

THE
RESEARCH
FOUNDATION



AGREEMENT

*Between State University of New York
and The Research Foundation of
State University of New York*

June 1, 1977

Preface

This Agreement between State University of New York and The Research Foundation of State University of New York was entered into in accordance with Chapter 50 of the Laws of 1977 in order to formalize the relationships, duties, and responsibilities of both the Foundation and State University in regard to the sponsored program activities of the University.

The Agreement, which became effective **June 1, 1977**, incorporates the Resolution, adopted by the board of trustees of SUNY, March 8, 1962, and amended May 14, 1964, which previously had been the enabling authority for the Foundation's acting as fiscal administrator of the University's research, training and other sponsored funds.

The Agreement has been approved by the state director of the budget, the comptroller and attorney general. Pursuant to the legislation, copies have also been filed with the appropriate legislative committees.

OUTLINE OF AGREEMENT

Introduction

- (a)* Creation of University and Foundation
- (b)* Designation of Foundation as fiscal administrator of sponsored programs by Trustees
- (c)* Recognition of Foundation role
- (d)* Requirement of L. 1977, Ch. 50/ Plan for expenditure of overhead recoveries

PART A Administration of Sponsored Programs

- 1.* Procurement of Funds for Sponsored Programs
- 2.* Applications to Sponsors
- 3.* Utilization of University Facilities and Services
- 4.* Management and Administrative Functions
- 5.* Conformance with University Policies
- 6.* Allowances for Indirect Costs

PART B Annual Plan of Expenditures

- 7.* Foundation's Expenditures for Fiscal 1976-77
- 8.* Foundation's Annual Plans for Subsequent Fiscal Years
- 9.* Categories of Expenditures
- 10.* Filing of Copies of Annual Plans
- 11.* Quarterly Reports

PART C General Provisions

- 12.* Audits
- 13.* Other Services
- 14.* Patent and Copyright Policies
- 15.* Public Liability Insurance
- 16.* Termination
- 17.* Approvals
- 18.* Review After First Fiscal Year
- 19.* Notices
- 20.* Provisions Required by Law

AGREEMENT made this first day of June, 1977, by and between **STATE UNIVERSITY OF NEW YORK**, a corporation created by and existing under the laws of the State of New York, having its principal offices at 99 Washington Avenue, Albany, New York, 12246, hereinafter referred to as the “University”, and **THE RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK**, a non-profit educational corporation chartered by the Board of Regents and existing under the laws of the State of New York, and having its principal offices at 411 State Street, Albany, New York, 12203, and mailing address at P.O. Box 9, Albany, New York, 12201, hereinafter referred to as the “Foundation”.

WITNESSETH:

WHEREAS, pursuant to Article 8 of the Education Law of the State of New York, enacted in 1948, the University was created as a public corporation within the Education Department of the State of New York, governed by a board of trustees appointed by the governor with the advice and consent of the Senate, and vested with the responsibility for the planning, supervision and administration of certain facilities and programs of higher education supported by the state of New York; and

WHEREAS, the board of trustees of the University is empowered by Article 8 of the Education Law to conduct or authorize the conduct of research and experiments at state-operated institutions of the University in connection with the educational program of the University; and

WHEREAS, the board of trustees of the University is also empowered by Article 8 of the Education Law to perform such other acts as may be necessary or appropriate to carry out effectively the objects and purposes of the University; and

WHEREAS, the Foundation was chartered in 1951 by the board of regents as a non-profit educational corporation, governed by its own board of directors, with the following purposes, as set forth in its charter:

- “ *a.* To assist in developing and increasing the facilities of State University of New York to provide more extensive educational opportunities for and service to its students, faculty, staff and alumni, and to the people of the state of New York, by making and encouraging gifts, grants, contributions and donations of real and personal property to or for the benefit of State University of New York;
- “ *b.* To receive, hold and administer gifts or grants, and to act without profit as trustee of educational or charitable trusts, of benefit to and in keeping with the educational purposes and objects of State University of New York; and
- “ *c.* To finance the conduct of studies and research in any and all fields of the arts and sciences, of benefit to and in keeping with the educational purposes and objects of State University of New York.”; and

WHEREAS, since its establishment the Foundation has engaged in various cooperative activities with the University and has provided various services to the University in furtherance of its purposes and objectives; and

WHEREAS, a major function of the Foundation has been to serve as the fiscal administrator of funds awarded by the federal government and other authorized sources for the conduct of sponsored programs at the state-operated institutions of the University; and

WHEREAS, by resolution as last amended on May 14, 1964, the board of trustees of the University formally recognized and approved the cooperative relationships and procedures which had been developed between the University and the Foundation with respect to the conduct of such sponsored programs, which resolution provided as follows:

“ Whereas, many of the research, training, and related activities of the University faculty of the state-operated colleges are jointly financed by State University of New York and various federal and private sponsoring agencies; and

“ Whereas, the amounts of funds from such sources in support of the activities of the University faculty have been substantial; and

“ Whereas, the benefits from such joint supported activities both to the State University and to the people of New York are great; and

“ Whereas, continued increases in such sponsored funds may be anticipated; and

“ Whereas, it is therefore desirable for the University to formally acknowledge the importance of these funds in the University’s programs and to provide for their acceptance and administration in such fashion as may be appropriate to the various funds, their source and their purpose; be it therefore

“ Resolved that in the case of all State University of New York research and research-related programs including specifically training programs and international technical assistance activities, which are carried out in the state-operated colleges of the University or on State University controlled premises by or under the direction of State University faculty members of the state-operated colleges of the University, funds other than appropriations of the New York State Legislature and not expended as state funds shall be fiscally administered by The Research Foundation of State University of New York; and be it further

“ Resolved that all formal applications to donors and sponsors seeking support of such research and research-related programs, training programs and technical assistance activities and including further National Defense Education Act applications shall be submitted to donors and sponsors through the University and the Foundation and all financial reporting to donors and sponsors on expenditures shall be carried out by the Foundation; and be it further

“ Resolved, that University facilities and services may be utilized to conduct all such research and research-related programs of the University receiving support through The Research Foundation, and that indirect costs attributable to such research and research-related programs paid by the University from sources other than the Research Foundation may be deemed to be part of the costs of the Research Foundation in conducting research or research-related programs for which it obligates itself at University request for the purpose of obtaining such support from sponsors or grantors.”; and

WHEREAS, the University and the Foundation have continued to work together in harmony and have developed various procedures, understandings and working relationships to facilitate the conduct of sponsored programs through the Foundation’s management and administration of such sponsored program funds; and

WHEREAS, most grants of such funds are initiated by proposals by faculty members at the state-operated institutions of the University detailing the scope, objectives, staffing, and budget of the proposed sponsored program, which are then incorporated into formal applications to the sponsor by the University and the Foundation, following, when applicable, the filing of notice of such applications in accordance with Section 53-a of the State Finance Law; such awards are made to the Foundation for and in conjunction with the University subject to the terms and conditions specified by the sponsors, including ultimate accountability to them for the proper management and use of such grant awards; and

WHEREAS, the procedures developed by the University and the Foundation for the solicitation, management and use of such awards have been accepted by the various sponsors and other persons responsible for the actual conduct of the sponsored programs; and

WHEREAS, such awards ordinarily include allowances to the Foundation for the recovery of indirect costs incurred by the University and the Foundation in managing the award funds and conducting the requisite sponsored activities, a portion of which income represents reimbursement by the sponsor for the use of University facilities and personnel; and

WHEREAS, in addition to such recoveries of indirect costs the Foundation also derives income from its investments and other miscellaneous sources; and

WHEREAS, the parties recognize that inasmuch as a portion of the Foundation's income is attributable to the use of University facilities and personnel, and since the Foundation's sole purpose is to serve the University, any income of the Foundation in excess of the amount necessary to meet its own operating expenses and the maintenance of appropriate and prudent reserve funds should be expended for the benefit of the University and in furtherance of its purposes, in such manner as the Foundation shall determine, with the approval of the University, subject to the further approval of the director of the budget of the state of New York, acting on the University's behalf; and

WHEREAS, by this agreement the University and the Foundation desire to formalize their relationship, in accordance with Chapter 50 of the Laws of 1977, and reaffirm the Foundation's dedication of service to the University and the University's recognition of the great benefits derived by it and the people of the state of New York from the Foundation's activities.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the University and the Foundation hereby agree as follows:

PART A

Administration of Sponsored Programs

Procurement of Funds for Sponsored Programs

1. The Foundation, as a non-profit educational corporation, shall assist the University in the procurement of funds from the federal government and other authorized sources to support such sponsored programs at the University as the University shall request. Sponsored programs shall be deemed to be those for which funds are made available for an express purpose or objective, for which the sponsor usually requires periodic fiscal and programmatic reports, imposes time limitations for the use of such funds and ordinarily provides for the reversion of unused funds to the sponsor.

Applications to Sponsors

2. All applications to prospective sponsors by faculty or staff members at the state-operated institutions of the University seeking support for sponsored programs shall be made by the University through the Foundation. Such application shall be in the form of joint applications by the Foundation and the University, or solely in the Foundation's own name, depending upon the particular requirements of the sponsor and the circumstances involved. No application shall be made by the Foundation or award accepted by it without the prior written approval of the chief administrative officer, or his designee, of the college or other institution of the University at which the sponsored program is to be conducted, and where the program has policy or budgetary implications beyond such college or institution, also the prior written approval of the chancellor of the university or his designee.

Utilization of University Facilities and Services

3. The University's approval of an application or of the Foundation's acceptance of an award shall be deemed to constitute consent by the University to the utilization of University facilities and services by the Foundation, the project director and project staff for the conduct of the sponsored program as described in the award and any approved modifications or extensions thereof.

Management and Administrative Functions

4. All funds awarded by sponsors in support of such sponsored programs shall be paid to and administered by the Foundation in accordance with the terms and conditions of the grants and any approved modifications or extensions thereof. The Foundation's functions with regard to the management of such funds shall include its employment of research and other personnel necessary for the conduct of the program, who shall be deemed to be employees of the Foundation and not the University (unless otherwise employed by the University), its purchase of necessary equipment and supplies and its receipt and disbursement of funds for other approved purposes in connection with such program, such as rentals, communications, computer services and travel. Travel expenses shall conform to rules promulgated by the state comptroller for state employees. The Foundation shall also provide administrative functions including controlling and accounting for expenditures, preparing periodic reports for project directors and sponsors, conducting internal audits, providing banking services and managing cash flow investments. However, the conduct of the sponsored program, including the professional and technical decisions as to personnel and the selection of the particular items of equipment and supplies to be purchased, but not their method of acquisition, shall be within the exclusive province of the project director, consistent with the budgetary and other standards or restrictions imposed by the sponsor, the University or the Foundation. The administrative officers of the Foundation shall, from time to time, with the cooperation and advice of the administrative officers of the University, implement this agreement by developing specific procedures and criteria for the Foundation's management and administration of such sponsored program funds.

Consistency with University Policies

5. In the performance of its responsibilities under this agreement, the Foundation shall, as far as may be practicable and in conformance with the Foundation's objectives of furthering the conduct of sponsored programs within the University, be consistent with administrative policies applicable to the University.

Allowances for Indirect Costs

6. Allowances by sponsors for the recovery of indirect costs attributable to facilities or services provided by the University such as administrative services, building space, utilities, janitorial services, libraries, etc., shall be deemed to be costs of the Foundation for the purpose of obtaining reimbursement of such costs from sponsors. The Foundation shall attempt to obtain from sponsors the maximum possible reimbursement of indirect costs and, if applicable, net release time funds, subject to specific procedures and criteria adopted by the University governing the approval of overhead reimbursement rates and reductions or waivers thereof.

PART B

Annual Plan of Expenditures

Foundation's Expenditures for Fiscal 1976-77

7. As a component of the total sponsored funds program of the University, the Foundation's expenditures of income from the recovery of indirect costs attributable to its own operations and to facilities and services provided by the University for the Foundation's 1976-77 fiscal year in the administration of funds received from sponsors, covering the period from July 1, 1976 to June 30, 1977, shall be limited to those programs and categories of expenditures contained in Table 2 of the informational material on the Foundation contained in the University section of the 1977-78 Executive Budget, incorporated herein as Exhibit A, unless otherwise approved in advance by the Foundation and the University, subject to the further approval of the state director of the budget on behalf of the University.

Foundation's Annual Plans for Subsequent Fiscal Years

8. For the Foundation's 1977-78 fiscal year covering the period from July 1, 1977 to June 30, 1978, and each fiscal year thereafter, the Foundation shall submit to the University, as a component of the total sponsored funds program of the University, an annual plan approved by the Foundation

which shall set forth the funds awarded by sponsors with an identification of the Foundation's income from the recovery of indirect costs and miscellaneous revenues, including, if applicable, net release time funds, and its expenditures thereof for each program and category covering: (a) the current fiscal year, showing approved expenditure levels (including approved changes) and estimated income and expenditures through the end of such period; (b) the prior fiscal year, showing actual income and expenditures for such period; and (c) the next ensuing fiscal year showing estimated income and proposed expenditures for such period. The annual plan for the 1977-78 fiscal year shall be submitted to the University by June 1, 1977 and the Foundation's plans for subsequent years shall be submitted to the University by June 1 of each such year. Each such annual plan shall be subject to the approval of the University, subject to the further approval of the state director of the budget on behalf of the University. Commencing with its 1977-78 fiscal year the Foundation shall conform to the programs, categories of expenditure and expenditure levels as set forth in its approved annual plans, unless otherwise approved in advance by the Foundation and the University, subject to the further approval of the state director of the budget on behalf of the University.

Categories of Expenditures

9. The categories of expenditures identified in the annual plan to be made by the Foundation from its indirect cost recoveries and miscellaneous income including, if applicable, net release time funds, shall include, but not be limited to, the following: (a) the operation of the Foundation's offices and other costs incurred by it in managing and administering sponsored programs for the University; (b) the maintenance of adequate working capital and appropriate reserve and contingency funds for the Foundation; (c) the direct payment by the Foundation into the University's income fund of an annual sum, in accordance with law, to be mutually agreed upon by

the Foundation and the University, subject to the approval of the state director of the budget on behalf of the University following consultation with the state comptroller; (d) payments for local support services provided by the colleges and other institutions of the University at which the sponsored programs are conducted; (e) support of University governance programs; and (f) support of University programs to enrich and supplement its state-supported programs. For the 1977-78 annual plan the direct payment required in (c) above shall be the sum of One Million Five Hundred Thousand Dollars (\$1,500,000).

Filing Copies of Annual Plans

- 10.** Copies of each approved annual plan shall be filed with the chairman of the Senate Finance Committee and the chairman of the Assembly Ways and Means Committee.

Quarterly Reports

- 11.** Within fifteen days after the end of each quarter of the Foundation's fiscal year the Foundation shall submit to the University a report of income and expenditures relating to the fiscal year in progress. Such report shall indicate the approved expenditure level for each program and category pursuant to the annual plan (including approved changes) as well as the cumulative income and expenditure figures through the end of the reporting quarter and the projected income and expenditure figures for the remainder of such fiscal period. The University shall transmit a copy of each such report to the state director of the budget.

PART C

General Provisions

Audits

- 12.** The Foundation shall cause an annual audit of its operations to be made by a firm of independent certified public accountants and shall furnish the University with a complete copy of each audit report upon the Foundation's receipt thereof. It shall also furnish the University with two additional copies for transmittal by it to the state comptroller and the state director of the budget. The Foundation also agrees that its financial standing and operations shall be subject to periodic post-audit by the state comptroller.

Other Services

- 13.** The Foundation shall provide such additional services, consistent with its corporate charter and this agreement as may be reasonably requested by the University.

Patent and Copyright Policies

- 14.** The University's Patent and Copyright Policy and implementation thereof shall govern all patent and copyright matters arising out of any sponsored programs covered by this agreement. In the event the University's patent and copyright policy is modified in the future, the Foundation shall modify its own patent and copyright policy promptly to conform therewith.

Public Liability Insurance

- 15.** The Foundation shall maintain a policy of public liability insurance with minimum limits of \$500,000/\$1,000,000 for bodily injury and \$50,000 for property damage, designating the Foundation, the University and the State of New York as named insureds, covering the activities of the Foundation under this agreement including, without limitation, any such liability arising out of the conduct of sponsored programs administered by the Foundation at University facilities pursuant to this agreement.

Termination

- 16.** This agreement shall continue in full force and effect unless and until terminated by either party by one year's prior written notice to the other. In the event of such termination no additional sponsored programs shall be undertaken hereunder but any such programs then in progress and for which either party is under any legal obligations to sponsors or others to continue them to a particular time shall be continued for such required period under the terms and conditions of this agreement as though no termination had taken place.

Approvals

- 17.** This agreement shall not become effective or binding on either party unless and until the requisite approvals of the state director of the budget, state comptroller and state attorney general have been obtained. Copies of the executed and approved agreement shall be filed with the Senate Finance Committee and Assembly Ways and Means Committee.

Review After First Fiscal Year

- 18.** The terms and conditions of this agreement shall be reviewed by the University and the Foundation following the end of the Foundation's first full fiscal year of operation hereunder on June 30, 1978. Subsequent reviews may be initiated annually thereafter upon the request of either party, the state director of budget on behalf of the University or the state comptroller. Modifications of this agreement resulting from such reviews shall not be effective or binding on either party unless and until the requisite approvals of the state director of the budget, state comptroller and state attorney general have been obtained. Copies of any such executed and approved modifications shall be filed with the Senate Finance Committee and Assembly Ways and Means Committee.

Notices

19. All notices to either party hereunder shall be in writing, signed by the party giving it and shall be served either personally or by registered or certified mail to their addresses stated in this agreement, or to such other addresses as either party may hereafter designate by written notice to the other. All notices shall become effective only when received by the addressee.

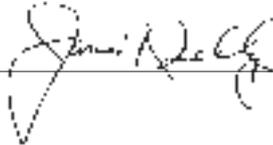
Provisions Required by Law

20. The parties hereby incorporate as an integral part of this agreement the provisions required by law which are contained in Exhibit B attached hereto and made a part hereof, with the same force and effect as though set forth here in full; the term "contractor", as used therein, shall be deemed to refer to the Foundation.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first above written.

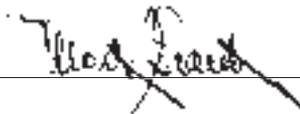
STATE UNIVERSITY OF NEW YORK

By: _____
Acting Chancellor



THE RESEARCH FOUNDATION OF
STATE UNIVERSITY OF NEW YORK

By: _____
Director



NEW YORK STATE
COMPTROLLER'S
CONTRACT NO.

C113239

APPROVED:

Date: 7/6/77

PETER C. GOLDMARK, JR.

State Director of the Budget

By: Peter C Goldmark

APPROVED AS TO FORM
Louis J. Lefkowitz

JUL 1 1977

Thomas T. O'Neill
CLERK OF THE SUPREME COURT
DONALD B. PENNINGTON
AS DEPUTY CLERK

APPROVED AS TO FORM:

Date: _____

LOUIS J. LEFKOWITZ

Attorney General

By: _____

Assistant Attorney General

APPROVED AND FILED:

Date: 1 A JUL 77

ARTHUR LEVITT

Comptroller

By: Arthur Levitt

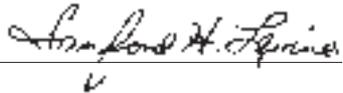
For the Comptroller

STATE OF NEW YORK)

) ss:

COUNTY OF ALBANY)

On the 1st day of July, 1977, before me personally came James F. Kelly, to me known, who being by me duly sworn, did depose and say that he resides at 44 Hunters Field Road, Delmar, New York, that he is Acting Chancellor of State University of New York, the corporation described in and which executed the above instrument, and that he signed his name thereto by order of the Board of Trustees of said corporation.



Notary Public

SANFORD M. LEVKOV
Notary Public, State of New York
No. 25 182848
Qualified in Schoharie County
Commission Expires March 19, 1978

STATE OF NEW YORK)

) ss:

COUNTY OF ALBANY)

On the 29th day of June, 1977, before me personally came Mort Grant, to me known, who being by me duly sworn, did depose and say that he resides at 57 South Lake Avenue, Albany, New York, that he is Director of The Research Foundation of State University of New York, the corporation described in and which executed the above instrument, that he signed his name thereto by order of the Board of Directors of said corporation.



Notary Public

RICHARD A. COMSTIEF
Notary Public, State of New York
No. 17 2221
Qualified in Schoharie County
Commission Expires March 22, 1978

STATE UNIVERSITY

Table 2

The Research Foundation of State University of New York Income and Expense From Overhead Recoveries and Miscellaneous Earnings

	ACTUAL 1975-76	BUDGETED 1976-77
Beginning Reserve Balance	\$ 2,232	\$ 2,743
Income:		
Overhead Recoveries	11,151	11,280
Investments	366	360
Miscellaneous	10	—
Total Income	11,527	11,640
Expense:		
Research Administration, Albany Office	3,852	3,850
Local Campus Support	2,970	3,175
Support Services (terminal network audit, etc.) ¹	768	1,055
Washington Office	239	235
Total Research Administration	7,829	8,315
SUNY Program Support		
University Innovating and Special Purposes Program	846	805
University Awards Program	750	750
University Press Program	120	120
Institute for Religious Studies ²	54	95
University International Program Paris Institute	106	101
University Presidents Programs	64	73
New York City Office	61	46
SEARCH Program	83	93
Other Programs	103	56
Total Program Support	2,187	2,139
Payment to SUNY Income Fund	1,000	1,000
Total Expense	11,016	11,454
Change in Reserve Fund Balance	511	186
Closing Reserve Balance ³	\$ 2,743	\$ 2,929

Notes:

1. Includes a non-recurring cost of \$300,000 for the purchase of computer terminals.
2. The Institute for Religious Studies is a part of the University's Innovative and Special Purposes Fund.
3. Closing reserve balance required for financing of projects prior to receipt of funds from sponsors.

EXHIBIT B

The parties to the attached contract further agree to be bound by the following, which are hereby made a part of said contract.

- I. This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the state.
- II. This contract shall be deemed executory only to the extent of money available to the state for the performance of the terms hereof and no liability on account thereof shall be incurred by the state of New York beyond moneys available for the purpose thereof.
- III. The contractor specifically agrees, as required by Labor Law, Sections 220 and 220-d, as amended, that:
 - (a) no laborer, workman or mechanic, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in the emergencies set forth in the Labor Law.
 - (b) the wages paid for a legal day's work shall be not less than the prevailing rate of wages as defined by law.
 - (c) the minimum hourly rate of wage to be paid shall not be less than that stated in the specifications, and any redetermination of the prevailing rate of wages after the contract is approved shall be deemed to be incorporated herein by reference as of the effective date of redetermination and shall form a part of these contract documents.
- 1.) The Labor Law provides that the contract may be forfeited and no sum paid for any work done thereunder on a second conviction for willfully paying less than—
 - (a) the stipulated wage scale as provided in Labor Law, Section 220, subdivision 3, as amended or
 - (b) less than the stipulated minimum hourly wage scale as provided in Labor Law, Section 220-d, as amended.
- IV. The contractor specifically agrees, as required by the provisions of the Labor Law, Section 220-e, as amended, that:

- (a) in hiring of employees for the performance of work under this contract or any subcontract hereunder, or for the manufacture, sale or distribution of materials, equipment or supplies hereunder, no contractor, subcontractor nor any person acting on behalf of such contractor or subcontractor, shall by reason or race, creed, color or national origin discriminate against any citizen of the state of New York who is qualified and available to perform the work to which the employment relates.
 - (b) no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color or national origin.
 - (c) there may be deducted from the amount payable to the contractor by the state under this contract a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract, and
 - (d) this contract may be canceled or terminated by the state and all moneys due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the contract, and
 - (e) the aforesaid provisions of this section covering every contract for or on behalf of the state or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the state of New York.
- V. The contractor specifically agrees, as required by Executive Order #45, dated January 4, 1977, effective February 4, 1977, that:
- (a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status and will undertake programs of affirmative action to insure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference, but not be limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
 - (b) If the contractor is directed to do so by the contracting agency or the Office of State Contract Compliance (hereafter OSCC), the contractor shall request each employment agency, labor union, or authorized representative of workers with which he has a collective bargaining or other agreement or understanding, to furnish him with a written

statement that such employment agency, labor union or representative will not discriminate because 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 hereunder and the purposes of Executive Order #45 (1977).

- (c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that 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) The contractor will comply with all the provisions of Executive Order #45 (1977) and of rules, regulations and orders issued pursuant thereto and will furnish all information and reports required by said Executive Order or such rules, regulations and orders, and will permit access to its books, records, and accounts and to its premises by the contracting agency or the OSCC for the purposes of ascertaining compliance with said Executive Order and such rules, regulations and orders.
- * (e) If the contractor does not comply with the equal opportunity provisions of this contract, with Executive Order #45 (1977), or with such rules, regulations or orders, this contract or any portion thereof, may be canceled, terminated or suspended or payments thereon withheld, or the contractor may be declared ineligible for future state or state-assisted contracts, in accordance with procedures authorized in Executive Order #45 (1977), and such other sanctions may be imposed and remedies invoked as are provided in said Executive Order or by rule, regulation or order issued pursuant thereto, or as otherwise provided by law.
- * (f) The contractor will include the provisions of clauses (a) through (e) above and all contract provisions promulgated by OSCC pursuant to Section 1.3(b) of Executive Order #45 (1977), in every non-exempt subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work force within the state of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency or the OSCC may direct, including sanctions or remedies for non-compliance. If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor shall promptly so notify the attorney general, requesting him to intervene and protect the interests of the state of New York.

* Note: Reference to the above Rules and Regulations refer to those Rules and Regulations in effect as of the date of the solicitation of bids relative to this contract.

VI.

- (a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, 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 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 prior to opening, directly or indirectly, to any other bidder or to any competitor;
 - 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.
- (b) A bid shall not be considered for award nor shall any award be made where (a)(1)(2) and (3) above have not been complied with provided, however, that if in any case the bidder can not make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (a)(1)(2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder (a) has published pricelists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such time, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (a).

- VII.** The agreement shall be void and of no force and effect unless the contractor shall provide coverage for the benefit of, and keep covered during the life of this agreement, such employees as are required to be covered by the provisions of the Workmen's Compensation Law.

C2224-577

Rev1-977



THE RESEARCH FOUNDATION

The State University of New York