clinical Campus, a branch campus of SUNY Upstate Medical University, a minimum of four days per week, two to three hours per day (an average of 14 hours per week).
2. Network and Internet Support
 - a. Manage all aspects of wired and wireless network access and usage.
 - b. Monitor and maintain servers as well as the local and wide area network with the goal of anticipating and avoiding problems.
 - c. Support point-to-point communications and remote access, including web-based connections, and IP-based video conference capabilities.
 - d. Security System, including firewall design and maintenance.
 - e. Liaison with Internet Service Provider (Time Warner).
 - f. Liaison with Information Management Technology of Upstate Medical University.
 - g. Effective redundant, offsite backup of server data. Backup of select computers as needed. Development and testing of disaster recovery strategies.

- h. On-site emergency response to system failure crash within a one-hour time period and to individual staff and faculty problems within one day.
 - i. Miscellaneous network problem solving.
3. Hardware Support (Servers, Computers, Peripherals, Printers, and Network)
- a. Review servers, computers, peripherals, and network hardware on a periodic basis and make recommendations for updates as appropriate.
 - b. Provide quotes for the acquisition of new servers, computers, peripherals, and network hardware as requested.
 - c. Install new servers, computers, peripherals, printers, and network hardware at Clinical Campus and remote sites in Johnson City, NY; Binghamton, NY; Endicott, NY; Vestal, NY, and Sayre, PA.
 - d. Troubleshoot and resolve server, computer, peripherals and network hardware problems at Clinical Campus and remote sites in Johnson City, NY; Binghamton, NY; Endicott, NY; Vestal, NY, and Sayre, PA.
 - e. Troubleshoot and resolve printer problems, including driver issues, mechanical adjustments, repair and cleaning at Clinical Campus and remote sites in Johnson City, NY; Binghamton, NY; Endicott, NY, and Sayre, PA.
4. Software Support
- a. Provide staff and faculty with end-user support of all PC software issues on core software utilized by the campus, including, but not limited to, the Microsoft Office Suite and FileMaker Pro.
 - b. Update anti-virus software and periodically scan for viruses system-wide.
 - c. Resolve operating system and application software problems.
 - d. Install all new software programs and work with staff on the use of the programs.
 - e. Wipe drives and re-install operating system and applications as necessary.
 - f. Maintain and monitor system for tracking of licensing of software and warranties on software and advise staff and faculty on software issues related to licensure, copyright and appropriate usage.
 - g. Be proficient in the support of the following:
 - 1) Windows XP and Windows 7
 - 2) Microsoft Office 2003 and 2007
 - 3) Windows Server
 - Terminal Services
 - RAS for student access
 - 4) Firewall
 - Configuration
 - Port configuration
 - 5) VPN and IP Videoconferencing support.

5. General

Provide overall advice and guidance to the Dean on current deployment and needs of the network.

D. Cost

Please indicate cost for 14 hours of computer consulting per week (2 to 3 hours per day) ongoing support of network, Internet, hardware and software support on the attached Exhibit B.

III. GENERAL TERMS AND CONDITIONS

A. Procurement Lobbying Act/New York State Finance Law 139-j and 139-k:

Prior to approval by the University and the New York State Comptroller, of the contract for which this solicitation has been issued, Bidder shall not communicate with the University other than the person(s) identified in this solicitation as Designated Contact (s), or with a person who the Designated Contact(s) has advised the Bidder is also a Designated Contact.

All inquiries, questions, and communications regarding the scope of service and specifications listed in this Request for Proposal shall be addressed to:

Designated Contact:

David Watson
Contracts Office, Suite 209 MT
SUNY Upstate Medical University
750 East Adams Street
Syracuse, NY 13210
Telephone: (315) 464-4680
Email: watsonda@upstate.edu

By submitting a proposal, Bidder is acknowledging and agreeing to the terms and conditions defined by the Policy and Procedure of the State University of New York, relating to State Finance Law §§139-j and 139-k, and the prohibitions regarding Contacts, which are attached in summary as Form A and can be reviewed in their entirety at: www.suny.info/policies.

Bidder must submit with its proposal a written affirmation, using the attached Form B of Exhibit E, that it has reviewed and understands the Policy and Procedure of the State University of New York, relating to State Finance Law §§139-j and 139-k, and agrees to comply with State University's procedure relating to Contacts with respect to this procurement.

Bidder must submit with its proposal using the attached Form C of Exhibit E, written disclosure as to whether the Bidder has been determined to be non-responsible within the previous four (4) years by reason of having violated State Finance Law §139-j or having intentionally provided false or incomplete information to a Governmental Entity with respect to its compliance with State Finance Law §139-j; and certification and that the

Bidder has provided accurate and complete information with respect to the Bidder's compliance with State Finance Law §§139-j and 139-k within the previous four (4) years.

- B. Affirmative Action:** In accordance with current laws and executive orders, SUNY requires that affirmative action be taken for the employment of minority group members and women. SUNY encourages the submission of proposals by certified Minority Business Enterprises and Woman owned Business Enterprises.
- C. Notification of Errors, Inquiries and Interpretation:** It shall be the responsibility of the Bidder to bring to the attention of the University any technical deviations in the detailed specifications and to make recommendations for any additional requirements deemed necessary as standard and for work indicated in specifications included herein. If the University finds the deviations significant or a change in the requirements necessary, the University will then notify all Bidders in writing of the specifications change. No deviations for the technical specifications laid hereunder shall be made without approval of the University.
- D. Additional Expenses:** It shall be the responsibility of the Bidder to provide the University with any information related to additional costs other than those items listed in the proposal. The University will not be liable for additional expenses listed by the successful Bidder unless authorized by the University. The University is not liable for any cost incurred by the Bidders prior to execution of a contract.
- E. Valid Negotiations:** No negotiation decision or actions shall be executed by any Bidder as a result of any oral discussions or agreements with any Upstate employee or consultant. Only those transactions that are in writing shall be considered valid. Likewise, the University shall only consider communications from Bidders that are signed and in writing.
- F. Rejection of Bids:** The University reserves the right to make all decisions regarding this proposal, including, without limitation, the right to decide whether a proposal does or does not substantially comply with the requirements set forth. The University reserves the right to reject any and all bids.
- G. Acceptance of Proposal Content:** The terms and conditions included in this RFP as well as the applicable portions of the Bidder's/Contractor's proposal shall become contractual obligations if a contract is awarded. Failure of the Bidder to accept these obligations shall result in the rejection of the Bidder's proposal.
- H. Proposals binding for 90 Days:** The proposal shall constitute an offer binding upon the Bidder for ninety (90) days following the receipt of the Bidder's proposal, and shall remain in effect thereafter until either contract is awarded or Bidder requests in writing to withdraw their bid.
- I. Free and Open Competition:** The University encourages free and open competition. Whenever possible, terms, specifications, and conditions are designed to accomplish this objective, consistent with the necessity to satisfy Clinical Campus' needs.
- J. Governing Law:** This RFP, the Bidder's proposal, and any contract resulting there from shall be enforced and construed in accordance with the laws of the State of New York.

Jurisdiction of any litigation with respect to this RFP and/or Agreement shall be in New York State with venue in a court of competent jurisdiction located in Broome County or any other court having competent jurisdiction in the State of New York.

- K. Bidder Terms:** Bidder's standard terms and conditions will not be considered relevant to their proposal and should not be included with their proposal. Any additional Bidder terms and conditions which are attached or referenced with Bidder's proposal shall not be considered part of the bid or proposal, but shall be deemed included for informational purposes only. No extraneous terms will be incorporated into an agreement unless approved in writing by the University. Acceptance and/or processing of the bid shall not constitute acceptance of the extraneous terms.
- L. Responsibility:** The University will not be held responsible for any services provided by the successful Bidder which are outside the scope of any contract resulting from this RFP. The University will not be held responsible for any additional costs other than for the services outlined herein or for any work performed which has not been properly authorized by Clinical Campus.
- M. Contract Award:** Any contract awarded as a result of this RFP will be awarded as specified in Section V of this RFP.
- N. Contract Term:** The contract for this computer support service shall be for three (3) years commencing on **July 1, 2011** and terminating on **June 30, 2014**.

An annual increase in the bill rate will require approval of the New York State Comptroller. On the annual anniversary date of the contract, there may be adjustments that will be limited to the unadjusted Consumer Price Index (CPI) experience of the previous year of the agreement. This cap does not include any required adjustments to the billing rate for costs associated with requests by Clinical Campus for increased services.

- O. Non-Collusion:** Bidder certifies that the only persons or parties interested in this RFP as Principals are those named herein as Bidder/Contractor; that their proposal is made without collusion with any other person, firm or corporation, either directly or taken any action in restraint of free competitive bidding; and in submitting their proposal the Bidder has examined instructions, terms and conditions and specifications of this RFP. Bidder shall complete and return with their proposal the Non-Collusion Certification form attached to this RFP as Exhibit E. The Bidder proposes and agrees to execute and fully perform in accordance with any proposal offered to the University.
- P. Reserved Rights:** The University reserves the right to:
1. Reject any and all proposals received in response to this RFP.
 2. Waive requirements or amend this RFP upon notification to all Contractors prior to the bid submission deadline.
 3. RFP Requirements may be eliminated or waived after receipt of bid proposals, but only if not material in nature and unmet by all Contractors.
 4. Clarify costs/cost figures with the concurrence of the Contractors as necessary.
 5. Negotiate with Contractors responding to this RFP within the requirements necessary to serve the best interests of the University.
 6. Reject any or all portions of any offer to negotiate terms and conditions consistent

with the solicitation, and to make an award for any or all remaining portions.

7. Request clarifications from Contractors for purposes of assuring a full understanding of responsiveness.
8. Waive minor irregularities when in the best interests of the University.

Q. Independent Contractor: The Contractor and its employees engaged in the performance of work shall at all times be deemed to be performing as an independent contractor and not as agents or employees of Upstate. Therefore, the Contractor bears the full responsibility for any and all liability, loss, damages, and expenses which may be suffered from any claim, demand, suit or cause of action which may be made or held against them by reason of negligence or malpractice on the part of the Contractor, its agents or employees.

R. Insurance:

Prior to the commencement of the work to be performed by Contractor hereunder, Contractor shall file with Upstate, their insurance policy and Certificates of Insurance evidencing compliance with all insurance requirements contained herein. Such policy and certificates shall be of form and substance acceptable to Upstate. Acceptance and/or approval by Upstate does not, and shall not, be construed to relieve Contractor of any obligations, responsibilities or liabilities under this Agreement. All insurance required by this Agreement shall be obtained at the sole cost and expense of Contractor; shall be maintained with insurance carriers licensed to do business in New York State, and acceptable to Upstate; shall be primary and non-contributing to any insurance or self-insurance maintained by Upstate; shall provide written notice be given to Upstate at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail; shall be sent to (SUNY Upstate Medical University, Contracts Office, 750 East Adams St., MT Suite 209, Syracuse, NY 13210) and shall name The State of New York, the State University of New York, SUNY Upstate Medical University and Clinical Campus as additional insured on their insurance policy and shall provide upon execution of this Agreement and prior to the commencement of any work a copy of the insurance policy showing that the State of New York, the State University of New York, SUNY Upstate Medical University and Clinical Campus are named as additional insured and provide an annual Certificate of Insurance . The additional insured requirement does not apply to Workers Compensation, Disability or Professional Liability coverage.

Contractor shall be solely responsible for the payment of all deductibles and self insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by Hospital. Such approval shall not be unreasonably withheld. Contractor shall require that any subcontractors hired, carry insurance with the same limits and provisions provided herein. Prior to the commencement of the work to be performed by any subcontractor hereunder, Contractor shall file with Hospital, Certificates of Insurance evidencing compliance with all insurance requirements contained herein. Such Certificates shall be of form and substance acceptable to Upstate. Acceptance and/or approval by Upstate does not, and shall not, be construed to relieve Contractor of any obligations, responsibilities or liabilities under this Agreement.

Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of

the policy with an insurer acceptable to the Department and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. Contractor shall cause all insurance to be in full force and effect as of the commencement date of this Agreement and to remain in full force and effect throughout the term of this Agreement and as further required by this Agreement. Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverage during the period of time such coverage are required to be in effect. Not less than thirty (30) days prior to the expiration date or renewal date, Contractor shall supply Hospital updated replacement Certificates of Insurance and amendatory endorsements. Contractor, throughout the term of this Agreement, or as otherwise required by this Agreement, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by the terms of this Agreement, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

1. Workers Compensation, Employers Liability, and Disability Benefits as required by New York State.
2. General Liability Insurance including contractual liability, with a minimum limit of liability \$1,000,000 per claim/occurrence and \$3,000,000 in the aggregate.

Minimum insurance forms to be furnished to Hospital are the following:

1. Contractor's Insurance policy that lists The State of New York, the State University of New York, and SUNY Upstate Medical University as additional insured.
2. ACCORD Certificate of Liability Insurance showing proof of General Liability and Excess/Umbrella Liability if applicable.
3. Certificate of Worker's Compensation Insurance Form (Form C-105.2).
4. Certificate of Compliance with Disability Benefits Law (Form DB-120.1).

Failure to maintain insurances required herein shall be cause for immediate termination of the Agreement.

- S. **Taxes:** Contractor will pay all salaries and expenses of its employees as well as all Federal Social Security taxes, Federal and State unemployment taxes, and any similar taxes relating to such employment.
- T. **Sub-Contracting:** Contractor is prohibited from subcontracting any services provided under the Agreement to another contractor without prior written approval by the University. Contractor shall be liable for assuring that any University approved sub-contractor complies with all the terms and conditions described herein.

U. Indemnification and Hold Harmless:

The Contractor shall indemnify, defend and hold harmless SUNY, SUNY Upstate Medical University, Hospital, and the State of New York and their respective officers, trustees, directors, employees, and agents for any and all losses, expenses, damages, and liabilities, including reasonable attorney's fees arising out of the intentional or negligent acts or omissions of the Contractor, its officers, employees, agents, or licensees.

V. Compliance: Any Agreement awarded under this RFP shall incorporate the following terms:

1. Notwithstanding any other provision in this Agreement, the Hospital remains responsible for ensuring that any service provided pursuant to this Agreement complies with all pertinent provisions as may be from time to time amended, of federal, state and local statutes, rules and regulations, and policies of the State University of New York Board of Trustees.
2. The parties recognize that this Agreement at all times is subject to applicable provisions, as may be from time to time amended, of federal, state, and local statutes, rules, and regulations, and policies of the State University of New York Board of Trustees. Any provision of law or regulation or judicial or administrative interpretation of same that invalidates, or otherwise is inconsistent with that the terms of this Agreement that, in the reasonable judgment of either party, would cause one or both parties to be in violation of law or regulation shall be deemed to have suspended the terms of this Agreement; provided, however, that the parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of law and regulations.
3. If either party determines that a term of this Agreement, including the compensation to Contractor, is required to be modified or terminated for purposes of compliance with federal or New York State laws or regulations, or with the policies of the State University of New York Board of Trustees, such party shall promptly notify the other party in writing of the determination, together with sufficient details supporting the determination. Within thirty (30) days of the foregoing notification, the parties shall renegotiate, in good faith, the term(s) required to be modified or terminated to ensure compliance with applicable laws, regulations and policies. If the parties are unable to make a good faith resolution within such thirty (30) day period, either party may terminate this Agreement upon ten (10) days prior written notice to the other party or such earlier date as may be required by law, regulation or policy.
4. Contractor shall determine, by reference to the then Current Department of Health and Human Services Office of the Inspector General's List, the General Administration list of Excluded Individuals/Entities, and the New York State Medical Disqualified Provider List, whether Contractor, its employees, or any individual provides to the Hospital to furnish services pursuant to this Agreement is excluded from participation in Medicare, Medicaid, or other federally funded health care programs. Contractor shall not assign to the Hospital any employee or any individual that is so excluded. Prior to the assignment, Contractor shall provide the Hospital with a copy of the report indicating that Contractor, the employee or individual is not so excluded. If, at any time during the term of this Agreement, Contractor, the employee, or any individual Contractor provides to the Hospital to furnish services

pursuant to this Agreement is excluded from participation in Medicare, Medicaid, or other federally funded health care programs, Contractor shall immediately notify the Hospital of the exclusion, and the Hospital shall have the option of immediately terminating this Agreement, in whole or in part as necessary and applicable in the Hospital's sole discretion, and Contractor shall provide a pro rata refund to the Hospital based on the period of time remaining in the term of this Agreement. See Department of Health and Human Services Office of the Inspector General (www.oig.hhs.gov), General Services Administrative List of Excluded Individuals/Entities (www.epls.gov), and New York State Medicaid Disqualified Provider List (www.omig.state.ny.us).

5. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

W. Termination:

Upstate shall reserve the right to terminate any agreement awarded under this RFP upon prior written notice to Contractor in the event of any of the following: (i) Contractor makes an assignment for the benefit of the creditors; (ii) a petition in bankruptcy or any insolvency proceeding is filed by or against the Contractor and is not dismissed within thirty (30) calendar days from the date of filing; (iii) or all or substantially all of the property of the Contractor is levied upon or sold in any judicial proceeding.

Upstate shall have the right to terminate early any agreement awarded under this RFP for: (i) unavailability of funds, (ii) with or without cause, (iii) convenience, (iv) in the event the State Finance Law sections 139-j and 139-k certifications are found to be false or incomplete, or (v) if applicable, the Department of Taxation and Finance Contractor Certification form, ST 220-CA statements are found to be false or incomplete.

Upstate may terminate this Agreement if Contractor fails to fulfill any of its obligations under this Agreement ("Breach") and the Breach continues for a period of thirty (30) days after the Hospital sends written notice of the Breach.

- X. Licenses:** The Contractor will at its own sole expense, procure, post and maintain for the life of the Agreement, in places designated by the laws of the State of New York or any of its subdivisions, all licenses or permits required by law for its business. Failure to maintain same during the life of the Agreement shall be grounds for the immediate termination of the Agreement by the University.

- Y. Standard Clauses:** Any contract resulting from this proposal shall include Exhibit A (the Standard Clauses for all New York State Contracts) Exhibit A-1 (the Affirmative Action Clauses), the provisions of which shall take precedence over any provision in this RFP and the Bidder's proposal. These clauses relate to, among other things, assignment of the contract, availability of funds, non-discrimination, affirmative action, non-collusion, worker's compensation.

- Z.** **Payment Terms:** Payments under the resulting contract shall be made to Bidder in accordance with New York State Finance Law. Please note that the State budget and/or the appropriation of budgeted funds to Upstate may be delayed in any given fiscal year due to circumstances beyond Upstate's control, which can delay payments for services. Any and all invoices for amounts payable by Upstate shall be sent to:

Director of Accounts Payable
Madison Towers-Suite 201
SUNY Upstate Medical University
750 East Adams Street
Syracuse, New York 13210

Contractor shall provide complete and accurate billing invoices to Upstate in order to receive payment. Billing invoices submitted to Upstate must contain all information and supporting documentation required by the Contract, Upstate, and the New York State Comptroller. Payment for invoices submitted by Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Vice President for Administration or his/her designee, in his or her sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary New York State procedures and practices. Contractor shall comply with the New York State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the Office of State Comptroller website at: www.ocs.state.ny/epay/index.htm, by e-mail at epunit@osc.state.ny.us, or by telephone at 518-486-1255. Contractor acknowledges that it will not receive payment on any invoices submitted under the Contract if it does not comply with the New York State Comptroller's electronic payment procedures, except where the Vice President for Administration or his/her designee has expressly authorized payment by paper check as set forth herein.

- AA.** **Confidentiality:** Contractor acknowledges that this Agreement is subject to the New York State Freedom of Information Law ("FOIL") as set forth in Article 6 of the New York State Public Officers Law and that only Contractor's proprietary information that satisfies the requirements of section 87(2) (d) of the Public Officers Law shall be excepted from disclosure thereunder. If Contractor believes that any information in this Agreement constitutes a trade secret or should otherwise be treated as confidential and wishes such information not to be disclosed if requested pursuant to Article 6 of the New York State Public Officers Law, Contractor shall submit with this Agreement a separate letter specifically identifying the page number(s), line(s) or other appropriate designation(s) containing such information, explaining in detail why such information is a trade secret and formally requesting that such information be confidential. Only Contractor's proprietary information that satisfies the requirements of section 87(2) (d) of the Public Officers Law shall be excepted from disclosure thereunder. Failure by a contractor to Failure by a Contractor to submit such a letter with this Agreement identifying trade secrets shall constitute a waiver of Contractor of any rights it may have under the New York State Public Officers Law relating to protection of trade secrets. If there is litigation for information that the Contractor has identified as constituting a trade secret, it is Contractor's responsibility to respond to the litigation and failure to do so shall constitute a waiver of Contractor of any rights it may have under the New York State Public Officers Law relating to protection of trade secrets.

- BB. Vender Debriefing:** Upon notification of the election and award of an agreement, unsuccessful vendors are entitled to, and shall receive, upon request a debriefing of the results of their responses to this Request for Proposal.

IV. SUBMISSION OF PROPOSALS

- A.** Submit four (4) signed copies of proposal, each bearing an original signature and notarized Acknowledgement Form by **Friday, April 8, 2011 3:00 p.m.** for the bid opening to be held in the Contracts Office, Suite 209 MT.

Overnight or Hand Delivery: David Watson
SUNY Upstate Medical University
Contracts Office, Suite 209 Madison Towers
60 Presidential Plaza
Syracuse, NY 13202

- B.** Proposals must be submitted in sealed packages explicitly labeled on the exterior with the RFP number and description: **“RFP S-977: “Computer Consulting Services-Clinical Campus”**. It shall be the responsibility of the Bidder to see that their proposal is properly delivered.
- C.** All Contractor questions and requests for clarification must be made in writing (electronic mail submission is acceptable) and must be received by one of the University’s Designated Contacts (listed in Section II.) no later than **March 25, 2011, 3:00 p.m.** Any questions or requests submitted subsequent to this deadline will not receive a response from the University.
- D.** All information requested must be furnished by the responding vendor and must be submitted in written form with the proposal. Statements must be complete and accurate and in the format requested. All documents must be sworn to and notarized (Acknowledgement form attached). Omission, inaccuracy or misstatement will be sufficient cause for the rejection of the proposal. SUNY Upstate Medical University reserves the right to reject any and all bids.
- E.** All prices and conditions must be included in the original proposal. Prices and conditions not included in the original proposal will be rejected.
- F.** Complete one (1) copy of the Public Officers Law Form (See **Exhibit C**) and return with your proposal.
- G.** Complete, certify and file a New York State Vendor Responsibility Questionnaire as part of your Administrative Proposal documents. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System instructions at: <http://www.osc.state.ny.us/vendrep/systeminit.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us> . For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us . Vendors opting to file a paper questionnaire can obtain the

appropriate questionnaire from the VendRep website:
<http://www.osc.state.ny.us/vendrep/templates.htm> or may contact the SUNY campus contact or the Office of the State Comptroller for a copy of the paper form.

Bidders must acknowledge that they filed a questionnaire online or by paper copy by completing the attached Vendor Responsibility Questionnaire Requirement (See **Exhibit D**) and return it with your proposal.

- H.** Complete one (1) original copy of Offerer Affirmation with respect to New York State Finance Law §§139-j and 139-k (Form B of **Exhibit E**) and return with your proposal.
- I.** Complete one (1) original signed copy of Disclosure and Certification with respect to New York Finance Law §§139-j and 139-k (Form C of **Exhibit E**) and return with your proposal.
- J.** Complete one (1) original copy of the New York State Department of Taxation and Finance (“NYSDTF”) Form ST-220-CA (See **Exhibit F**) and return with your proposal.
- K.** Complete one (1) original copy of the NYSDTF Form ST-220-TD (See **Exhibit F**) and return with your proposal.
- L.** Bidder must complete and return with their proposal the Non-Collusion Certification Form included in this package (See **Exhibit G**).
- M.** False Claims: The State University of New York (SUNY) Upstate Medical University (University Hospital) is required by law to provide information to all our contractors and agents regarding the Federal False Claims Act, New York State laws regarding civil or criminal penalties for false claims and payments, administrative remedies for false claims and statements, and whistleblower protections under these laws. **Exhibit V** of this RFP satisfies this notification requirement, and by signing the False Claims Acknowledgement Form that is part of **Exhibit V**, the Bidder acknowledges that they have received and understand the information provided therein.
- N.** The Contractor shall comply with Section 163(4)(g) of the New York State (“State”) Finance Law (“NYSFL”), which requires that all contractors (including subcontractors) who provide consulting services for State purposes pursuant to a contract submit (i) the Contractor’s Planned Employment—Form A, and (ii) the Contractor’s Annual Employment Report—Form B, for each such contract. Section 8(17)(f) of the NYSFL defines a contract for consulting services to be any contract entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health and mental health services, accounting, auditing, paralegal, legal, or similar services. The employment report shall include for each employment category within the contract, the number of employees employed to provide services under the contract, the number of hours they work and their total compensation under the contract. The Contractor shall be responsible for submitting the employment report to (i) the State agency (University) that awarded the contract, (ii) the State Department of Civil Service and (iii) the State Department of Audit and Control. The Contractor’s Planned Employment—Form A, attached hereto as **Exhibit X** and the Contractor’s Annual Employment Report—Form B, attached hereto as **Exhibit Y**. Copies of the completed Forms shall be available for public inspection and copying

pursuant to Section 87 of the State Public Officers Law, provided that, in disclosing such reports, the State agency making the disclosure shall redact the name or social security number of any individual employee that is included in such document.

- O. Electronic copies of this RFP and related forms are available upon request.
- P. Any proposals submitted will be binding, firm and irrevocable for ninety (90) days. Subsequent to the date of receipt by the University.
- Q. Bidder is responsible for all costs, direct or indirect, incurred by the Bidder related to the preparation and/or submission of proposals in response to this RFP.
- R. If your company is unable or unwilling to submit a bid package, please complete the “Decline to Participate” form that is enclosed in this package and return to the Contracts Office at the address or fax number listed on the form.

V. **BID EVALUATION AND METHOD OF AWARD**

SUNY Upstate Medical University will award this contract for computer support services on the best proposal as deemed by it to be that of the most responsible responsive bidder. Each area will be evaluated separately. The criteria for determination of the most responsible bidder are as follows:

- 1. Cost: Price per hour. Price will be evaluated based upon a maximum of 50 points. Points will be awarded as follows:

Lowest price per hour will receive 50 points. All other bids will be rewarded points based on a ratio of the submitted bid price to the lowest bid price. All calculations for points will be rounded to the nearest whole point.

- 2. Technical Ability: Evaluation of service to other clients, current and past.

There will be a maximum of 50 points allowed. This criterion must be supported by a reference list. These references will serve as an evaluation of service to other clients, current and past. Client references will be used and, if the University has direct experience with the bidder, the University reference will be included. Bidders will be rated on the following scale for the total number of references provided:

Excellent	40 to 50 points
Good	30 to 40 points
Average	20 to 30 points
Fair	10 to 20 points
Weak/poor	0 to 10 points

The maximum number of points allowed will be 100. The cost and technical ability points will be added together and the vendor with the greatest combined total of points will be awarded the contract.

RFP BID NO. S-977

EXHIBIT B

Please indicate cost for 14 hours of computer consulting per week (2 to 3 hours per day) ongoing support of network, Internet, hardware and software support below:

Cost for 14 hours per week:

\$ _____/week

ACKNOWLEDGMENT BY UNINCORPORATED ASSOCIATION

STATE OF:

COUNTY OF :)ss:

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

Notary Public

ACKNOWLEDGMENT BY CORPORATION

STATE OF:

COUNTY OF :)ss:

On this _____ day of _____, 20_____, before me personally came _____, to me known, who being duly sworn, did depose and say that he/she resides in _____ that he/she is the _____ the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal, that it was so affixed by the order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

Notary Public

DECLINE TO PARTICIPATE
BID NO. S-977
Computer Consulting Services for Clinical Campus Binghamton

If you decide not to respond to this Request for Proposal, please fill out this form, sign it and fax or mail this page to:

David Watson
Contracts Office, Suite 209 MT
State University of New York Upstate Medical University
750 East Adams Street
Syracuse, NY 13210
(FAX): 315-464-4679

We will keep your company on our active list for future business opportunities. Your cooperation in this matter is greatly appreciated.

Please be advised that for the reasons stated below, our company is not in a position to respond to your Request for Proposal at this time:

Name

Title

Company Name

Address

City, State, Zip

Phone/Fax

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, whether a Contractor, licensor, licensee, lessor, lessee or any other party):

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

2. PROHIBITION AGAINST ASSIGNMENT
Except for the assignment of its right to receive payments subject to Article 5-A of the State Finance Law, the Contractor selected to perform the services herein are prohibited in accordance with Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of SUNY and attempts to do so are null and void. Notwithstanding the foregoing, SUNY may, with the concurrence of the New York Office of State Comptroller, waive prior written consent of the assignment, transfer, conveyance, sublease or other disposition of a contract let pursuant to Article XI of the State Finance Law if the assignment, transfer, conveyance, sublease or other disposition is due to a reorganization, merger or consolidation of Contractor's its business entity or enterprise and Contractor so certifies to SUNY. SUNY retains the right, as provided in Section 138 of the State Finance Law, to accept or reject an assignment, transfer, conveyance, sublease or other disposition of the contract, and to require that any Contractor demonstrate its responsibility to do business with SUNY.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law, Section 355 of the State Education Law, and 8 NYCRR 316, (a) for a State University campus or health care facility certified by the Vice Chancellor and Chief Financial Officer, if this contract exceeds \$250,000 for commodities, services, printing or construction, or (b) for a State University campus not certified by the Vice Chancellor and Chief Financial Officer, if this is a contract for commodities, services, printing or construction which exceeds \$50,000 or which exceeds \$75,000 by a State University health care facility not certified by the Vice Chancellor and Chief Financial Officer, or (c) if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amounts, or (d) 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 SUNY until it has been approved by the State Comptroller and filed in the Comptroller's office.

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, 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 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 SUNY of any SUNY-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 on the submission of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief 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 it 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 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, 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 SUNY and its representatives and entities 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) **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 SUNY 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 SUNY 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 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.

(a) 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:

(1) 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;

(2) 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

(3) 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.

(b) Contractor will include the provisions of "1", "2" and "3", 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 sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. 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 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 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 certification, 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 Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have 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(5) of the 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., 7th Floor
Albany, NY 12245
Tel: 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., 7th Floor
Albany, NY 12245
Tel: 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 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 Search 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 SUNY may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with SUNY 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) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this provision

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

23. **COMPLIANCE WITH CONSULTANT DISCLOSURE LAW** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal or similar services, then in accordance with Section 163(4-g) of the State Finance Law, 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 agreement is a "procurement contract" as

defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

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

AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the Contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or 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 agreement, if SUNY determines that such action is in the best interests of the State.

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

27. 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.

28. (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.

**Affirmative Action Clauses
State University of New York**

EXHIBIT A-1

September 1, 1994

I. DEFINITIONS. The following terms shall be defined in accordance with Section 312 of the Executive Law:

STATE CONTRACT herein referred to as "State Contract", shall mean (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. For purposes of this agreement, the term "services" shall not include banking relationships, the issuance of insurance policies and contracts, or contracts with a contracting agency for the sale of bonds, notes or other securities.

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement providing for a total expenditure in excess of \$25,000 for construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contractor and any individual, partnership, corporation, or not-for-profit corporation, in which a portion of a contractor's obligation under a State Contract is undertaken or assumed, but shall not include any construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon for the beneficial use of contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership, or corporation that is: (a) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and (d) an enterprise authorized to do business in this State and independently owned and operated.

MINORITY-OWNED BUSINESS ENTERPRISE herein referred to as "MBE", shall mean a business enterprise, including a sole proprietorship, partnership, or corporation that is: (a) at least fifty-one percent owned by one or more minority group members; (b) an enterprise in which such minority ownership interest is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and (d) an enterprise authorized to do business in this State and independently owned and operated.

MINORITY GROUP MEMBER shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North America. (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or Pacific Islands.

CERTIFIED BUSINESS shall mean a business verified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law.

II. TERMS. The parties to the attached State Contract agree to be bound by the following provisions which are made a part hereof (the word "contractor" herein refers to any party other than the State University):

1. As a pre-condition for the award of any State Contract, contractor agrees to submit an Equal Employment Opportunity (EEO) Policy Statement which conforms with the following provisions:

(a) 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, upgrades, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) At the request of State University, 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 contractor's obligations therein.

(c) Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of 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.

(d) Contractor will include the provisions of "a", "b" and "c", above, in every Subcontract over \$25,000.00.

2. Contractor shall indicate whether it is able to separate out from its entire work force that portion of its work force which will be utilized in the performance of this State Contract.

3. For State Contracts which provide labor, services, supplies, equipment or materials, as defined above, contractor must provide a Staffing Plan of the anticipated work force to be utilized on the State Contract broken down by specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

4. For contractors who are unable to separate the portion of their work force which will be utilized for the performance of this State Contract, contractor shall provide reports describing its entire work force by the specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

5. If contractor fails to provide a staffing plan, or in the alternative, a description of its entire work force, State University may reject contractor's bid, unless contractor either commits to provide such information at a later date or provides a reasonable justification in writing for its failure to provide the same.

6. After the State Contract has been awarded, contractor shall provide a Utilization Report which breaks down and describes contractor's and every subcontractor's work force by specified ethnic background, gender, and Federal Occupational Categories. The prime contractor shall be responsible for collecting reports from its subcontractors and

providing such reports to State University.

For State Contracts for construction, the Utilization Report shall be completed using the number of hours worked for each relevant job title within the Federal Occupational Categories. During the term of State Contract: construction contractors must provide a Utilization Report on a monthly basis; contractors providing labor, services, supplies, equipment or materials, who are unable to separate out their work force must provide Utilization reports on a semi-annual basis; all other contractors must provide Utilization Reports every three months.

7. Contractor shall provide State University reports of its compliance with the terms of Article 15-A of the Executive Law as may be required by State University.

8. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN. State University shall determine whether contractor has made conscientious and active efforts to employ and utilize minority group members and women to perform this State Contract based upon an analysis of the following factors:

(a) Whether contractor established and maintained a current list of recruitment sources for minority group members and women, and whether contractor provided written notification to such recruitment sources that contractor had employment opportunities at the time such opportunities became available.

(b) Whether contractor sent letters to recruiting sources, labor unions, or authorized representatives of workers with which contractor has a collective bargaining or other agreement or understanding requesting assistance in locating minority group members and women for employment.

(c) Whether contractor disseminated its EEO policy by including it in any advertising in the news media, and in particular, in minority and women news media.

(d) Whether contractor has attempted to provide information concerning its EEO policy to subcontractors with which it does business or had anticipated doing business.

(e) Whether internal procedures exist for, at a minimum, annual dissemination of the EEO policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions. Such dissemination may occur through distribution of employee policy manuals and handbooks, annual reports, staff meetings and public postings.

(f) Whether contractor encourages and utilizes minority group members and

women employees to assist in recruiting other employees.

(g) Whether contractor has apprentice training programs approved by the N.Y.S. Department of Labor which provides for training and hiring of minority group members and women.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the prime contractor.

9. PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Based upon an analysis of the following factors, the State University shall determine whether contractor has made conscientious and active efforts to provide for meaningful participation by minority-owned and women-owned business enterprises which have been certified by DMWBD:

(a) Whether contractor has actively solicited bids for Subcontracts from qualified M/WBEs, including those firms listed on the Directory of Certified Minority and Women-Owned Business Enterprises, and has documented its efforts, including names and addresses of firms contacted, and the reasons why any such firm was not selected to participate on the project.

(b) Whether contractor has attempted to make project plans and specifications available to firms who are not members of associations with plan rooms and reduce fees for firms who are disadvantaged.

(c) Whether contractor has utilized the services of organizations which provide technical assistance in connection with M/WBE participation.

(d) Whether prime contractor has structured its subcontracts so that opportunities exist to complete smaller portions of work.

(e) Whether contractor has encouraged the formation of joint ventures, partnerships, or other similar arrangements among subcontractors.

(f) Whether contractor has requested the services of the Department of Economic Development (DED) and Job Development Authority (JDA) to assist subcontractors' efforts to satisfy bonding requirement.

(g) Whether contractor has made progress payments promptly to its subcontractors.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the prime

contractor.

It shall be the responsibility of prime contractor to ensure compliance by every subcontractor with these provisions.

10. GOALS. (a) GOALS FOR MINORITY AND WOMEN WORK FORCE PARTICIPATION. (i) State University shall include relevant work force availability data, which is provided by the N.Y.S. Department of Economic Development the Division of Minority and Women's Business Development, in all documents which solicit bids for State Contracts and shall make efforts to assist contractors in utilizing such data to determine expected levels of participation for minority group members and women on State Contracts.

(ii) Contractor shall exert good faith efforts to achieve such goals for minority and women's participation. To successfully achieve such goals, the employment of minority group members and women by contractor must be substantially uniform during the entire term of this State Contract. In addition, contractor should not participate in the transfer of employees from one employer or project to another for the sole purpose of achieving goals for minority and women's participation.

(b) GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION. For all State Contracts in excess of \$100,000.00 whereby State University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith efforts to achieve a participation goal of five-percent (5%) for Certified Minority-Owned Business Enterprises and two-percent (2%) for Certified Women-Owned Business Enterprises.

11. ENFORCEMENT. State University will be responsible for enforcement of each contractor's compliance with these provisions. Contractor, and each subcontractor, shall permit State University access to its books, records and accounts for the purpose of investigating and determining whether contractor or subcontractor is in compliance with the requirements of Article 15-A of the Executive Law. If State University determines that a contractor or subcontractor may not be in compliance with these provisions, State University may make every reasonable effort to resolve the issue and assist the contractor or subcontractor in its efforts to comply with these provisions. If State University is unable to resolve the issue of noncompliance, State University may file a complaint with the Division of Minority and Women's Business Development (DMWBD).

**State University of New York
Public Officers Law Form**

Purchasing and Contracts Procedures
(Procurement)

Inquiry to determine compliance with the provisions of Public Officers
Law §73(4)

Please indicate if you or any officer of your organization, or any party
owning or controlling more than 10 percent of your stock if you are a
corporation, or any member if your are a firm or association, is an
officer or employee of the State of New York or of a public benefit
corporation of the State of New York.

Yes

No

Signature

Date

EXHIBIT D

VENDOR RESPONSIBILITY QUESTIONNAIRE REQUIREMENT

The Bidder has (Please check the appropriate box):

_____ Certified and filed the Vendor Responsibility Questionnaire online via the New York State VendRep System.

_____ Included a properly executed paper copy of the Vendor Responsibility Questionnaire with the proposal.

Exhibit E

FORM A

SUMMARY

Policy and Procedure of the State University of New York Relating to New York State Finance Law §§139-j and 139-k

State Finance Law §§139-j and 139-k, enacted by Ch. 1 L. 2005, as amended by Ch. 596 L. 2005, effective January 1, 2006, regulate lobbying on government procurement, including procurements by State University of New York to obtain commodities and services and to undertake real estate transactions.

Generally, the law restricts communications between a potential vendor or a person acting on behalf of the vendor, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. The agency's procurement record must demonstrate compliance with these new requirements.

Accordingly, neither a potential vendor nor a person acting on behalf of the vendor should contact any individual at State University other than the person designated in this solicitation as State University's Designated Contact, nor attempt to unduly influence award of the contract. State University will make a record of all Contacts, and such records of Contact will become part of the procurement record for this solicitation. A determination that a vendor or a person acting on behalf of the vendor has made intentionally a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k is likely to result in denial of the award of contract under this solicitation. Additional sanctions may apply.

A complete copy of the State University of New York Procurement Lobbying Policy and Procedure is available for review at www.suny.info/policies.

FORM B

Offerer Affirmation with respect to New York State Finance Law §§139-j and 139-k

A complete copy of the State University of New York Procurement Lobbying Policy and Procedure is available for review at www.suny.info/policies.

Procurement Description: Computer Consulting Services-Clinical Campus

RFP/IFB or Contract # (if applicable): RFP S-XXX

Contracting Agency: SUNY Upstate Medical University

“Offerer AFFIRMS that it has reviewed and understands the Policy and Procedure of the State University of New York, relating to State Finance Law §§139-j and 139-k, and agrees to comply with State University’s procedure relating to Contacts with respect to this procurement.”

Name of Offerer: _____

Address: _____

Person Submitting Form on behalf of Offerer:

Signature: _____

Name: _____

Title: _____

FORM C

Disclosure and Certification with respect to New York State Finance Law §§139-j and 139-k

Procurement Description: Computer Consulting Services-Clinical Campus

RFP/IFB or Contract # (if applicable): RFP S-XXX

Contracting Agency: SUNY Upstate Medical University

1. Has a Governmental Entity, as defined in State Finance Law §139-j(1)(a), made a determination of non-responsibility with respect to the Offerer within the previous four years where such finding was due to a violation of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? (check one)

No ___
Yes ___

If yes, provide the following details:

Governmental Entity which made the finding: _____

Date of finding: _____

Basis of finding: _____

2. Has a Governmental Entity terminated or withheld a procurement contract with the Offer because of violations of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? (check one)

No ___
Yes ___

If yes, identify the following:

Governmental Entity which terminated the contract: _____

Date of contract termination or withholding: _____

Identify the related procurement contract: _____

FORM C (cont'd)

Disclosure and Certification with respect to New York State Finance Law §§139-j and 139-k

“Offerer CERTIFIES that all information provided by Offerer with respect to its compliance with State Finance Law §§139-j and 139-k is complete, true and accurate”.

Name of Offerer: _____

Address: _____

Person Submitting Form on behalf of Offerer:

Signature: _____

Name: _____

Title: _____



Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back*).

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		\$
Contractor's telephone number	Covered agency name		
Covered agency address		Covered agency telephone number	

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ___ day of _____ in the year 20___, before me personally appeared _____,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
_he resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): _he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): _he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.
Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.
This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?
Internet access: www.nystax.gov (for information, forms, and publications)
Fax-on-demand forms: 1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.



Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-TD

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

Contractor name		
Contractor's principal place of business	City	State ZIP code
Contractor's mailing address (if different than above)		
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)	Contractor's telephone number ()
Covered agency name	Contract number or description	Estimated contract value over the full term of contract (but not including renewals) \$
Covered agency address	Covered agency telephone number	

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a*, (as amended, effective April 26, 2006), available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).


This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.


Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.


Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?

 **Internet access:** www.nystax.gov
(for information, forms, and publications)

 **Fax-on-demand forms:** 1 800 748-3676


 **Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Sales Tax Information Center: 1 800 698-2909

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

 **Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Make only one entry in each section below.

Section 1 — Contractor registration status

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Schedule A — Listing of each person (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such person exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Relationship to Contractor	B Name	C Address	D Federal ID Number	E Sales Tax ID Number	F Registration in progress

- Column A – Enter **C** in column A if the contractor; **A** if an affiliate of the contractor; or **S** if a subcontractor.
- Column B – Name - If person is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If person is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If person has a different DBA (doing business as) name, enter that name as well.
- Column C – Address - Enter the street address of person's principal place of business. Do not enter a PO box.
- Column D – ID number - Enter the federal employer identification number (EIN) assigned to the person or person's business, as applicable. If the person is an individual, enter the social security number of that person.
- Column E – Sales tax ID number - Enter only if different from federal EIN in column D.
- Column F – If applicable, enter an X if the person has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF _____ }
 : SS.:
COUNTY OF _____ }

On the ____ day of _____ in the year 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
_he resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

[Mark an **X** in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
- (If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- (If a partnership): _he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- (If a limited liability company): _he is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No. _____

Exhibit G

NON-COLLUSION CERTIFICATION

Attachment to
SUNY Upstate Medical University
Bid# S-977
Computer Consulting Services-Clinical Campus

By submission of this bid, the Bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certified as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose 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.

Bidder's Company Name

Printed Name and Title

Signature

EXHIBIT V

Information for Contractors and Agents of the State University of New York Upstate Medical University

Federal and State false claims laws are important in detecting fraud, waste and abuse in health care programs. The State University of New York (SUNY) Upstate Medical University (University Hospital) is required by law to provide information to all our contractors and agents regarding the following:

1. Federal False Claims Act
2. New York State laws regarding civil or criminal penalties for false claims and payments
3. Administrative remedies for false claims and statements
4. Whistleblower protections under these laws

This information should be provided to all employees in your organization who:

1. Have contact in any way with SUNY Upstate Medical University (University Hospital) contracts
2. Provide health care items or services to SUNY Upstate Medical University (University Hospital)
3. Perform billing or coding functions
4. Are otherwise involved with SUNY Upstate Medical University (University Hospital)

FEDERAL FALSE CLAIMS ACT

The Federal False Claims Act allows a civil action to be brought against a person or entity who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved;
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid; or
- Knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay the government.

Under the Federal False Claims Act, a “claim” is any request or demand for money or property if the Federal government provides any portion of the money or property in question. This includes requests or demands submitted to a contractor of the Federal government, including but not limited to Medicaid and Medicare claims.

The Federal False Claims Act broadly defines the terms “knowing” and “knowingly”. Specifically, knowledge will have been proven for purposes of the Federal False Claims Act if the person or entity:

- Has actual knowledge of the information;
- Acts in deliberate ignorance of the truth or falsity of the information; or
- Acts in reckless disregard of the truth or falsity of the information.

The Federal False Claims Act provides that a specific intent to defraud is not required in order to prove the law has been violated.

A federal false claims action may be brought about by the United States Attorney via the United States Department of Justice (DOJ) or an individual may file a qui tam action on behalf of the government for violations of the Federal False Claim Act. The government may decide to intervene with the individual's lawsuit, in which case, the U.S. Department of Justice will direct the prosecution. If the government does not intervene, the individual may still continue to pursue the lawsuit. If the qui tam lawsuit is successful, the individual may receive between 10 – 30% of the recovery, depending upon, among other things, the level of government participation. Reasonable attorney fees and other costs may also be covered. However, any person who brings about a clearly frivolous case can be held liable for the defendant's attorney fees and costs.

A person or entity found guilty of violating the Federal False Claims Act will be obligated to repay all falsely obtained reimbursement and will be liable for a civil penalty between \$5,500 - \$11,000, plus up to three times the amount of damages incurred by the government for each violation of the Act. Additionally, the United States Department of Health and Human Services (DHHS) of the Office of the Inspector General (OIG) may exclude the violator from participation in federal health care programs, such as Medicaid and Medicare.

Under the Federal False Claims Act, an action may be brought up to 6 (six) years after the date of the violation or 3 (three) years after the date when material facts with respect to the violation are known or should have been known by the government, however, no later than 10 (ten) years after the date on which the violation was committed.

Federal law prohibits an employer from discriminating against an employee in the terms and conditions of his/her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole with remedies including: reinstatement with comparable seniority as the employee would have had except for the discrimination; two times the amount of any back pay plus interest; and compensation for reasonable damages sustained as a result of such discrimination, including litigation costs and reasonable attorney fees.

FEDERAL PROGRAM FRAUD CIVIL REMEDIES ACT

The Federal Program Fraud Civil Remedies Act establishes an administrative remedy against any person who makes, presents or submits, or causes to be made, presented or submitted a claim for property, services or money to certain federal agencies, including the DHHS, that the person or entity "knows or has reason to know" is:

- False, fictitious or fraudulent;
- Includes or is supported by any written statement which asserts a material fact that is false, fictitious or fraudulent;
- Includes or is supported by any written statement which omits a material fact, is false, fictitious or fraudulent because of the omission and is a statement which the person or entity has a duty to include as a material fact; (or)
- Is for the provision of items or services which the person or entity has not provided as claimed.

Additionally, it is illegal to make, present or submit, or cause to be made, presented or submitted any written statement with respect to a claim or to obtain the approval or payment of a claim if the person or entity "knows or has reason to know" such statement:

- Asserts a material fact which is false, fictitious or fraudulent (or)
- Omits a material fact which makes the statement false, fictitious or fraudulent.

Similar to the Federal False Claims Act, a person who “knows or has reason to know” is defined as one who:

- Has actual knowledge of the information;
- Acts in deliberate ignorance of the truth or falsity of the information; (or)
- Acts in reckless disregard of the truth or falsity of the information.

The law specifically provides that a specific intent to defraud is not required to prove a violation.

A violation of the Federal Program Fraud Civil Remedies Act can result in a civil monetary penalty up to \$5,000 per false claim and, in certain circumstances, an assessment of twice the amount of any false claim. Additionally, under certain circumstances, a penalty of \$5,000 per false statement may be imposed.

Unlike the Federal False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also, unlike the Federal False Claims Act, the determination of whether a claim is false and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

NEW YORK STATE FALSE CLAIMS ACT

The New York State False Claims Act allows a civil action to be brought against a person or entity who:

- Knowingly presents or causes to be presented, a false or fraudulent claim for payment or approval to any New York State or local government employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved;
- Conspires to defraud New York State or a local government by getting a false or fraudulent claim allowed or paid;
- Has possession, custody or control of property or money used or to be used by New York State or a local government and, intending to defraud New York State or a local government or willfully to conceal the property or money, delivers less property or money than the amount for which the person receives a receipt;
- Is authorized to make or deliver a receipt for property used or to be used by New York State or a local government and intending to defraud New York State or a local government makes or delivers a receipt without completely knowing the information on the receipt is true;
- Knowingly buys or receives as a pledge public property from an officer or employee of New York State or a local government knowing that the officer or employee may not lawfully sell or pledge such property; (or)
- Knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to New York State or a local government.

Under the New York State False Claims Act, a “claim” is any request or demand for money or property which is made to New York State or a local government or to any contractor, grantee or other recipient if New York State or a local government provides any portion of the money or property in question.

The terms “knowing” and “knowingly” are defined as that under the Federal False Claims Act. New York State law, like Federal law, provides that a specific intent to defraud is not required in order to prove the law has been violated. New York State law excludes acts arising out of mistake or mere negligence.

The New York State Attorney General has authority to investigate claims and to bring action on behalf of New York State or a local government. A local government may also investigate claims and bring action on its behalf. The Attorney General must consult with the Office of Medicaid Inspector General before bringing a claim related to the Medicaid program.

An individual may file a qui tam action on behalf of the New York State or local government for violations of the New York State False Claim Act. In a qui tam action, an individual must file his/her complaint and written disclosure of substantially all material evidence and information s/he possesses in New York State Supreme Court, where it will remain under seal for at least 60 (sixty) days. New York State may decide to intervene or to authorize a local government to intervene with the lawsuit. If neither New York State nor a local government intervenes, the individual may still continue the lawsuit independently. If a qui tam lawsuit is successful, the individual may receive between 15 – 30% of the recovery, depending upon, among other things, the level of the State's or local government's participation. Reasonable attorney fees and other costs may also be covered. The individual's share may be reduced to no more than 10% if the Court finds the action was based primarily on disclosure of specific information not provided by the individual relating to allegations or transactions in a criminal, civil or administrative hearing. An individual's share of any recovery may also be reduced if the individual planned or initiated the violation in question. If an individual is convicted of criminal conduct arising from his/her role in the violation, s/he is not entitled to any portion of the recovery.

No action may be filed against the Federal government, the State or a local government or any officer or employee thereof acting in his/her official capacity.

A person or entity found guilty of violating the New York State False Claims Act is obligated to repay all the falsely obtained reimbursement and will be liable for a civil penalty between \$6,000 - \$12,000, plus up to three times the amount of damages incurred by New York State or a local government for each violation of the Act. If the person committing the violation furnished information regarding such violation to the appropriate New York State or local government official within 30 (thirty) days of obtaining such information and cooperated fully in the investigation, additional damages are capped at twice the amount.

The time periods for bringing a claim under the New York State False Claims Act are the same as under the Federal False Claims Act.

The New York State False Claims Act prohibits an employer from discriminating against an employee in the terms and conditions of his/her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole with remedies including: reinstatement with comparable seniority as the employee would have had except for the discrimination; two times the amount of any back pay plus interest; and compensation for reasonable damages sustained as a result of such discrimination, including litigation costs and reasonable attorney fees.

OTHER NEW YORK STATE LAWS

Various other New York State laws also prohibit false claims. Certain relevant portions of the New York State Code are as follows:

New York Social Services Law 145-b

It is unlawful for a person or entity to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. For violations of this law, the

local social services district or New York State has the right to recover civil damages equal to three times the amount by which any figure is falsely overstated. In the case of non-monetary false statements, the local social service district or New York State may recover three times the damages or \$5000, whichever is greater, for damages sustained by the government due to the violation.

A “statement or representation” includes a claim for payment, an acknowledgement, certification or report of data which serves as a basis for a claim or rate of payment.

The New York Social Services Law also empowers the New York State Department of Health to impose a monetary penalty on any person or entity that, among other actions, causes Medicaid payments to be made if the person or entity knew or had reason to know that the:

- Payment involved care, services or supplies that were medically improper, unnecessary or excessive;
- Care, services or supplies were not provided as claimed;
- Person who ordered or prescribed the improper, unnecessary or excessive care, services, or supplies was suspended or excluded from the Medicaid program at the time of the care, services or supplies were furnished; (or)
- Services or supplies were not in fact provided.

The monetary penalty cannot exceed \$2000 for each item or service determined to be inappropriate, unless a penalty under the section has been imposed within the previous 5 (five) years, in which case the penalty cannot exceed \$7,500 per item or service.

New York Social Services Law 366-b(2)

Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining compensation greater than that which s/he is legally entitled for furnishing services or merchandise or knowingly submits false information for the purposes of obtaining authorization for furnishing services or merchandise shall be guilty of a class A misdemeanor. If such an act constitutes a violation of a provision of the penal law of the State of New York, the person committing the act will be punished in accordance with the penalties fixed by such law.

New York Penal Law Article 155

A person, who with intent to deprive another of his property obtains, takes or withholds such property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud or other similar behavior is guilty of larceny. Larceny is a felony with the applicable class being based on the value of the property involved.

New York Penal Law Article 175

Four crimes are specified which relate to filing false information or claims.

Under 175.05 it is a Class A misdemeanor to falsify business records, including entering false information, omitting material information or altering an enterprise’s business records with the intent to defraud.

Under 175.10 falsifying business records as provided in 175.05 with the intent to commit another crime or conceal its commission is a Class E felony.

Under 175.30 it is a Class A misdemeanor to present a written instrument, including a claim for payment, to a public office knowing that it contains false information.

Under 175.35 it is a Class E felony to submit a claim as provided in 175.30 with the intent to defraud New York State or a political subdivision.

New York Penal Law Article 176

This article applies to intentional filing of a health insurance claim knowing that it is false. Violation of this law is either a misdemeanor or felony, with the applicable class being based on the value of the claim involved.

New York Penal Law 177

This law establishes the crime of “health care fraud”. A person commits such a crime when, with the intent to defraud Medicaid or other health plans, including non-government plans, s/he knowingly and willfully provided materially false information or omits material information for the purpose of requesting payment for a health care item of service and as a result of the false information or omission, s/he or another person receives a payment in an amount to which s/he or such other person is not entitled. Health care fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime; the higher the payments received in a one year period, the more severe the punishments, which currently range up to 25 (twenty-five) years if more than \$1 million in improper payments are involved.

New York Labor Law 740

New York law affords protections to employees who may notice and report inappropriate activities. An employer may not take any retaliatory action against an employee because the employee:

- Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety or which constitutes health care fraud;
- Provides information to, or testifies before any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; (or)
- Objects to, or refuses to participate in any such activity, policy or practice in violation of al aw, rule or regulation.

In order to be protected when disclosing information to a public body, an employee must first bring the alleged violation to the attention of a supervisor of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs. If the court finds that a health care employer’s retaliatory action was in bad faith, it may impose a civil penalty up to \$10,000 on the employer. The law also provides employees who bring an action without basis in law or fact may be held liable to the employer for its attorney’s fees and costs.

New York Labor Law 741

Under certain circumstances, New York law provides additional protections to employees of health care service providers, which include the Hospital. A health care service provider may not take any retaliatory action against an employee because the employee:

- Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care; (or)
- Objects to or refuses to participate in any such activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care.

In order to claim this protection, the employee must first bring the issue to the attention of a supervisor of the employer and give the employer a reasonable opportunity to correct the allegedly improper activity or practice. However, this is not required and an employee may disclose an alleged improper quality of patient care to a public body or interest, if the alleged improper quality of healthcare presents an imminent threat to public health or safety or to the health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

SUNY Upstate Medical University (University Hospital) Policies

In addition to Federal and New York State law, University Hospital has policies and procedures regarding the detection and prevention of fraud, waste and abuse. This includes the Institutional Compliance Code of Conduct and the “Prevention of False Claims” policy. Copies of these policies are available upon request.

PREVENTION OF FALSE CLAIMS

If you observe something that is not right, University Hospital encourages you to report your concern for further investigation to the University Hospital Institutional Compliance Office for Hospital Affairs by:

1. Calling 315-464-4343 to speak with the Institutional Compliance Officer
2. Faxing information to the Institutional Compliance Office at 315-464-4342
3. Writing to the Institutional Compliance Officer for Hospital Affairs, 750 East Adams Street, Syracuse, New York, 13210
4. If you are not comfortable reporting your concern directly, you may utilize the anonymous Institutional Compliance Office hotline number at 315-464-6444.
5. While you are encouraged to report your concerns to the University Hospital Institutional Compliance Office for Hospital Affairs, this is not required and you may report possible false claims act violations to the federal Department of Justice.

FALSE CLAIMS ACKNOWLEDGMENT FORM

Contractor Affirmation with respect to Federal and State false claims laws.

Procurement Description: Computer Consulting Services-Clinical Campus

RFP/IFB or Contract # (if applicable): S-977

Contracting Agency: SUNY Upstate Medical University

“Contractor affirms that it has reviewed and understands the document entitled “*Information for Contractors and Agents of the State University of New York Upstate Medical University*”, which provides information related to Federal and State false claims laws, including SUNY Upstate Medical University’s Compliance Program.

Name of Contractor: _____

Address: _____

Person Submitting Form on behalf of Contractor:

Signature _____

Name: _____

Title: _____

EXHIBIT W

VENDOR INSTRUCTIONS FOR COMPLETION OF NYS FORMS FOR CONSULTANT SERVICES AGREEMENTS

New York State Finance Law mandates the annual reporting of certain employment data from vendors that have active consultant services agreements valued above \$15,000 with any New York State agency (including SUNY Upstate Medical University at Syracuse).

For new consultant contracts (issued after 6/19/06), vendors must provide the State Consultant Services Contractor's Planned Employment form ("**Form A**") to the contracting agency prior to final execution of the contract. This form is provided only **once** and captures the necessary planned employment information prospectively from the start date of the contract through the end of the contract term.

For all consulting contracts, vendors must provide the State Consultant Services Contractor's Annual Employment Report form ("**Form B**") once each year. This form is provided **annually** and captures historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31). Form B must be completed in triplicate and submitted by the vendor to the NYS Department of Civil Service, the Office of the State Comptroller and SUNY Upstate Medical University at Syracuse.

For Form B only, the first required reporting period will be the 2011-2012 fiscal year, April 1, 2011 - March 31, 2012. The first reports are due no later than May 15, 2012. Thereafter, reports will be due no later than May 15th of each succeeding year.

INSTRUCTIONS FOR COMPLETING FORM A AND FORM B:

Form A and Form B should be completed for contracts for consulting services in accordance with the following:

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 describe 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 <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.

INSTRUCTIONS FOR ANNUAL SUBMISSION OF CONSULTANT SERVICES DATA:

Reports that are to be submitted to SUNY Upstate Medical University at Syracuse may be transmitted as follows:

By Mail

Contracts Office, Suite 209 MT
SUNY Upstate Medical University
750 East Adams Street
Syracuse, New York 13210

By Fax

(315) 464-4679

Reports that are to be submitted to Office of the State Comptroller may be transmitted as follows:

By Mail

New York State Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, New York 12236
Attn: Consultant Reporting

By Fax

(518) 474-8030 or (518) 473-8808

Reports that are to be submitted to Department of Civil Service may be transmitted as follows:

By Mail:

New York State Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239

Exhibit X

OSC Use Only Reporting Code: Category Code: Date Contract Approved:
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Form A

State Consultant Services – Contractor’s Planned Employment From Contract State Date Through the End of the Contract Term

State Agency Name: SUNY Upstate Medical University Agency 28110

Code: _____

Contractor Name: _____ Contract Number: _____

Contract Start Date _____ Contract End Date: _____

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total This Page			
Grand Total			

Name of person who prepared this report: _____

Title: _____ Phone #: _____

Preparer’s Signature _____

Date Prepared: _____

(Use additional pages if necessary) Page of

Exhibit Y

OSC Use Only Reporting Code: Category Code:

Form B

State Consultant Services Contractor's Annual Employment Report Report Period _ _____ to _ _____
--

Contracting State Agency Name: _____ Agency Code: 28110

Contract Number: _____

Contract Term: From: _____ To: _____

Contractor Name: _____

Contractor Address: _____

Description of Services Being Provided: _____

Scope of Contract (choose one that best fits):			
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"/>	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"/>

Employment Category	Number of Employees	Number of hours worked	Amount Payable Under the Contract
Total This Page			
Grand Total			

Name of person who prepared this report: _____

Preparer's Signature _____

Title: _____ Phone #: _____

Date Prepared: _____

(Use additional pages if necessary) Page ___ of ___