

# 1 HBITS PROCESS

The requirements for Awarded Contractors are summarized below. The procedures and methods used by Authorized Users, OGS, and Contractors to provide Authorized Users with a method for procuring Hourly Based Information Technology (IT) Services can be found in Attachment 5 – *HBITS Contract (How to Use)*.

## 1.1 HBITS Process Overview

A breakdown of responsibilities between the Authorized User, the OGS HBITS Team and the Contractors is shown in the table below. Based on the division of responsibility in the table, the process flow shows how Authorized Users will utilize this Contract and the OGS HBITS Team to obtain Hourly-Based IT Services from Active Contractors.

The table is being presented for illustrative purposes only and is not comprehensive.

Authorized User	OGS HBITS Team	Active Contractors
Internal Agency approvals	Review and finalize initial request	Recruiting and maintaining adequate Subcontractor network, including SBE, MWBE and SDVOB companies
Required pre-approvals (ITS PTP, DOB B1184)	Initial screen of responses from Contractor pool	Candidate identification, initial screening, verification that a Candidate is not subject to a non-compete agreement and/or verification that a non-compete agreement would not be enforced, pre-interviews and submission
Set requirements and specifications for the Position	Forward qualified Contractor responses to Authorized User	Background checks, H-1B Visa sponsorship, Candidate training, foreign and domestic education vetting
Candidate scoring and interviews	Solicit, receive, and track Contractor performance feedback from Authorized Users; Communicate feedback to Contractor pool; Facilitate potential Contractor meetings	Invoice OGS for Executive Agency Authorized Users.  Invoice individual Agency for Non-Executive Agency Authorized Users.
Onboarding (Final hiring authority)	Ensure consistency in documentation	
OC Transaction approved by OSC, if applicable	Centralized Billing and Payment for Executive Agency Authorized Users Only	
Certification of Selected Candidate Time Sheets		
Billing and Payment for Non-Executive Authorized Users Only		

When a need for an Hourly-Based IT Position is identified, Authorized Users are required to obtain the necessary internal/control Agency approvals prior to initiating the HBITS Process.

Upon internal/control Agency approvals, the Authorized User completes a Task Order Request Form (Form 1) that will identify the Job Title, Mandatory Qualification, Requested Qualifications and other key information describing the Position. This form will be submitted to the OGS HBITS Team.

The OGS HBITS Team will assign a Task Order number, verify to ensure compliance with Contract terms and conditions and finalize the Form 1. Using the final Form 1, the OGS HBITS Team will create a Sample Candidate Response Form (Form 2) to be used by the Active Contractors to submit Candidates for the position(s) identified on the Form 1. The Form 1 (Word and PDF Format) and the Sample Form 2 will be distributed to all Active Contractors, including a deadline for submission of responses.

The Active Contractors shall submit their Form 2 responses to the OGS HBITS Team prior to the due date and time. Upon receipt of the responses submitted by the Active Contractors, the OGS HBITS Team will perform a preliminary review of each Form 2 to determine the qualified Candidates. Those Candidates that are determined to be qualified will be forwarded to the Authorized User, and the remainder of the Candidates will be released by the OGS HBITS Team.

Upon receipt of the qualified Candidates, the Authorized User will review and score each individual Candidate on an Authorized User Preliminary Technical Evaluation Form (3A) to determine who will be interviewed. The scoring results will then be summarized on a Preliminary Technical Evaluation Summary Sheet (3A Summary) and submitted to the OGS HBITS Team. Once the Authorized User determines the Candidates they wish to interview, they will conduct the interview, and score each Candidate on an HBITS Authorized User Evaluation Form (3B) to determine who will be selected. The scoring results will then be summarized on a Post Interview Summary Score Sheet (3B Summary).

Once a selection has been made, the Authorized User and the Active Contractor will finalize the onboarding of the Selected Candidate. Upon receipt of 3A and 3B documents, the OGS HBITS Team will release the Candidates not selected. Onboarding details must also be received from the Authorized User for the purposes of invoicing. In addition, all Executive Agencies must submit a copy of the OC Transaction approved by OSC with onboarding information.

## **1.2 Position Requirements**

### **1.2.1 Number of Positions**

A maximum of five (5) Positions are allowed per Task Order Request.

### **1.2.2 Number of Responses**

A maximum of two (2) responses may be submitted per Active Contractor, per Position requested.

### **1.2.3 Engagement Duration and Extension**

Engagements under the Contract shall be a minimum of 2 months and a maximum of 30 months in length. Engagements begin on the first working day of a successful placement (Onboarding Date) and end after the number of months of the Engagement as stated on the Form 1.

Optional extensions for individual Engagements, not to exceed 30 months (total engagement length), are allowed by completion of a Task Order Modification Request (Form 5) by the Authorized User. Authorized Users are required to submit the request for engagement extension 60 days prior to the original end date. Authorized Users are required to obtain the necessary internal/control Agency approvals for any extension.

If a Contractor or Candidate is unwilling to extend an engagement, then the Authorized User must adhere to the original end date.

## **1.2.4 Mandatory Qualification**

### **1.2.4.1 Job Title**

The Job Title and corresponding description represents the Mandatory Qualification for a Position and may not be changed or modified. The Job Titles and corresponding descriptions are listed in Attachment 4 – *Job Titles, Skill Levels, Regions*.

### **1.2.4.2 Skill Level**

The Skill Level and corresponding number of months' required experience represents the minimum experience required to pass the Mandatory Qualification review. The Skill Levels are defined in Attachment 4 – *Job Titles, Skill Levels, Regions*.

## **1.2.5 Requested Qualifications**

The Authorized User will define additional qualifications for the requested Position(s). The experience required shall be indicated in number of months.

## **1.2.6 Geographic Region**

There are three (3) home base geographic regions defined. The geographic regions are defined in Attachment 4 – *Job Titles, Skill Levels, Regions*.

## **1.2.7 Hourly Bill Rates**

Hourly Bill Rates are not negotiated at the time of placement. Rates are pre-determined and are shown on Attachment 1 – *Pricing Schedules*. Hourly Bill Rates will be a factor considered by the OGS HBITS Team when determining qualified Candidates for Authorized User consideration.

## **1.2.8 Hourly Wage Rates**

Hourly Wage Rates are shown on Attachment 1 – *Pricing Schedules*. Contractor shall be required to pay the Selected Candidate no less than the Hourly Wage Rate bid. Contractor may pay the Selected Candidate more than the Hourly Wage Rate at its discretion at any time during the Contract although this shall not affect the Hourly Bill Rate, which shall remain fixed unless otherwise modified in accordance with the terms of the Contract.

## **1.2.9 Posting Requirements**

The OGS HBITS Team will distribute to all Active Contractors a finalized Form 1, a Sample Form 2 for use in submitting a Candidate for the Position(s), and the due date and time for the responses. The information on the Form 2 is populated by the OGS HBITS Team using key information found on the Form 1. The Form 2 is provided for convenience only, and if there are any discrepancies between the Form 1 and the Form 2, the Form 1 is the prevailing information that must be used. Authorized Users will be notified by the OGS HBITS Team of the due date and time for submissions.

## **1.3 Candidate Submission Requirements**

### **1.3.1 Form 2: Candidate Response Form**

The Form 2 shall be used by Active Contractors to submit Candidates for requested Positions. In addition to the information from the Form 1, the information to be provided on this form by the Active Contractors includes, but may not be limited to the following:

- Contractor Name and contact information

- Identify if the Candidate is a US Citizen
  - If yes, provide full name as depicted on State Driver's License or Governmental Identification, ID#, and expiration dates
  - If no, provide full name as depicted on VISA and Passport, including the VISA and Passport # and Type, and expiration dates
- Candidate Phone #
- Candidate E-mail
- Pre-Interview Date
- Anticipated Candidate absences
- Proposed Candidate availability for interview dates
- Candidate Employment Status
- Identify any NYS Certified MBE, WBE, MWBE, SDVOB participation, or if the Subcontractor meets the definition of a NYS SBE (if applicable)
- Subcontractor Phone # (if applicable)
- Subcontractor E-mail (if applicable)
- Detailed Description of how the proposed Candidate meets the Mandatory Qualification, including name of employers, start and end dates of each employment, references, and any additional applicable information.
- Detailed Description of how the proposed Candidate meets each of the Requested Qualifications, including name of employers, start and end dates of each employment, references and any additional applicable information.
- Verification that the Candidate meets the additional requirements stated on the Form 1.
- Verification that the Candidate is not subject to any non-compete agreements, or that the Contractor agrees that any non-compete agreements will not be enforced against the Candidate for purposes of this Contract.

### **1.3.2 Candidate Response Requirements**

Active Contractors must validate all the following requirements at the time of submission of the Candidate to the Authorized User. The Active Contractor will be responsible for the truthfulness and accuracy of each proposed Candidate's work history, resume, technical skills, certifications, educational credentials, references and all other information presented to the OGS HBITS Team for review. Failure to present truthful and accurate responses may result in the rejection of the Candidate and/or in the completion of an Authorized User Issue Form (Form 6), which will be factored into the Annual Contractor Evaluation score as discussed in Section 1.10.

#### **1.3.2.1 Eligibility to Work**

Active Contractors must validate that the proposed Candidate is either a US citizen or a non-US citizen.

Where the Candidate is a US citizen, the Active Contractor must identify the proposed Candidate as such, and provide, at a minimum, the first and last name of the Candidate as it appears on his/her State Driver's License, Non-Driver Identification Card or other accepted forms of Governmental identification.

Where the Candidate is a non-US citizen, the Active Contractor must identify the proposed Candidate as such, and provide, at a minimum, the first and last name of the Candidate as it appears on his/her Visa and/or Passport. No other names or derivations may be used. The Active Contractor must also identify the Visa Number.

#### **1.3.2.2 Pre-Interview**

Active Contractors must interview each proposed Candidate and verify his/her qualifications prior to presenting a Candidate. This pre-interview must be held between the date the Task Order was posted

to the Active Contractors and the due date for responses. Form 2's that do not include a verifiable date that falls between these dates will be rejected and not considered during the preliminary review performed by the OGS HBITS Team. The Active Contractor will be notified accordingly.

#### **1.3.2.3 Non-Compete Agreement**

Contractors must verify that the Candidate is either not subject to any non-compete agreement or that the Contractor agrees that any non-compete agreements will not be enforced against the Candidate for purposes of this Contract. Form 2's that are not answered affirmatively or are left blank will be rejected and not considered during the preliminary review performed by the OGS HBITS Team. The Active Contractor will be notified accordingly.

#### **1.3.2.4 Candidate Employment Status**

Active Contractors must identify if the proposed Candidate will be a Direct Employee of the Contractor, an Independent Contractor, or a Subcontractor(s) Employee. If the Candidate is a Subcontractor(s) Employee, the Contractor must provide the following. If two (2) or more Subcontractors are involved, each Subcontractor must be listed.

- Subcontractor(s) Name
- Subcontractor(s) Address
- NYS Certified MWBE and/or SDVOB Designation
- SBE Designation
- Will the Subcontractor(s) be paying the Hourly Wage Rate to the Candidate?

The Employment Status must be identified. Form 2's that do not indicate the Candidate Employment Status and the Subcontractor information (if applicable) will be rejected and not considered during the preliminary review performed by the OGS HBITS Team. The Active Contractor will be notified accordingly.

#### **1.3.2.5 Anticipated Absences**

Active Contractors must identify any dates that the proposed Candidate will be unavailable during the duration of the Engagement, including absences relating to work Visas.

#### **1.3.2.6 Contractor Certification**

By submitting a Candidate, Active Contractors are certifying that they have verified the previous employment of the Candidate and agreeing that the OGS HBITS Team may verify the provided information through randomly selected validation as further described in Section 1.7.2.

### **1.3.3 Candidate Submission**

#### **1.3.3.1 Due Date and Time**

For a Candidate to be considered, Active Contractors must submit the Form 2 to the OGS Contractors Mailbox ([ogs.sm.hbits.contractors@ogs.ny.gov](mailto:ogs.sm.hbits.contractors@ogs.ny.gov)) in a manner determined by the OGS HBITS Team. The OGS HBITS Team will accept the Form 2 by 5:00 PM EST on the tenth Business Day after the Form 1 is posted to the Contractors for response (exclusive of the day of transmission to the Contractors).

However, circumstances may arise in which an Authorized User has an urgent need for a Position(s). In this case, the Form 1 will indicate "Expedite", and Form 2 will be accepted by 5:00 PM EST on the fifth Business Day after the Form 1 is posted to the Contractors for response (exclusive of the day of transmission to the Contractors). This will occur in limited circumstances and will be regulated by the OGS HBITS Team. The failure of an Authorized User to plan for expected gaps in HBITS services

shall not be considered as an adequate justification to receive approval for the five (5) Business Day turnaround time.

Form 2s received after the due date and time will be rejected and not considered during the preliminary review performed by the OGS HBITS Team. The Active Contractor will be notified accordingly.

When submitting a Form 2, Active Contractors are required to submit resumes and other documentation as listed on Form 2. If the Active Contractor did not attach such supplemental documents with their Form 2, upon request from the Authorized User, the Active Contractor must provide this information within two (2) Business Days.

#### **1.3.3.2 Duplicate Submissions**

In the event where two (2) or more Active Contractors submit the same Candidate for the same Position, the Candidate shall only be considered by the Active Contractor with the lowest Hourly Bill Rate for the Position. The Candidate will be released from consideration for the Active Contractors with the higher Hourly Bill Rate for the Position and those Active Contractors will be notified accordingly. Under no circumstance will those disqualified Active Contractors be permitted to resubmit a new Candidate.

The OGS HBITS Team reserves the right to reach out to the Active Contractor with the lowest Hourly Bill Rate for written proof that a Candidate gave the Active Contractor or Subcontractor permission to submit their name for the Position. Failure to provide adequate proof of permission to submit may result in the release of the Candidate submitted by the Active Contractor with the lowest Hourly Bill Rate and consideration will be given to the Candidate submitted by the Active Contractor with the next lowest Hourly Bill Rate.

#### **1.3.3.3 Additional Submission Requirements**

Active Contractors shall not submit the same Candidate for another HBITS Position until such Candidate is released from consideration by the OGS HBITS Team. However, if after five (5) Business Days the Active Contractor has not been notified that the Candidate has been selected for an interview, the Candidate will be deemed released and the Active Contractor may resume submitting the Candidate for other HBITS Positions. Candidates who have been selected for an interview shall not be deemed released until a selection has been made. If an Active Contractor submits a Candidate who does not meet the conditions above, the Candidate will be rejected and not considered during the preliminary review performed by the OGS HBITS Team. The Active Contractor will be notified accordingly.

Active Contractors shall not submit a Candidate who is already placed on an existing Task Order with the same Job Title and Skill Level unless the current Engagement is set to expire within sixty (60) calendar days; or the Selected Candidate in the existing Position gives a minimum of thirty (30) calendar days' notice to the existing Authorized User. In the case of the latter, the onboarding date may not occur before the thirty (30) calendar days is up. However, an Active Contractor may submit a Candidate who is already placed on an existing Task Order if the Job Title and Skill Level of the new Position represent a higher Hourly Bill Rate than the existing Task Order. If an Active Contractor submits a Candidate who does not meet the conditions above, the Candidate will be rejected and not considered during the preliminary review performed by the OGS HBITS Team. The Active Contractor will be notified accordingly.

Active Contractors shall only submit the number of Candidates allowed as specified in the Form 1. If the number of submissions exceeds the allowable amount, the additional Candidates will be rejected and not considered during the preliminary review performed by the OGS HBITS Team. The Active Contractor will be notified accordingly.

## **1.4 Preliminary Candidate Review**

Once the Candidate responses have been received, the OGS HBITS Team will perform a preliminary review to determine the Candidates who are deemed qualified. The OGS HBITS Team must make this determination and forward the qualified Candidates to the Authorized User within three (3) Business Days.

Each criterion is described below:

### **1.4.1 Mandatory Qualification**

Active Contractors shall provide a detailed description of how the proposed Candidate meets the Mandatory Qualification and how the proposed Candidate gained the experience. This description should not include a cut and paste of the defined Mandatory Qualification but should be very specific. This shall include the name(s) of the employer(s), start and end dates of each employment, and any other applicable information. Start and end dates must include, at minimum, the month and year(s) of employment. Candidates who do not meet the minimum number of months' required experience defined by the Skill Level, or who do not adequately describe how the Mandatory Qualification is met during the preliminary review by the OGS HBITS Team will be released from further consideration and the Active Contractor notified accordingly.

### **1.4.2 Requested Qualifications**

Active Contractors shall provide a detailed description of how the proposed Candidate meets each Requested Qualification and how the proposed Candidate gained the experience. This description should not include a cut and paste of the defined Requested Qualifications but should be very specific. This shall include the name(s) of the employer(s), start and end dates of each employment, and any other applicable information. Start and end dates must include, at minimum, the month and year(s) of employment. Candidates who do not meet the minimum number of months' required experience defined in the Requested Qualification, or who do not adequately describe how the Requested Qualification is met for at least 60% of the total 80 points available during the preliminary review by the OGS HBITS Team will be released from further consideration and the Active Contractor notified accordingly.

### **1.4.3 Cost Methodology**

The application of the Cost Methodology will be based upon the Hourly Bill Rate of the Position and the number of Positions sought. To determine this, the OGS HBITS Team will take the total number of responses received and subtract out the number of responses rejected, the number of duplicate submissions, the number of Candidates not passing the Mandatory Qualification and the number of Candidates not passing at least 60% of the Requested Qualifications to determine the number of valid responses.

Once the number of valid Candidates is determined, the OGS HBITS Team will determine the number of Candidates who pass the Cost Methodology using the below chart. Refer to Attachment 7A - Cost Methodology Examples.

1 Position	2 Positions	3 Positions	4 Positions	5 Positions
<p><b>If less than 5 valid responses:</b></p> <p>OGS HBITS Team determines if Candidates will be passed or the Task Order cancelled.</p>	<p><b>If less than 10 valid responses:</b></p> <p>OGS HBITS Team determines if Candidates will be passed or the Task Order cancelled.</p>	<p><b>If less than 15 valid responses:</b></p> <p>OGS HBITS Team determines if Candidates will be passed or the Task Order cancelled.</p>	<p><b>If less than 20 valid responses:</b></p> <p>OGS HBITS Team determines if Candidates will be passed or the Task Order cancelled.</p>	<p><b>If less than 25 valid responses:</b></p> <p>OGS HBITS Team determines if Candidates will be passed or the Task Order cancelled.</p>
<p><b>If 5+ valid responses:</b></p> <p>OGS HBITS Team determines from the valid responses:</p> <p>1) The 5<sup>th</sup> lowest Bill Rate; 2) The Median Bill Rate + 5% Cost Differential; and 3) The Median Bill Rate + One Standard Deviation</p> <p>and passes all Candidates with Bill Rates equal to or less than the greatest of these three calculations.</p>	<p><b>If 10+ valid responses:</b></p> <p>OGS HBITS Team Determines from the valid responses:</p> <p>1) The 10<sup>th</sup> lowest Bill Rate; 2) The Median Bill Rate + 5% Cost Differential; and 3) The Median Bill Rate + One Standard Deviation</p> <p>and passes all Candidates with Bill Rates equal to or less than the greatest of these three calculations.</p>	<p><b>If 15+ valid responses:</b></p> <p>OGS HBITS Team Determines from the valid responses:</p> <p>1) The 15<sup>th</sup> lowest Bill Rate; 2) The Median Bill Rate + 5% Cost Differential; and 3) The Median Bill Rate + One Standard Deviation</p> <p>and passes all Candidates with Bill Rates equal to or less than the greatest of these three calculations.</p>	<p><b>If 20+ valid responses:</b></p> <p>OGS HBITS Team Determines from the valid responses:</p> <p>1) The 20<sup>th</sup> lowest Bill Rate; 2) The Median Bill Rate + 5% Cost Differential; and 3) The Median Bill Rate + One Standard Deviation</p> <p>and passes all Candidates with Bill Rates equal to or less than the greatest of these three calculations.</p>	<p><b>If 25+ valid responses:</b></p> <p>OGS HBITS Team Determines from the valid responses:</p> <p>1) The 25<sup>th</sup> lowest Bill Rate; 2) The Median Bill Rate + 5% Cost Differential; and 3) The Median Bill Rate + One Standard Deviation</p> <p>and passes all Candidates with Bill Rates equal to or less than the greatest of these three calculations.</p>

#### 1.4.4 Qualified Candidates

Candidates who meet all the preliminary Candidate review requirements will be considered qualified and forwarded to the Authorized Users for consideration. The OGS HBITS Team will notify the Active Contractors of their Candidates' status.

### 1.5 Candidate Selection

#### 1.5.1 Technical Evaluation

Upon receipt of the qualified Candidates from the OGS HBITS Team, the Authorized User will evaluate each Candidate response to determine which Candidates will be interviewed. The Form 2, resume, and other required documents as listed on Form 2 may be used during the technical review. The Authorized Users shall make this determination within five (5) Business Days and provide the status (interview requested or to be released) to the OGS HBITS Team. The OGS HBITS Team will then notify the Active Contractors of their Candidates' status. If the Contractor has not been notified within five (5) Business Days of their Candidates' status, the Candidates will be deemed released.

The Authorized User reserves the right to reject all the qualified Candidates provided. The Authorized User will notify the OGS HBITS Team if they wish to cancel, and the OGS HBITS Team will notify the Active Contractors that their Candidate has been released from further consideration by the Authorized User due to cancellation.

### **1.5.2 Interview Evaluation**

The Authorized User shall conduct Candidate interviews to determine the Candidate qualifications. The Authorized User shall work directly with the Active Contractor to schedule and confirm Candidate interviews. The Authorized User reserves the right to conduct in-person interviews. The Authorized Users shall make every effort to conduct the interviews and make their selection within five (5) Business Days of notifying the OGS HBITS Team of the Candidates who were to be interviewed. However, until the Authorized User selects a Candidate and notifies the OGS HBITS Team, no Candidates will be considered released. Upon notification from the Authorized User, the OGS HBITS Team will notify the Active Contractors that their Candidate has been released from further consideration by the Authorized User.

The Authorized User reserves the right to reject all the Candidates who were interviewed. The Authorized user will notify the OGS HBITS Team if they wish to cancel, and the OGS HBITS Team will notify the Active Contractors that their Candidate has been released from further consideration by the Authorized User due to cancellation.

### **1.5.3 Candidate Selection**

The proposed Selected Candidate must be able to report to the Engagement within ten (10) Business Days from notice of selection, unless otherwise approved by the Authorized User. The Authorized User (not the OGS HBITS Team) has the final hiring authority of all Candidate placement requests. The Authorized User shall work directly with the Active Contractor to finalize all Candidate onboarding information. The Authorized User shall notify the OGS HBITS Team of the onboarding details for their records. In addition, all Executive Agencies must submit a copy of the OC Transaction approved by OSC with onboarding information.

In the event of a successful placement of a Selected Candidate by an Active Contractor, the Authorized User shall not renegotiate the terms and conditions of the Contract with the Active Contractor or the Candidate.

If the Selected Candidate does not report to the Engagement, the Contractor is not eligible to submit a replacement Candidate as described in Section 1.6 below.

## **1.6 Candidate Placement Requirements**

Prior to Candidate placement with an Authorized User, the Active Contractor must comply with a series of requirements for each proposed Candidate. The Active Contractor's agreement to comply with the provisions of this section is a material representation of fact upon which reliance was placed when the OGS HBITS Team pre-screened the Candidates and when the Authorized User determined to enter into an Engagement with the Active Contractor. Active Contractors acknowledge responsibility for ensuring that these provisions are fully complied with by all Subcontractors. The Active Contractor must provide this information in a form and manner requested by OGS.

### **1.6.1 Eligibility to Work**

Active Contractors must ensure that all Candidates are legally authorized to work in the United States per Section 1.3.2.1 above.

### **1.6.2 Background Check**

Active Contractors must perform an industry standard criminal history background check and all sound screening practices must be done prior to a Candidate's official start date. The Authorized User reserves the right to view the contents of a background check prior to approving the Candidate.

If Active Contractors are unable to determine a Candidate's fitness due to the results of a criminal history/security background check, Active Contractors must forward a description of the results to the Authorized User for review and determination. Such review and determination by the Authorized User must be conducted in accordance with Correction Law Article 23-A. In conducting a criminal history/security background check, the Active Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. If it is later determined that the Active Contractor knowingly rendered a false positive determination of a Candidate's fitness, failed to conduct a criminal history/security background check, or failed to reasonably interpret the results in confirming a Candidate's fitness to perform duties under the terms of the Contract, in addition to any other remedies available to the OGS HBITS Team and the Authorized User, the Authorized User may terminate the Candidate placement for cause.

### **1.6.3 Education Credential Validation**

An Authorized User may require an associate degree, bachelor's degree or a higher level of degree as a requirement of the placement. For those Candidates who obtain an educational credential from a foreign institution, defined as institutions residing outside the United States, the credential must be verified by a company approved by the New York State Department of Civil Service (<https://www.cs.ny.gov/jobseeker/degrees.cfm>).

### **1.6.4 Availability for Interview**

The Authorized User will provide timeframes to the Active Contractor for Candidate interviews. Active Contractors must make all reasonable efforts to accommodate the interview schedule of the Authorized User.

The Authorized User reserves the right to conduct an interview in person, via the Active Contractor's Webcasting technology or other method of interview at their discretion at no cost to the State.

## **1.7 Requirements During the Engagement**

### **1.7.1 Hourly Bill Rate**

The rates in effect at the time a Form 1 is posted to the Contractors for response shall not be changed and shall remain in effect for the entire duration of the Engagement.

### **1.7.2 Payment to Selected Candidates**

Contractors are responsible for ensuring that Selected Candidates are paid the Hourly Wage Rate whether the Selected Candidate receives payment directly from Contractor or through a Subcontractor. This may be verified by the OGS HBITS Team through randomly selected validation with Selected Candidates and Subcontractors. The OGS HBITS Team reserves the right to undertake additional steps as it deems necessary to enforce this requirement. For any instances in which it discovers that Selected Candidates are not being compensated at least at the minimum Hourly Wage Rate the OGS HBITS Team will complete an Authorized User Issue Form (Form 6), which will be factored into the Annual Contractor Evaluation score as discussed in Section 1.10.

Contractors are responsible for ensuring that Selected Candidates are paid no later than fifteen (15) Business Days after Contractor receives payment from the Office of General Services for Executive

Agencies and from the Authorized User for Non-Executive Agencies, whether the Selected Candidate receives payment directly from Contractor or through a Subcontractor. This may be verified by the OGS HBITS Team through randomly selected validation with Selected Candidates and Subcontractors. The OGS HBITS Team reserves the right to undertake additional steps as it deems necessary to enforce this requirement. For any instances in which it discovers that Selected Candidates are not being paid within this timeframe, the OGS HBITS Team will complete an Authorized User Issue Form (Form 6), which will be factored into the Annual Contractor Evaluation score as discussed in Section 1.10.

### **1.7.3 Change in Selected Candidate’s Eligibility to Work**

Contractor must ensure that all Selected Candidates are legally authorized to work in the United States throughout the term of the Engagement. If a Contractor fails to properly identify a Selected Candidate’s employment status, the Authorized User may terminate the Selected Candidate’s placement for cause.

### **1.7.4 Change in Selected Candidate’s Fitness to Perform**

Contractor must provide immediate written notice to the Authorized User if at any time during the Engagement, the Active Contractor learns that its determination of a Selected Candidate’s fitness to perform the duties under the terms of the Contract was erroneous or has changed by reason of changed circumstances.

### **1.7.5 Selected Candidate’s Education Credentials**

Contractor must retain a Selected Candidate’s proof of degree equivalency for the term of the Engagement.

### **1.7.6 Requirements for Federally Funded Placements**

As a condition of placements made with Authorized Users using Federal funds, a Contractor must agree to all terms and conditions contained in this section. Authorized Users must be obligated to identify its use of Federal funds in the Requisition Form.

Upon request by the Authorized User, the Contractor agrees to provide a written document stating compliance with Federal Executive Order 11246, the Copeland “Anti-Kickback Act” (18 USC 874), Section 508 of the Federal Clean Air Act, Section 306 of the Federal Clean Water Act. This document must also certify that neither the Contractor nor its principals are debarred or suspended from Federal financial assistance programs and activities and to complete and return in pursuit of such certification any appropriate form required by the Authorized User (see Federal Executive Order 12549 and 7 CFR Part 3017).

The Contractor agrees to comply with the provisions of Section 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub.L.100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). By accepting this Engagement, the Contractor certifies that it will provide a Drug Free Workplace by implementing the provisions at 29 CFR 94, pertaining to the Drug Free Workplace. In accordance with these provisions, a list of places where performance of work is done in connection with this specific Engagement will take place must be maintained at your office and available for Federal inspection.

Section 1352 of Title 31 of the U.S. Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Contractor or grantee (such as the State) must be required to certify that no Federal funds will be used to lobby or influence a Federal officer or a Member of Congress. The State’s certification in general provides that the language of this certification must be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and Contracts under grants, loans and cooperative agreements) and that all sub-clients must certify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. The Contractor understands and agrees to the

Federal requirements for certification and disclosure. Upon request by the Authorized User, the Contractor agrees to provide such certification.

The Contractor, its officers, agents and employees and Subcontractors, must treat all information, with particular emphasis on information relating to Public Assistance or Medical Assistance clients and providers of services or benefits, which is obtained by it through its performance under this Contract, as confidential information to the extent required by the laws of the State and of the United States and any regulations promulgated there under.

#### Rights to Information

The Contractor agrees that the Federal granting agency must be granted a royalty-free, non-exclusive and irrevocable license to produce, publish or otherwise use such documents and software and to authorize others to do so for government purposes to the extent that the services which resulted in the production of such documents and software are Federally funded. The grant excludes the proprietary products, Documentation, materials and information (and derivative works thereto) of Contractor or any Subcontractors.

Except for personal information relating to clients and providers which must be kept confidential pursuant to requirements of State or Federal laws, and information relating to the business and finances of the State or the Contractor, confidential information disclosed by one (1) party to the other continues to be subject to this Contract for five (5) years following termination of this Contract. No obligation of confidentiality applies to:

1. Information the Contractor already possesses without an obligation of confidentiality.
2. Information the Contractor develops independently from publicly available data.
3. Information the Contractor receives without obligation of confidentiality from a third party.
4. Information that is, or becomes, publicly available without breach of this Agreement.

The Contractor agrees that the United States Government must be deemed an entity authorized to conduct an examination in accordance with the provisions set forth in Appendix A - *Standard Clauses for New York State Contracts (January 2014), Clause 10 Records*.

The responsible Federal governmental agency authorized by law, reserve the right to inspect, review, investigate or audit all parts of any services provided herein by the Contractor's or any Subcontractors' facilities engaged by the prime Contractor in performing services in this Contract. In such capacity, the Authorized User or its representative(s) must have access to facilities, records, reports, personnel and other appropriate aspects of services furnished by the Contractor, in accordance with the requirements of the State Public Officers Law except for proprietary information for which the disclosure of which would cause substantial injury to the competitive position of the Contractor's enterprise.

To the extent permitted by law, the Contractor must promptly notify the Authorized User of any request by anyone for access to any records maintained pursuant to this Contract. Access by Federal or State bank regulatory agents, or Contractors regular outside auditors to Contractor's financial records, pursuant to regularly scheduled or routine audits or inspection of Contractor, must not require notification to the Authorized User provided that rights of confidentiality or proprietary interests are preserved.

Should the State determine that Federal funds are unavailable, the Authorized User may terminate all or any part of the Engagement immediately upon notice to the Contractor. Such notification will be in written format. The Authorized User must be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as the Contractor receives notice of termination in writing from the Authorized User.

Nothing in this Contract must be interpreted to limit such rights as the Authorized User and the Federal Government must reserve to conform to all applicable Federal regulations, including 45 CFR Part 74, 45 CFR 95.617, 7 CFR Part 277 and 7 CFR Part 3016, and such rights are hereby reserved.

The Contractor must comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The Contractor and its Selected Candidates must comply with the Authorized User's policies regarding compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

#### **1.7.6.1 Department of Labor Specific Terms & Conditions**

The New York State Department of Labor has certain stipulations for federally funded Contracts that must be made pursuant to regulations and laws imposed by the United States Department of Labor. As a condition of placements made at the Department of Labor, a Contractor must agree to all terms and conditions contained in this section.

If the funding for the Engagements undertaken by the New York State Department of Labor pursuant to the HBITS Contracts is provided by the United States Department of Labor, the following certifications are required:

#### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION- LOWER TIER COVERED TRANSACTIONS**

1. The Contractor certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the Contractor is unable to certify to any of the statement in this certification, such prospective participant must attach an explanation to this proposal.
3. The Contractor must pass the requirements of 1. and 2. above, to each person or entity with whom the Contractor enters into a subcontract at the next lower tier.

#### **NONDISCRIMINATION & EQUAL OPPORTUNITY ASSURANCE**

As a condition to the award of financial assistance from the Department of Labor under Title I of WIA, the Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

1. Section 188 of the Workforce Investment Act of 1998 (WIA) which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I - financially assisted program or activity;
2. Title VI of the Civil Rights Act of 1964, as amended which prohibits discrimination on the basis of race, color, and national origin;
3. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities; and
4. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age. The Contractor also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the Contractor's operation of the WIA Title I - financially assisted program or activity, and to all agreements the Contractor makes to carry out the WIA Title I-financially assisted program or activity.

### **1.8 Selected Candidate Replacements/Cancellations**

Circumstances may arise that necessitate Selected Candidates to be substituted during the Engagement. Replacement of Selected Candidates will not be grounds for an increase in the Hourly Wage Rate or Markup, or an extension of the time for completion of the Engagement.

When providing a replacement Candidate, Contractor must respond in the format of the original Form 2 Candidate Submission Requirements (Section 1.3). Any replacement Candidate must meet the Mandatory Qualification and meet at least 60% of the Requested Qualifications. Replacement Candidates are subject to all Candidate Placement Requirements (Section 1.6).

The Contractor expressly acknowledges that if the Contractor or the Selected Candidate does not fulfill the obligations of the Contract, costs to the Authorized User to replace the Selected Candidate's services will result and establishing the precise value of such costs would be difficult and time consuming. Therefore, the Authorized User has the right to request up to two (2) working weeks (80 hours) of work from the replacement Selected Candidate at no cost to the Authorized User during a transition/ramp-up period. The Authorized User may waive this right in whole or in part if it is determined that the need to replace the Selected Candidate was beyond the Control of the Contractor.

Contractors are reminded that an Authorized User reserves the right to cancel a Task Order for convenience upon at least thirty (30) calendar days' written notice to Contractor without penalty or other early termination charge. However, Authorized User has the right to terminate the Task Order for cause or stop work immediately for unsatisfactory work without such notice. If the Task Order is cancelled pursuant to this section, the Authorized User shall remain liable for all accrued but unpaid charges incurred through the date of cancellation.

### **1.8.1 Rapid Replacement (Under 1 Month)**

In the event it becomes necessary for a Contractor to replace a Selected Candidate prior to the completion of one-month (160 hours) of work on a particular Engagement, the Contractor must provide the Authorized User with five (5) Business Days prior written notification describing the circumstances of the need for replacement. The Contractor must identify a comparable replacement Candidate for the Authorized User within ten (10) Business Days. The Authorized User reserves the right to do one (1) of the following:

- Allow the originally selected Contractor to provide a replacement Candidate if the replacement is necessitated by Selected Candidate termination (by the Contractor), sickness, or other similar material change in the employment circumstance of the Selected Candidate. Contractor acknowledges that the failure to provide a Selected Candidate for the duration of the Engagement constitutes a breach of Contract and that the Authorized User has the right to request up to two (2) working weeks (80 hours) of work from the replacement Selected Candidate, at no cost to the Authorized User, during a transition/ramp-up period. The Authorized User may waive this right in whole or in part if it is determined that the need to replace the Selected Candidate was beyond the control of the Contractor.
- Award the Engagement to the next highest scoring Candidate (if available) based on the initial group of Form 2 submissions.
- Terminate the Engagement with the Contractor.

### **1.8.2 Steady State Replacement (1 Month and Over)**

In the event it becomes necessary for a Contractor to replace a Selected Candidate during the term of the Engagement after one-month (160 hours) of work, due to Selected Candidate termination, sickness, or other similar material change in the employment circumstance of the Selected Candidate, the Contractor must provide the Authorized User with twenty (20) Business Days' prior written notification describing the circumstances of the need for replacement. The Contractor must also identify a comparable replacement Candidate for the Authorized User within ten (10) Business Days. The Authorized User has the right to request up to two (2) working weeks (80 hours) of work from the replacement Selected Candidate, at no cost to the Authorized User, during a transition/ramp-up period. The Authorized User may waive this right in whole or in part if it is determined that the need to replace the Selected Candidate was beyond the control of the Contractor.

The Authorized User reserves the right to terminate the Engagement with the Contractor and not seek a replacement Selected Candidate.

### 1.9 Additional Contractor Requirements

Contractors will have frequent interaction with both Authorized Users and the OGS HBITS Team, who will administer the Contract. This Section outlines the key responsibilities and requirements that the Contractor must fulfill during the length of the Contract.

#### 1.9.1 Administration

Contractor shall provide up to date contact information throughout the term of the Contract and must electronically notify the OGS HBITS Team as changes are necessitated. Upon notification, the OGS HBITS Team will update and post to the OGS Website.

#### 1.9.2 Administrative Fee

Contractor shall pay an Administrative Fee to the State in the amount of 0.75% for all sales under this Contract for Hourly-Based IT Services. This includes sales to both Executive and Non-Executive Authorized Users. Costs associated with travel or any other authorized expenses that are billed to the State are excluded from the Administrative Fee. These payments will be in accordance with the following schedule:

Payment Number	Billing Period for Each Calendar Year	Administrative Fee Due Date
1	January 1 to March 31	May 15 <sup>th</sup>
2	April 1 to June 30	August 15 <sup>th</sup>
3	July 1 to September 30	November 15 <sup>th</sup>
4	October 1 to December 31	February 15 <sup>th</sup>

Failure to remit payment in accordance with the above listed schedule shall affect the Contractor's Annual Evaluation score. Repeated failure to remit the Administrative Fee may result in OGS terminating the Contract for cause. OGS shall communicate details of remittance payments upon award of Contracts, including form of acceptable payment and to where the payments must be remitted.

The State reserves the right to verify fee payments and to take any action(s) necessary to enforce its rights under the Contract including, but not limited to the right to stop payments until such fees are received, the review of Contractor's financial records pertaining to sales under their Contract or to suspend further sales under the Contract.

#### 1.9.3 Monthly Sales Report

Contractor shall submit a Sales Report each month, that includes sales to both Executive and Non-Executive Authorized Users Only. This Report is due to the OGS HBITS Team no later than the 15<sup>th</sup> of the month following the month being reported. This Report must be submitted electronically using Attachment 6 – *HBITS Contract (Forms)*.

This report contains the minimum information required. Additional related sales information, such as detailed user purchases may be required by OGS and must be supplied upon request. Failure to submit reports on a timely basis may result in Contract cancellation and designation of Contractor as non-responsible.

### 1.9.4 Quarterly Sales Report

The Contractor shall submit a Sales Report each quarter that includes sales to both Executive and Non-Executive Authorized Users. This Report is due to the OGS HBITS Team in accordance with the following schedule and must be submitted electronically using Attachment 6 – *HBITS Contract (Forms)*.

Billing Period	Due Date
January 1 – March 31	May 15
April 1 – June 30	August 15
July 1 – September 30	November 15
October 1 – December 31	February 15

For any sales involving a Subcontractor, the Contractor shall both identify and verify if the Subcontractor is a NYS Certified MBE, WBE, MWBE, SDVOB or if the Subcontractor meets the definition of a NYS SBE.

This report contains the minimum information required. Additional related sales information, such as detailed user purchases may be required by OGS and must be supplied upon request. Failure to submit reports on a timely basis may result in Contract cancellation and designation of Contractor as non-responsible.

### 1.9.5 Meetings with the OGS HBITS Team

The OGS HBITS Team reserves the right, at its discretion, to hold meetings in Albany, New York with an individual Contractor, or all Contractors. These meetings may be used to discuss procedural changes, performance issues, Annual Evaluation results and/or any other reason deemed necessary by the OGS HBITS Team. At minimum, the designated Contract Administrator must be in attendance, or an alternate attendee as agreed upon by the OGS HBITS Team. The format of such meetings will be determined by the OGS HBITS Team and communicated to Contractors prior to the meeting.

### 1.9.6 Valid Candidate Submissions

It is expected that Contractors provide valid responses to at least 60% of the posted Task Order Requests during each Contract year. A submission that is considered valid is defined as a response that has not been rejected for any reason, passes the Mandatory Qualification and passes at least 60% of the Requested Qualifications during the preliminary review by the OGS HBITS Team.

### 1.9.7 Authorized User Feedback

Authorized Users will submit feedback to the OGS HBITS Team throughout the term of the Contract. This feedback will be used as part of the Annual Contractor Evaluation as discussed in Section 1.10 – *Annual Contractor Evaluation*.

#### 1.9.7.1 Authorized User Issue Form

Either an Authorized User, or the OGS HBITS Team may complete and submit an Authorized User Issue Form (Form 6) to address Contractual issues with Contractor including, but not limited to the following issues:

##### 1.9.7.1.1 Proposed Candidate Quality

Contractor shall submit quality Candidates in accordance with the HBITS Process described in this section. If an Authorized User discovers during the interview process that the Candidate qualifications

stated on the Form 2 do not match the qualifications described during the interview, the Authorized User may report this issue.

**1.9.7.1.2 Contractor Responsiveness**

Contractor shall be responsive to Authorized Users and the OGS HBITS Team and shall address Authorized User and OGS HBITS Team's concerns within two (2) Business Days or as otherwise specified. The OGS HBITS Team reserves the right to temporarily suspend an Active Contractor from receiving new Form 1's until such time as the concern has been addressed.

**1.9.7.1.3 Candidate Availability**

Contractor shall immediately notify the Authorized User if the availability of a proposed Candidate changes during the Form 2 review and interview process. The Contractor must also ensure that prospective Candidates are available for interview on the agreed upon times.

**1.9.7.2 Selected Candidate Evaluation**

A Selected Candidate Evaluation Form (Form 4) must be completed by an Authorized User for any Selected Candidate vacating a Position (expired, cancelled, replaced, etc.) and submitted to the OGS HBITS Team.

**1.9.8 Contractor Performance Criteria**

Contractor must maintain an adequate organizational structure and resources sufficient to discharge its contractual responsibilities, including time sheets, billing and personnel issues. Contractor must continue to be able to conduct business in New York State, pay taxes and be financially sound to fulfill obligations of this Contract.

**1.9.9 Terms and Conditions for Travel, Meals and Lodging**

Selected Candidates will not be separately reimbursed for expenses incurred for travel to and from a designated work location (commuting expenses).

During an Engagement, the Selected Candidate may be required to perform services at a location other than the assignment's designated work location (e.g., the designated work location is the Authorized User's main offices in the Corning Tower on the Empire State Plaza, however, the Selected Candidate is required to attend a meeting in New York City). In such cases, with the prior written approval of the Authorized User, the Contractor shall be reimbursed for mileage, lodging and meals to the extent authorized by the NYS Office of the State Comptroller (OSC) as further set forth at:

<https://www.osc.ny.gov/state-agencies/travel/travel-reimbursement-rates>

Unless otherwise specified in writing by the Authorized User, a vehicle will not be provided by Authorized User or the State to the Selected Candidate for travel. Therefore, the Contractor will be responsible for ensuring that the Selected Candidate has access to an appropriate vehicle (e.g., personal vehicle or rental vehicle) or common carrier with which to carry out any necessary travel. For the Contractor to obtain reimbursement for the use of a rental vehicle, such use must be justified as the most cost-effective mode of transportation under the circumstances (including consideration of the most effective use of Selected Candidate time). The Contractor must provide evidence of three (3) written or telephone price quotes, and the paid invoice must detail the type of vehicle rented, miles traveled, license plate number, and time of pickup and return.

The Contractor is responsible for keeping adequate records to substantiate any claims for reimbursement, by personnel for travel in performance of the services.

The Authorized User must have prior approval of any travel that occurs during a Selected Candidate Engagement.

**1.9.10 Ownership of Work Product**

Contractor agrees that its Selected Candidates are engaged to perform services and that the Authorized User must have full and complete ownership of all deliverables prepared by such Selected Candidate. At the end of the Engagement, Contractor agrees that the Selected Candidate must provide all deliverables and materials to the Authorized User. Authorized Users may specify the manner and method by which the Candidate must participate in knowledge transfer at the time of the placement or at any time during the Selected Candidate Engagement.

**1.10 Annual Contractor Evaluation**

Per the schedule below, Contractors will be evaluated annually by the OGS HBITS Team using Attachment 6 – *HBITS Contract (Forms)* on the performance of their contractual duties. By doing so, the State seeks continued performance and quality Candidates from its Contractors for the duration of this Contract. The Contractors will be evaluated for responsiveness, successful onboarding, compliance and general quality. Once a determination has been made, the results will be posted to the OGS HBITS website.

Start of Evaluation Period	End of Evaluation Period	Evaluation and Determination of Active/Inactive Contractors
Contract Start Date	End of Contract Month 11	No later than end of Contract Month 12
Contract Month 12	End of Contract Month 23	No later than end of Contract Month 24
Contract Month 24	End of Contract Month 35	No later than end of Contract Month 36
Contract Month 36	End of Contract Month 47	No later than end of Contract Month 48
Contract Month 48	End of Contract Month 59	No later than end of Contract Month 60

**1.10.1 Evaluation Criteria**

The criteria listed below is not in any particular order. All Contractors will be evaluated in the same manner.

1. **Part I: (I.) Contractor Responsiveness [#1-3]:** Contractor will receive points based upon the percentage of valid Candidate submissions received in response to the total number of posted Task Order Requests. Per Section 1.9.6 of this document, Contractors are expected to provide valid responses to at least 60% of the posted Task Order Requests during each Contract year. Contractor will receive points for meeting at least 60% of valid Candidate submissions. Contractor will receive additional points for meeting or exceeding 70% of valid Candidate submissions.
2. **Part I: (II.) Onboarding [#1-3]:** Contractor will receive cumulative points for the number of successful Candidate placements during each Contract year.
3. **Part II: (III.) Compliance Review [#1]:** Contractor will receive points if all the required insurance documents per Attachment 3 – *Insurance Requirements* are on file and current as of the last date of the evaluation period.
4. **Part II: (III.) Compliance Review [#2, 4, 6-10]:** Contractor will receive points for the timely submission of the following:
  - a. Quarterly Administrative Fee [#2] – Points will only be given if all quarterly fees are received/paid on time per Section 1.9.2 of this document.

- b. HBITS Contractor's Quarterly SDVOB Compliance Report (Form SDVOB 101) [#4] – Points will be given only if all quarterly report submissions are received on time per Section 2.16 of the Contract. (NOTE: Per Policy and Procedure set by OGS SDVOB Office, HBITS reporting will occur on a quarterly basis, rather than a monthly basis).
  - c. MWBE Contractor Compliance via NYSCS and/or Form MWBE 102 [#6] – Points will be given only if all monthly entries and/or report submissions are received on time per Section 2.15 of the Contract.
  - d. Monthly Sales Report [#7] – Points will be given only if all monthly report submissions are received on time per Section 1.9.3 of this document.
  - e. Annual Form B [#8] – Points will be given only if this report is submitted on time per Section 2.14 of the Contract.
  - f. Quarterly Sales Report [#9] – Points will be given if all quarterly report submissions are received on time per Section 1.9.4 of this document.
  - g. Invoices [#10] – Points will be given if all monthly invoice submissions are received on time per Section 2.6.1 of the Contract.
5. **Part II: (III.) Compliance Review [#3]:** Contractor will receive points if it is determined by the OGS HBITS Team that the Contractor has engaged in good faith efforts to meet the SDVOB participation goal of 6% per Section 2.16 of the Contract.
  6. **Part II: (III.) Compliance Review [#5]:** Contractor will receive points if it is determined by the OGS MWBE Office that the Contractor has engaged in good faith efforts to meet the MWBE participation goals of 15% for MBE and 15% for WBE per Section 2.15 of the Contract.
  7. **Part II: (III.) Compliance Review [#11]:** Points will be given only if Vendor Responsibility Questionnaire was completed timely (less than five (5) months from the last day of the evaluation period) AND Contractor was found to be responsible per Section 2.11 of the Contract.
  8. **Part II: (IV.) General Quality [#1-4]:** Points will be given based upon the number of Form 6's received per Section 1.9.7.1 of this document.
  9. **Part II: (V.) General Quality [#1-3]:** Points will be given based upon the average score of Form 4's received per Section 1.9.7.2 of this document. In the event that a Contractor received no Form 4's during the Evaluation Period, that Contractor's score will be normalized.

## 1.10.2 Active vs. Inactive Contractors

The OGS HBITS Team will maintain a listing of the Active and Inactive Contractors throughout the term of the Contract. There will be thirty-two (32) Active Contractors for year one (1) of the Contract. For all other Contract years, including any renewal year(s), the number of Active Contractors will be determined based upon the score received on the Contractors Annual Evaluation. OGS reserves the right to maintain a minimum of 20 Active Contractors each year, which will be determined based upon Contractors Annual Evaluation score.

### 1.10.2.1 Determination

All Contractors will be evaluated on their performance as stated in Section 1.10 at the end of each Contract year. As a result of the Annual Evaluation, starting in year two (2), all Contractors who receive a score of 65 or higher will remain Active for the upcoming year; and all Contractors who receive a score of less than 65 will be Inactive for the upcoming year. However, if less than twenty (20) Active Contractors have a passing score, OGS reserves the right to maintain a minimum of 20 Active Contractors each year. Based upon the score received by the Contractor, OGS may determine that the Contractor will maintain their Active status in order to meet the minimum of twenty (20) Active Contractors for each contract year.

All Inactive Contractors will automatically become Active Contractors in the year following the Contract Year in which they were Inactive. However, Contractors who are Inactive will be given an automatic, one-time opportunity per Contractor (for the entire term of the Contract) to improve their performance and will be re-evaluated in 6 months.

### One-Time Six-Month Re-evaluation

This automatic, one-time re-evaluation will be based only upon the following criteria in Part II of the Annual Evaluation:

Section III. Compliance Review (Numbers 1, 2, 4, 6, 7, 9, and 10)

Section IV. General Quality

Section V. Authorized User Evaluation

A Contractor must attain a score of 39 or higher in order to return to Active Status for the remaining five (5) months of the Contract year. If a Contractor receives a score of 39 or higher, the Contractor will become Active effective January 1 of the Contract Year and will be evaluated at the end of that Contract Year. On the Annual Evaluation for that Contract Year, to compensate the Contractor for the time served as Inactive during that Contract Year, the 'Contractor Responsiveness Rate' and the 'Total # of Onboardings (Year XX)' will be multiplied by 2 and reflected in the score received in Part I. Section 1. Contractor Responsiveness and Part 1. Section 2. Onboarding, respectively. If the Contractor receives a score of less than 39, they will remain Inactive for the remaining five (5) months of the Contract year and automatically become Active in the following Contract Year.

#### **1.10.2.2 Active Contractor**

An Active Contractor is defined as eligible to receive all new Form 1's posted by the OGS HBITS Team for a particular Contract year.

An Active Contractor shall not seek the assistance of or subcontract with any Inactive Contractors.

To remain an Active Contractor, a Contractor's Annual Evaluation score must be 65 or higher; or be deemed Active by OGS to be included in the twenty (20) Contractor minimum.

#### **1.10.2.3 Inactive Contractor**

An Inactive Contractor is defined as not eligible to receive any new Form 1's posted by the OGS HBITS Team for a particular Contract year. Responses to a Form 1 from an Active Contractor who was moved to the Inactive list are, however, eligible to be awarded for a Form 1 that was posted prior to the date the Active Contractor was moved to the Inactive list. Any existing Engagements with an Active Contractor that is moved to the Inactive list will survive the Inactive period, unless otherwise terminated by the Authorized User.

An Inactive Contractor shall not assist or subcontract with any Active HBITS Contractors while they are on the Inactive list.

### **1.11 Additional Requirements from Authorized Users**

An Authorized User may have distinct requirements that must be met by all individuals employed by or working at the Authorized User. The Candidates will be expected to comply with these requirements as a condition of the placement.

An Authorized User may, at its discretion, request additional background checks to be conducted by the Contractor, at the expense of the Authorized User, including, but not limited to fingerprinting and/or the signing of a confidentiality statement and/or non-disclosure agreement. The Authorized User retains the responsibility to conduct any fingerprint-based background check within its legal authority.

An Authorized User may also conduct its own background check at the expense of the Authorized User.

An Authorized User may require Candidates to provide photo identification, such as a New York State Driver's License, Non-Drivers Identification Card, Passport, etc. in order to receive a State or other applicable Identification Card used for entrance into the Authorized Users building and/or facilities.

Authorized Users may require Candidates to attend standard, statewide or agency-wide mandatory training as required by New York State or the Authorized User. In such cases, the Authorized User is responsible for payment of the Candidate's billable hours for the time spent attending such standard, statewide or agency-wide mandatory training. The Authorized User shall not be responsible for any billable hours or reimbursement for any costs related to any other types of training, whether job-related or not. In no case shall the Authorized User pay for training to provide Candidates with the skills originally specified by the Authorized User in the Form 1.

An Authorized User reserves the right to reduce the hours upon at least 15 calendar days written notice to Contractor.

## Attachment 7A – Cost Methodology Examples

**Final Results for Task Order Request # HBITS-10-XXXX2**

<b>Due Date: no later than 5:00 PM on:</b>	Tuesday, September 25, 2018
<b>Executive or Non-Executive</b>	Executive
<b>Agency Name:</b>	OMH
<b>Service Group</b>	1
<b># of Staff Requested:</b>	1
<b>Job Title:</b>	Programmer
<b>Skill Level:</b>	Senior
<b>Skill Demand:</b>	High
<b># of Responses Requested:</b>	1
<b>Region:</b>	1

<b>Median</b>	\$ 72.35
<b>Standard Dev. Of Valid Bids</b>	\$ 3.67
<b>Median + 5%</b>	\$ 75.97
<b>Median + 1 Standard Deviation</b>	<b>\$ 76.02</b>
<b>5th Rate</b>	\$ 70.45

<b>Maximum Rate:</b>	<b>\$ 76.02</b>
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<b>Total # of Responses:</b>	26
<b># of rejected submissions</b>	3
<b># of duplicate candidate submissions:</b>	1
<b># of failed mandatory:</b>	0
<b># of majority requested quals failed:</b>	5
<b># of valid responses received:</b>	17
<b># passed:</b>	12
<b># released after cost methodology:</b>	5

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Contract	Name	#	Mandatory Pass/Fail	Requested Quals. P/F	Bill Rate	Name
PH0013	Vendor M	1	Pass	Pass	66.64	Candidate 1
PH0006	Vendor F	1	Pass	Pass	67.83	Candidate 1
PH0026	Vendor Z	1	Pass	Pass	68.16	Candidate 1
PH0007	Vendor G	1	Pass	Pass	70.39	Candidate 1
PH0022	Vendor V	1	Pass	Pass	70.45	Candidate 1
PH0023	Vendor W	1	Pass	Pass	71.48	Candidate 1
PH0011	Vendor K	1	Pass	Pass	71.78	Candidate 1
PH0021	Vendor U	1	Pass	Pass	72.00	Candidate 1
PH0029	Vendor AC	1	Pass	Pass	72.35	Candidate 1
PH0009	Vendor I	1	Pass	Pass	72.84	Candidate 1
PH0028	Vendor AB	1	Pass	Pass	72.99	Candidate 1
PH0002	Vendor B	1	Pass	Pass	73.00	Candidate 1
PH0017	Vendor Q	1	Pass	Pass	76.75	Candidate 1
PH0027	Vendor AA	1	Pass	Pass	76.80	Candidate 1
PH0018	Vendor R	1	Pass	Pass	77.74	Candidate 1
PH0020	Vendor T	1	Pass	Pass	78.23	Candidate 1
PH0008	Vendor H	1	Pass	Pass	79.47	Candidate 1
PH0003	Vendor C	1	Pass	Fail	65.27	Candidate 1
PH0024	Vendor X	1	Pass	Fail	67.91	Candidate 1

- 1 Passed on to Authorized User
- 2 Passed on to Authorized User
- 3 Passed on to Authorized User
- 4 Passed on to Authorized User
- 5 Passed on to Authorized User
- 6 Passed on to Authorized User
- 7 Passed on to Authorized User
- 8 Passed on to Authorized User
- 9 Passed on to Authorized User
- 10 Passed on to Authorized User
- 11 Passed on to Authorized User
- 12 Passed on to Authorized User
- 13 Did not pass Cost Methodology
- 14 Did not pass Cost Methodology
- 15 Did not pass Cost Methodology
- 16 Did not pass Cost Methodology
- 17 Did not pass Cost Methodology
- 18 Did not meet 60% of Requested Qualification
- 19 Did not meet 60% of Requested Qualification

**Final Results for Task Order Request # HBITS-10-XXXX2**

<b>Due Date: no later than 5:00 PM on:</b>	Tuesday, September 25, 2018
<b>Executive or Non-Executive</b>	Executive
<b>Agency Name:</b>	OMH
<b>Service Group</b>	1
<b># of Staff Requested:</b>	2
<b>Job Title:</b>	Programmer
<b>Skill Level:</b>	Senior
<b>Skill Demand:</b>	High
<b># of Responses Requested:</b>	1
<b>Region:</b>	1

<b>Median</b>	\$ 72.35
<b>Standard Dev. Of Valid Bids</b>	\$ 3.44
<b>Median + 5%</b>	<b>\$ 75.97</b>
<b>Median + 1 Standard Deviation</b>	\$ 75.79
<b>10th Rate</b>	\$ 72.35

<b>Maximum Rate:</b>	<b>\$ 75.97</b>
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<b>Total # of Responses:</b>	30
<b># of rejected submissions</b>	3
<b># of duplicate candidate submissions:</b>	1
<b># of failed mandatory:</b>	1
<b># of majority requested quals failed:</b>	6
<b># of valid responses received:</b>	19
<b># passed:</b>	16
<b># released after cost methodology:</b>	3

Contract	Name	#	Mandatory Pass/Fail	Requested Quals. P/F	Bill Rate	Name
PH0013	Vendor M	1	Pass	Pass	66.64	Candidate 1
PH0006	Vendor F	1	Pass	Pass	67.83	Candidate 1
PH0026	Vendor Z	1	Pass	Pass	68.16	Candidate 1
PH0014	Vendor N	1	Pass	Pass	68.48	Candidate 1
PH0007	Vendor G	1	Pass	Pass	70.39	Candidate 1
PH0022	Vendor V	1	Pass	Pass	70.45	Candidate 1
PH0023	Vendor W	1	Pass	Pass	71.48	Candidate 1
PH0011	Vendor K	1	Pass	Pass	71.78	Candidate 1
PH0021	Vendor U	1	Pass	Pass	72.00	Candidate 1
PH0029	Vendor AC	1	Pass	Pass	72.35	Candidate 1
PH0009	Vendor I	1	Pass	Pass	72.84	Candidate 1
PH0028	Vendor AB	1	Pass	Pass	72.99	Candidate 1
PH0002	Vendor B	1	Pass	Pass	73.00	Candidate 1
PH0017	Vendor Q	1	Pass	Pass	73.49	Candidate 1
PH0016	Vendor P	1	Pass	Pass	73.70	Candidate 1
PH0027	Vendor AA	1	Pass	Pass	75.77	Candidate 1
PH0018	Vendor R	1	Pass	Pass	77.74	Candidate 1
PH0020	Vendor T	1	Pass	Pass	78.23	Candidate 1
PH0008	Vendor H	1	Pass	Pass	79.47	Candidate 1

- 1 Passed on to Authorized User
- 2 Passed on to Authorized User
- 3 Passed on to Authorized User
- 4 Passed on to Authorized User
- 5 Passed on to Authorized User
- 6 Passed on to Authorized User
- 7 Passed on to Authorized User
- 8 Passed on to Authorized User
- 9 Passed on to Authorized User
- 10 Passed on to Authorized User
- 11 Passed on to Authorized User
- 12 Passed on to Authorized User
- 13 Passed on to Authorized User
- 14 Passed on to Authorized User
- 15 Passed on to Authorized User
- 16 Passed on to Authorized User
- 17 Did not pass Cost Methodology
- 18 Did not pass Cost Methodology
- 19 Did not pass Cost Methodology

**Final Results for Task Order Request # HBITS-10-XXXX1**

<b>Due Date: no later than 5:00 PM on:</b>	Tuesday, September 25, 2018
<b>Executive or Non-Executive</b>	Executive
<b>Agency Name:</b>	OMH
<b>Service Group</b>	1
<b># of Staff Requested:</b>	2
<b>Job Title:</b>	Programmer
<b>Skill Level:</b>	Senior
<b>Skill Demand:</b>	High
<b># of Responses Requested:</b>	1
<b>Region:</b>	1

<b>Median</b>	\$ 73.00
<b>Standard Dev. Of Valid Bids</b>	\$ 3.38
<b>Median + 5%</b>	\$ 76.65
<b>Median + 1 Standard Deviation</b>	\$ 76.38
<b>10th Rate</b>	<b>\$ 77.74</b>

<b>Maximum Rate:</b>	<b>\$ 77.74</b>
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<b>Total # of Responses:</b>	27
<b># of rejected submissions</b>	3
<b># of duplicate candidate submissions:</b>	1
<b># of failed mandatory:</b>	1
<b># of majority requested quals failed:</b>	11
<b># of valid responses received:</b>	11
<b># passed:</b>	10
<b># released after cost methodology:</b>	1

Contract	Name	#	Mandatory Pass/Fail	Requested Quals. P/F	Bill Rate	Name
PH0026	Vendor Z	1	Pass	Pass	68.16	Candidate 1
PH0014	Vendor N	1	Pass	Pass	68.48	Candidate 1
PH0007	Vendor G	1	Pass	Pass	70.39	Candidate 1
PH0011	Vendor K	1	Pass	Pass	71.78	Candidate 1
PH0021	Vendor U	1	Pass	Pass	72.00	Candidate 1
PH0002	Vendor B	1	Pass	Pass	73.00	Candidate 1
PH0017	Vendor Q	1	Pass	Pass	73.49	Candidate 1
PH0016	Vendor P	1	Pass	Pass	73.70	Candidate 1
PH0027	Vendor AA	1	Pass	Pass	75.77	Candidate 1
PH0018	Vendor R	1	Pass	Pass	77.74	Candidate 1
PH0008	Vendor H	1	Pass	Pass	79.47	Candidate 1
PH0003	Vendor C	1	Pass	Fail	65.27	Candidate 1
PH0006	Vendor F	1	Pass	Fail	67.83	Candidate 1
PH0024	Vendor X	1	Pass	Fail	67.91	Candidate 1
PH0010	Vendor J	1	Pass	Fail	70.28	Candidate 1
PH0022	Vendor V	1	Pass	Fail	70.45	Candidate 1
PH0012	Vendor L	1	Pass	Fail	72.63	Candidate 1
PH0009	Vendor I	1	Pass	Fail	72.84	Candidate 1
PH0005	Vendor E	1	Pass	Fail	77.02	Candidate 1

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- 17 Did not meet 60% of Requested Qualification
- 18 Did not meet 60% of Requested Qualification
- 19 Did not meet 60% of Requested Qualification