STARTUP NY

SUNY Campus Guide to Getting Started

WELCOME

TO: Campus Presidents

FROM: Leslie Whatley, Executive Vice President – StartUp NY, ESD/SUNY RF
Jim Malatras, Vice Chancellor for Policy & Chief of Staff, SUNY
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DATE: October 24, 2013

RE: Implementing StartUp NY

As the leader of your institution, you play a pivotal role in implementing Governor Cuomo's StartUp NY Program. SUNY, the RF and Empire State Development are working together in partnership to support you in this process. To that end we are putting multiple guides and services in place to assist you and ensure that the outcomes are robust, exciting, and optimally tailored to support your unique and important institutional mission.

Attached is a Campus Guide To Getting Started. We are also enclosing the Campus and Business Applications to the program. The StartUp team will be holding regional seminars later this fall to provide you and your team with the information you need to succeed. These sessions will include an educational component on the details of StartUp, and the chance to network with the regional ESD directors and key business partners from your region. You can also contact us at any time with questions or for further information on the program.

Further, we are building a team of business, legal, and real estate professionals who will market the program to prospects nationally and will be available to assist you with the negotiation and documentation of your StartUp arrangements. We are optimistic that the reaction to this program when announced formally October 22 will be very positive and will result in a high volume of inquiries. Processes and a database will be in place by that date to ensure that we capture and screen the interested parties and can direct them into the SUNY system.

The new website www.startup-ny.com has been created to provide essential program information. It is also the starting point for all companies interested in the program. For those companies that approach you directly we ask you to have them register on the site. Comments and questions can be directed at any time, either to Leslie Whatley at 212-803-3743 or to our concierge desk at 518-434-7110 or startupny@rfsuny.org.

On behalf of Governor Cuomo, we thank you for your efforts towards making this program a success and look forward to supporting you in this endeavor.

INTRODUCTION

StartUp NY is an innovation-based economic development program that will create tax-free business sites – including no income tax for employees and no sales, property or business tax for 10 years - at SUNY campuses and university communities across the state. If implemented successfully, StartUp NY will attract new business and investments from across the nation and around the globe to New York by offering an opportunity to operate completely tax-free while partnering with world-class institutions of higher education, research and innovation.

StartUp NY aligns with SUNY's overarching mission of learning, research and service. From increasing access to experiential education, to translating research into practical applications for new and growing businesses, this program engages economic stakeholders to prepare New York's workforce on an unprecedented scale.

At the same time, StartUp NY is poised to foster economic growth by leveraging the resources already available at our campuses.

StartUp NY has the potential to: create jobs; generate new partnerships and new investment on or near campuses; increase industry-sponsored research funding; enable more selective student recruitment; increase co-op opportunities; and provide a richer student and faculty experience.

However, the program will only realize its potential if SUNY campuses successfully implement it. Campus presidents are designated by the law as the key drivers and decision-makers for their individual institutions. At the outset, each president is responsible for developing a **detailed plan** that:

- Specifies the land or space to be included in the program;
- describes the types of businesses that may locate on campus;
- explains how prospective partners align with the campus mission;
- illustrates how a partnership may have a positive community and economic impact; and
- outlines the process by which the campus will select participating businesses.

Use this guide as a checklist toward preparation of a detailed campus plan for StartUp NY.
Comments and questions can be directed at any time to startupny@rfsuny.org or 518-434-7110.

Your plan is only the beginning. Once each campus has identified its vision for growth through StartUp NY, it must actively seek out, communicate with and win over prospective business partners.

THINGS TO THINK ABOUT

☐ Assess Your Campus

- ☐ **Review the campus' strategic plan** to consider how existing ideas to further educational and research opportunities may be adjusted or enhanced by StartUp NY to drive transformational growth.
- ☐ **Aim to grow your research/academic profile**. Consider what areas of excellence currently exist on campus or have the potential to be further developed. This includes workforce development and continuing education programs. Are there common themes that can benefit from additional interdisciplinary collaboration?
- ☐ **Develop a list of existing private partners** and determine if StartUp NY provides an opportunity to augment these relationships. This includes co-op, recruitment and sponsored research partners. What have you learned from these existing partnerships that can inform future engagements?

☐ Inventory Existing Assets

When developing an inventory of campus assets, take a broad view and consider your unique infrastructure, people and technology. An Asset Inventory form (*Appendix B*) is included in this Guide.

- ☐ **Report available space to the SUNY Office of Capital Facilities**. Any vacant land, space in buildings or off-campus real estate holdings available for use under the StartUp NY program should be reported to the SUNY Office of Capital Facilities**.** Consider how facility development can be driven by StartUp NY. What is the relationship to the SUNY Facility Master Plan? How can you create great public spaces where people gather, interact and exchange ideas that drive innovation?
- ☐ **Record the campus' physical assets**. Other unique physical assets on campus like incubators, specialized facilities and equipment that can be synergistically used by private partners.
- ☐ **Record the campus' knowledge assets**. Consider how campus human capital (faculty & student expertise) and discovery assets (intellectual property) can be leveraged to build value in strategic partnerships.

☐ Engage Local & Regional Partners

Campuses should establish a StartUp NY **Point of Contact** – a person, team or office to serve as the campus lead for engagement with the key groups identified below. The Point of Contact should facilitate a robust two-way exchange to both help external partners better understand the campus and to gather input.

- ☐ **Review the Regional Economic Development Council (REDC) strategic plan for your region**, especially its plans for investment and growth. How does this align with your campus assets and areas of excellence? Talk with REDC members about your campus' StartUp NY plans and opportunities for synergistic engagement with private partners.
- ☐ **Utilize your local Empire State Development (ESD) Regional Office.** The offices maintain extensive business demographic information, sector-specific development trends and connections with potential private partners. ESD can also provide information on the range of state incentives during negotiations with external partners.

- ☐ **Meet with your local economic development corporation (EDC) / industrial development agency (IDA) and chamber of commerce representatives** for intelligence

on current and future economic development projects that can support campus plans. EDC / IDA organizations are a good source for private partner leads *(See Appendix C).*

- ☐ **Meet with municipal government representatives and regional planning groups** to understand their plans. How can your campus grow in concert with the community? How does potential development fit with plans for land use, transportation and existing infrastructure? *This stakeholder group is required to provide formal comments on your campus StartUp NY plan once finalized.*
- ☐ **Seek partnership leads from your local Small Business Development Center (SBDC)** in conjunction with the campus' core competencies. SUNY's SBDCs can provide data and analysis of industry trends and facilitate connections with private partners.

☐ Determine Your Fit

- ☐ **Think globally, act locally**. What are sector trends for campus research and academic areas of excellence? What industry challenges or societal problems need to be solved?
- ☐ **Consider SUNY's strategic focus.** How can the campus strategic plan, unique assets and regional vision connect to any of the Networks of Excellence *(4Es, Health Now, Brain, Adv. Materials / Manufacturing)*? Are there opportunities to further enrich the education pipeline and/or provide co-op opportunities?
- ☐ **Identify world-class partners**. Who are the preeminent partners with whom the campus could form a strategic relationship? How can the campus leverage existing partnerships to create new ones? Potential partners will include potential startups (whether based on campus-developed research or not), prospective businesses being recruited to relocate or expand in your area and existing local businesses that could expand if they accessed on-campus research and other assets.

☐ Consider Potential Academic Linkages

StartUp NY positions SUNY campuses to lead higher education's impact in the globally competitive economy. It is about much more than capital; it is about transforming our learning landscape into one that is highly experiential and applied. University/industry partnerships nurture strategic business growth, foster more advanced research and provide a myriad of experiential learning opportunities to students.

- ☐ **Internships & Co-Ops**: What experiential learning opportunities will the private partner provide for students? Might private partner mentor students or serve as guest lecturers?
- ☐ **Technical Assistance**: In order to support business operations, this may include access to resources of schools of business, venture programs, small business development centers, and alumni. *This is of particular interest to small and growing businesses.*

☐ Develop a Business Strategy

A key part of your business plan will lay out how your campus will organize and implement its efforts to identify potential partners, get their attention for the opportunities you offer, negotiate terms that meet both their needs and yours and close the deal. *(To help you organize your thoughts, a Campus Business Strategy template is included as Appendix D of this Guide.)*

THINGS TO DO

All submissions to the Chancellor go to startupny@rfsuny.org.

Guide for Submitting Campus Plan for Designation of Tax-Free NY Area(s)

The Tax Free NY Area plan shall be developed by the Campus Team and must include the following information:

1. Campus Name, Contact Person and Address

2. Identification of the space and/or land being designated that includes the following:
    a. Digital files containing Polygon shapefile that delineates campus area;
    b. Digital files containing Point shapefile that provides locations of vacant space targeted. (Point shapefile must include a unique identifier for each feature); (template provided in electronic form)
    c. A chart (electronic excel spreadsheet) that includes name of city, town or village as well as street address and zip code where vacant property is located; a unique identifier; name of property owner; type of property; parcel ID# (if applicable and available); vacant Building name/number; type of vacant space; total square footage of vacant space or acreage of land, any geographic information system (GIS) maps of showing existing streets, natural boundaries and other physical features of the property, and description of vacant space (template provided in electronic form).

3. A description of the type of business or businesses that the campus is intending to be located on the area to be designated. Include a description of the academic mission of the Sponsor and how the anticipated businesses will align with or further the academic mission of the campus or college. In assessing how a tax-free business aligns with the mission of a campus or college in knowledge creation, knowledge diffusion, and formation of values, the college or campus may consider these factors or a combination thereof in its consideration to sponsor the tax-free business:
    i. Comprehensive undergraduate, graduate education and professional education
    ii. Research
    iii. Leadership
    iv. Diversity
    v. Culture
    vi. Regional economic development
    vii. Internship and training opportunities
    viii. Direct job opportunities for campus graduates
    ix. Internationalization
    x. Specific area specialization of the campus (health care, IT, ceramics, business education, professional and vocational postsecondary programs etc.)
    xi. Any other factors which the college or campus deems to be appropriate in determining the alignment of mission to the business.

4. A description of how participation by the types of businesses sought to occupy space in the campus tax-free zone would generate positive community and economic benefits. The criteria which a college or campus may use in establishing how a business would have a positive community and economic benefits may include the following:

i. Increased employment opportunities;
ii. Opportunities for internship, vocational training and learning experiences for undergraduate and graduate study;
iii. Diversification of local economy;
iv. Environmental sustainability;
v. Entrepreneurship;
vi. Positive linkages to existing business not in competition with START-UP businesses, especially small scale businesses;
vii. Boost to local economy; and
viii. Magnet for economic and social growth.

5. A description of the process the campus or college will follow to select businesses to participate in the Tax-Free NY Program.

6. Include the following as attachments to the campus plan:
   a. templates for leases or other agreements that will be signed by campus or college with eligible businesses;
   b. conflict of interest guidelines adopted pursuant to section four hundred thirty-nine of Article 21 of the Economic Development Law;
   c. certification of compliance with the Commissioner's rules and guidelines on anticompetitive behavior made pursuant to section four hundred forty-two of this Article 21 of the Economic Development Law, including certifications by the Sponsor and/or business of efforts to check for local competitors (see regulations, Section 220.10(d)(iv)(H));
   d. Attestation that the proposed Tax-Free NY Area has not been financed with any tax-exempt bonds, or where the proposed Tax-Free NY Area has been financed with any tax-exempt bonds, a formal opinion from counsel with expertise and experience in bond tax matters, or other documentation deemed acceptable by the Commissioner, that designation of the Tax-Free NY Area will not jeopardize or conflict with any existing tax-exempt bonds used to finance any property of the Sponsor.
   e. certification that the Sponsor has not relocated or eliminated any academic programs, any administrative programs, offices, housing facilities, dining facilities, athletic facilities, or any other facility, space or program that actively serves students, faculty or staff in order to created vacant land or space to be designation as a Tax-Free NY Area
   f. A statement signed by the President of the campus or college certifying that at least 30 days prior to submitting final plan, the campus/college provided required submissions as outline below:

      a. SUNY/CUNY/community colleges: At least 30 days prior to submitting final plan, the campus/college must provide the municipality or municipalities in which the proposed Tax-Free NY Area is located, local economic development entities, the applicable campus or college faculty senate, union representatives and the campus student government with a copy of the plan. If the plan of the campus/college includes land or space located outside of the campus boundaries, the campus/college must consult with the municipality or municipalities in which such land or space is located prior to including such space or land in the proposed Tax-Free NY Area and shall give preference to underutilized properties.

      b. Private colleges or universities: At least thirty (30) days prior to submitting the Plan to the Commissioner, the campus/college must consult with the chief executive officer of the municipality or municipalities and notify a local economic development entity representing the area, when the proposed Tax-Free NY Area is located outside of the campus boundaries.

   g. A statement signed by the President of the campus or college seeking the designation or by their designee that the information contained in such application to the maximum extent possible is accurate and complete.

Campus Asset Inventory

Designing the most productive model to accelerate economic development through a full-spectrum, proactive program like StartUp NY requires a complete inventory of your campus' core assets in the broadest sense. Please endeavor to catalogue these assets as they exist at your location. When completing this worksheet, please consider your campus' strategic plan and Research/Academic Profile as well as the SUNY Facility Master Plan.

Part I: Key Individuals

Please identify key faculty members other staff from all fields who are:

- productive in developing new technologies;
- actively apply for research funding (from federal, state, local, and private sectors);
- entrepreneurial (include teaching faculty and their key curricula);
- currently partnering with industry;
- or contractors offering specialized training programs; any special awards or designations.

Part II: Critical Infrastructure

Please identify all Centers and Institutes; other major research programs (may include funding sought but not yet awarded); specialized tools; specialized facilities for technology development (e.g., prototyping, characterization and analysis; testing and evaluation); manufacturing capacity; and other energy-applicable resources and relationships including: technology development funds, business development resources, incubation programs, worker readiness programs, arrangements with local small business development center(s), entrepreneurship curricula, startup development assistance, intern programs, access to private seed and venture capital, workforce development programs and partnerships with community colleges.

Part III: Core Programs

Please identify all specialized programs on your campus that are a key component of achieving the goals and objectives articulated in your strategic plan.

Part IV: Target Growth Areas/Applicable Strategic Plan Areas

Please identify areas the campus intends to grow in the next three to five years. These areas may be part of your campus' strategic plan.

Part V: Target Industry Sectors

Please list any industry or industry sector that your campus plans to target through the StartUp NY program.

Part VI: Intellectual Property Assets

Please identify all IP assets disclosed to your local technology transfer office or technology transfer officer, including case number, title, IP filings and technology status.

Part VII: Vacant Space on Campus and other Potential Space

Please review your response to the July 2013 survey conducted by Office of Capital Facilities for correctness. Please add anything that is missing. In relation to the space you identified, please provide a description of the type of businesses or business that may locate on any vacant or land and provide;

a. An explanation of how those types of businesses align with or further the academic mission of the campus or college; and
b. An explanation of how participation by those types of businesses would have a positive community and economic benefit.

Part VIII: Other Campus and Regional Assets

Please provide any additional information that does not fall into a category listed above but is an asset your campus or region offers that could be leveraged to entice an industry partner to co-locate on your campus.

Regional Economic Development Contacts

The most successful START-UP NY projects will result from campuses working in collaboration with key regional players, especially their local economic development entites. These organizations have significant experience structuring deals, idenfifying available sites, negotiating with partners and brokering related resources. In addition, START-UP NY specifically requires local economic development entites to comment on campus plans.

To facilitate campus connections to these groups, we are making available to you a comprehensive listing of New York State Economic Development Council contacts.

The New York State Economic Development Council is the state's principal organization representing economic development professionals. Their members include the leadership of Industrial Development Agencies, Local Development Corporations, commercial and investment banks, underwriters, bond counsels, utilities, and chambers of commerce.

The directory, sorted by region of the state, can be found on the StartUp NY website by going to http://startup-ny.com/campus-resources. Please identify your local partners and work with them during the formation of your campus plan. These groups are also a key resource as you begin to engage potential partners.

Campus Business Strategy

The Campus Business Strategy designed to establish a common framework for proposals in order to assist in the decision-making process.

In scoping your project, your overall goal should be to provide enough information to support a decision to move forward including any and all available financial details.

Please provide enough detail to allow someone with limited or general knowledge of your campus' operations to understand the proposal. Don't be concerned if your proposal is not a precise, final, or exhaustive solution, as that can be further developed once the proposal has been approved. Please attach any supporting documentation or other additional information. The information you provide will help improve the quality of the decision-making process.

Once submitted, your project proposal will be considered by SUNY System Administration and the Research Foundation.

Project Title

Please provide a title for your project and indicate if the project requires any of the following transactions:

1. Affiliated Corporation
2. RF/SUNY Business Incubator
3. Construction and/or Rehabilitation Project
4. Contracted Services
5. High-value lease
6. Loaning or borrowing of Funds
7. Fiscal or Staffing Services
8. Establishment of an At-risk Award
9. Other

Please provide contact information for the project leads on campus:

Primary Contact:
Name
Phone
Email

Secondary Contact:
Name
Phone
Email

Executive Summary

Please provide a summary of the information detailed throughout this project proposal.

Statement of Need

Discuss the needs or opportunities to be addressed by this project. In your discussion, describe and position these needs or opportunities within the context of campus and SUNY strategic planning. Both internal and external factors should be considered

Project Goals

Identify the goals of the project. Discuss what is to be achieved, the benefit to the campus and the expected/desired outcomes of this project.

Constraints

Talk about constraints that could affect the development, implementation and/or end outcomes of this project. Consider such factors as experience, knowledge, skill sets, budgetary resources, time, competitive environment and existing investments.

Requirements

Given your operational context, describe what needs to be in place during the project and afterwards for the project to be successful. In your discussion, consider the constraints you identified above and, if necessary, define requirements to compensate for constraints.

Time vs. Relevancy

In order for this project to be relevant within your operation, satisfy the needs and opportunities defined, and achieve stated project goals, what would be the desired timeline for the project?

Define the timeline in terms of key milestones to be achieved and discuss the project outcomes described above in the context of these milestones.

What do you think is the longevity or useful life of the solution?

Impact: Costs & Risks

Discuss the expected impact of the project and its expected outcomes. Provide detail on expected and potential costs and risks. Also, consider both one-time as well as ongoing costs and risks (i.e., maintenance and support). Wherever possible, quantify the impact.

In your discussion, speak to the following areas of impact: (1) positioning to take advantage of other opportunities; (2) effect on business processes and workflow; (3) staffing (number of staff required, training, redefinition of roles); (4) effect on end users; (5) budget (i.e., incremental costs needed; potential savings); (6) competitive advantage or standing.

Impact: Benefits & Opportunities

Discuss the expected impact of the project and its expected outcomes. Provide detail on expected and potential benefits and opportunities. Wherever possible, quantify the impact of the solution.

In your discussion talk about the following areas of impact: (1) positioning to take advantage of other opportunities; (2) effect on business processes and workflow; (3) staffing (number of staff required, training, redefinition of roles); (4) effect on end users; (5) budget (i.e., incremental costs needed; potential savings); (6) competitive advantage or standing.

Alternative Impact

Discuss how this project fits within the SUNY strategic plan and system-wide research priorities. How does this project align with campus objectives and mission? Do you see potential opportunities for this project to benefit other functional areas within your campus or across the University?

Project Fit

Discuss how this project fits within the SUNY strategic plan and system-wide research priorities. How does this project align with campus objectives and academic mission? Do you see potential opportunities for this project to benefit other functional areas within your campus or across SUNY?

Evaluation and Measurement

Propose criteria that might be used in defining and evaluating the success of this project and its end outcomes. What measurement standards are available to determine if the project is a success and the effects of its end outcomes? What benchmarks can be set up to determine the short-term and long-term efficacy of the project? Consider in your discussion the goals, requirements and impact defined above as well as the anticipated project timeline.

Alternative Solutions

Do you know of any alternative solutions that satisfy the goals and requirements of this project (either fully or partially)? If so, have they been explored? Discuss why this proposal has been submitted in lieu of alternative solutions.

Contingency Plan

If the proposed project is critical to your operations, please discuss what contingency plans could be put into place in the event that the project or its end outcomes are not successful.

Additional Information

Please provide any additional considerations or information in support of this proposal in the space below or as attachments to your proposal.

Appendix E

Sponsor Application for Business Participation Materials

Sponsoring University or College
Application for Business Participation

Name of sponsoring university or college: _____

Name of Business: _____

BUSINESS TAX-FREE AREA (Indicate below Tax-Free Area where business will locate)

SUNY & SUNY Community Colleges
(North and West of Westchester)

☐ Vacant space in building located on campus
☐ Vacant land on campus
☐ NYS Incubator with bona fide affiliation to the college or university
☐ 200,000 sq ft of additional vacant land or vacant building space within 1 mile of the campus
☐ Empire State College campus in Saratoga Springs
☐ Affiliated State Strategic Assets, as designated by the START-UP NY Approval Board (limited to 200,000 square feet per asset)

SUNY & SUNY Community Colleges
(Long Island & Westchester County)
Participating businesses must be high-tech company and/or start-up

☐ Vacant space in building located on campus
☐ Vacant land on campus
☐ NYS Incubator with bona fide affiliation to the college or university
☐ Affiliated State Strategic Assets, as designated by the START-UP NY Approval Board (limited to 200,000 square feet per asset)
☐ Adjacent property to campus

SUNY & SUNY Community Colleges
New York City (Downstate Medical, Optometry, Maritime and FIT) ***Participating businesses Downstate must be high-tech company and/or start-up***

☐ Vacant land or vacant building space on campus if on property of the college that is located Upstate
☐ NYS Incubator affiliated with Downstate Medical Center
☐ NYS incubator with a bona fide affiliation to the college or university
☐ Up to a total of 200,000 sq ft of vacant additional land or vacant building space Upstate within 1 mile of the campus (can be further than 1 mile with ESD approval)
☐ Affiliated State Strategic Assets, as designated by the START-UP NY Approval Board (limited to 200,000 square feet per asset)
☐ Adjacent property to campus

Private Colleges & Universities (North and West of Westchester)

Requires Start-UP NY Board Approval

☐ Vacant space in building or vacant land not in Nassau county, Suffolk county, Westchester county or New York City

☐ Incubator with bona fide affiliation to the college or university

☐ Affiliated State Strategic Assets, as designated by the START-UP NY Approval Board (limited to 200,000 square feet each asset and not subject to other square foot limitations)

Private Colleges & Universities

Downstate (Westchester, Nassau, Suffolk counties and NYC)

Participating businesses must be high-tech company and/or start-up

☐ Vacant space in building located on campus

☐ Vacant land on campus

☐ NYS incubator with a bona fide affiliation to the college or university

☐ Affiliated State Strategic Assets, as designated by the START-UP NY Approval Board (limited to 200,000 square feet each asset and not subject to other square foot limitations)

CUNY & CUNY Community Colleges

One CUNY campus in an economically distressed community will be designated in each of the NYC boroughs and START-UP NY Tax-Free Areas

Participating businesses Downstate must be high-tech company and/or start-up

☐ Vacant space in any building located on campus

☐ Vacant land on campus

☐ No off-campus land or building space Downstate

☐ Any vacant space in any building or vacant space on a CUNY campus located Upstate

☐ Up to 200,000 square feet of additional vacant land or vacant building space within 1 mile of the Upstate CUNY campus (can be further than 1 mile with ESD approval)

☐ NYS Incubator with bona fide affiliation to the college or university

CUNY campuses that are not designated in an economically distressed community can apply for the 150,000 sq ft per county described under "Private Colleges & Universities – Downstate"

☐ ***check here to indicate if applicable***

Strategic state asset as Tax-Free NY Areas affiliated with a SUNY, CUNY, community college or private college or university

Requires Start-UP NY Board Approval

200,000 sq. ft. of vacant land or vacant building or group of buildings owned by the state of NY that is:

☐ closed ☐ vacant ☐ notice of closure has been authorized

Provide address of closure/vacancy of state asset:

LEASING INFORMATION:

If a state university campus enters into a lease with a business for eligible land in a Tax-Free NY Area with a term greater than forty years, including any options to review, or for eligible land in a Tax-Free NY Area of one million or more square feet, the state university campus, must also submit the lease for review simultaneously with this application.

☐ ***check here indicating lease is required and is included with this application***

BUSINESS MISSION

Indicate how the business's participation in the START-UP NY program will have positive community and economic benefits.

Describe how the mission and activities of the business aligns with or furthers the academic mission of the campus, college or university sponsoring the Tax-Free Area.

CERTIFICATION OF EFFORTS TO DETERMINE THAT THE BUSINESS APPLICANT WILL NOT COMPETE WITH ANY OTHER BUSINESS IN THE COMMUNITY THAT IS OUTSIDE THE TAX-FREE NY AREA

CHECK EACH BOX BELOW TO INDICATE WHETHER THE UNIVERSITY OR COLLEGE IDENTIFIED ANY COMPETITORS TO THE BUSINESS APPLICANT IN THE COMMUNITY

"Competitor" *means a business that produces, manufactures, or sells the same or substantially similar product or provides the same services, and competes for the same customers or clients as an applicant for the START-UP NY Program.*

"Community" *means the census tract or tracts containing an approved Tax-Free NY area and the census tracts immediately contiguous to such census tract or tracts.*

☐ As the sponsoring university or college, we have reviewed the North American Industrial Classification System (NAICS) codes of businesses in the community and have not identified any Competitor in the community with the same NAICS code(s); and

☐ As the sponsoring university or college, we affirm that a posting was published in a local daily newspaper for no less than five (5) consecutive days and such posting resulted in no businesses identifying themselves as competitors in the community; and that such posting included a detailed description of the applicant's proposed products or services and also included appropriate contact information for the university or college representative responsible for receiving START-UP NY business applications.

☐ As the sponsoring university or college, we affirm that we reviewed the application submitted by the business applicant and that the business applicant did not identify any competitors in the community.

CHECK BELOW ONLY IN THE EVENT THAT THESE EFFORTS IDENTIFY POTENTIAL COMPETITORS

☐ **As the sponsoring university or college, we request that the Commissioner conduct** a review and make a final determination as to whether the applicant has a competitor in the community.

Sponsor
Signature: _____

Title: _____ **Date:** _ _ / _ _ / _ _ _ _

State of New York)
) ss:
County of _____)

On the _____ day of _____(month) 20_____(year), before me personally appeared (name)_____to me known, who being by me duly sworn, did depose and say that he/she resides at (address)_____ that he/she is the (title)_____of (business entity) _____, the business entity described herein which executed the foregoing instrument; and that he/she signed his/her name thereto by the authority granted by such business entity.

_____

Notary Signature

Print Form

NOTARY PUBLIC (Please affix stamp here)

Business Application Instructions

Section 2: Business Information

New (or "Eligible") business: means a business that satisfies all of the following tests:

a) the business must not be operating or located within the state at the time it submits its application to participate in the START-UP NY program;
b) the business must not be moving existing jobs into the Tax-Free NY Area from another area in the state;
c) the business is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable within the last five taxable years, under section 186 of the tax law, article 9-A, 32 or 33 of the tax law, article 23 of the tax law or which would have been subject to tax under such article 23 (as such article was in effect on January 1, 1980) or the income (or losses) of which is (or was) includable under article 22 of the tax law, and
d) the business must not have caused individuals to transfer from existing employment with a related person located in the state to similar employment with the business, unless such business has received approval for such transfers from the Commissioner of the NYS Department of Economic Development ("commissioner") after demonstrating that the related person has not eliminated those existing positions.
e) The business must not be engaged in a line of business that is currently or was previously conducted by the business or a related person in the last five years in NYS.

Not a new business?
If a business seeks to **expand** its current operations in New York state into a Tax-Free NY Area but the business does not qualify as a new business because it does not satisfy the criteria above, the commissioner may grant the business permission to apply to participate in the START-UP NY program if the commissioner determines that the business has demonstrated that it will create net new jobs in the Tax-Free NY Area and that it or any related person has not eliminated any jobs in the state in connection with this expansion.

If a business does not satisfy the eligibility criteria because at one point in time it operated in New York state but **moved** its operations out of New York state on or before June 1, 2013, the commissioner may grant that business permission to apply to participate in the START-UP NY program if the commissioner determines that the business has demonstrated that it will substantially restore the jobs in New York state that it previously had moved out of the state.

Any business that has successfully completed residency in a New York state incubator pursuant to section sixteen-v of section one of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight constituting the urban development corporation act, subject to approval of the commissioner, may apply to participate in the START-UP NY program provided that such business locates in a tax-free NY area, notwithstanding the fact that the business may not constitute a new business.

Businesses Prohibited from participating in the START-UP NY program:

a) Retail and wholesale businesses;
Retail and wholesale businesses shall include establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.
Wholesale businesses shall include establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.
Merchandise includes the outputs of agriculture, mining, manufacturing, and certain information industries, such as publishing.

b) Restaurants;
Restaurants shall include establishments that prepare meals, snacks, and beverages to customer order for immediate on-premises and off-premises consumption. This includes establishments that provide food and drink only, or various combinations of seating space, waiter/waitress services and incidental amenities, such as limited entertainment.

c) Real estate brokers;
Real estate brokers shall include establishments that are engaged in renting or leasing real estate to others; selling, buying, or renting real estate to others; and providing other real estate related services, such as appraisal services.

d) Law firms;
Law Firms or businesses providing legal services shall include establishments or offices of legal practitioners known as lawyers or attorneys (i.e., counselors-at-law) primarily engaged in the practice of law. Establishments in this industry may provide expertise in a range or in specific areas of law, such as criminal law, corporate law, family and estate law, patent law, real estate law, or tax law.

e) Medical or dental practices;
Medical or Dental Practices shall include establishments that provide health care services, directly or indirectly, to patients.

f) Real estate management companies.
Real estate management companies shall include establishments that are engaged in managing real estate for others and providing other real estate related services, such as appraisal services.

g) Hospitality;
Hospitality-related businesses shall include establishments that provide lodging or short-term accommodations for travelers, vacationers, and others. Some provide lodging only; while others provide meals, laundry services, and recreational facilities, as well as lodging.

h) Finance and financial services;
Finance and financial services businesses shall include establishments that are primarily engaged in financial transactions, that is, transactions involving the creation, liquidation, or change or ownership of financial assets, and/or in facilitating financial transactions. 3

i) Businesses providing personal services;
Businesses providing personal services shall include businesses that provide personal and laundry services to individuals, households, and businesses. Services performed include: personal care services; death care services; laundry and dry cleaning services; and a wide range of other personal services, such as pet care services, photofinishing services, temporary parking services, and dating services.

j) Businesses providing administrative or support services;
Businesses providing business administrative or support services unless such business has received permission from the Commissioner to apply to participate in the START-UP NY Program upon demonstration that the business would create no fewer than one hundred net new jobs in the Tax-Free NY Area. **Business providing business administrative support services** shall include businesses that are engaged in activities that support the day-to-day operations of other organizations. These activities include general management, personnel administration, clerical activities, or cleaning activities.

k) Accounting firms;

Accounting firms or businesses providing accounting services shall include establishments primarily engaged in providing services, such as auditing of accounting records, designing accounting systems, preparing financial statements, developing budgets, preparing tax returns, processing payrolls, bookkeeping, and billing.

l) Businesses providing utilities;
Businesses that provide utilities shall include businesses that provide electric power, natural gas, steam supply, water supply, and sewage removal through a permanent infrastructure of lines, mains, and pipes.

m) Businesses engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity;
Businesses engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity shall include businesses that generate or distribute electric power, natural gas, or steam supply through a permanent infrastructure of lines, mains and pipes.

Section 3: Employment

Average Number of Employees:

Employment numbers of the business and its related persons in the state should be calculated by adding together the total number of employees of the business and its related persons in the state on each of the four quarters ending on March 31st, June 30th, September 30th, and December 31st and dividing the total by the number of such dates occurring within such year.

There are three categories of employment data that must be provided (include leased employees in your calculations – a leased employee must be an employee with a leasing organization that is a professional employment organization (PEO) registered with the NYS Department of Labor).

Full-Time Jobs: the number of actual employees that work at least 35 hours per week.
Part-Time Jobs: the number of actual employees that work less than 35 hours per week.
Full-Time Equivalents FTEs:

- Any combination of two or more part-time jobs that, when combined together, constitute the equivalent of a job of at least 35 hours per week.
    - Example 1: two part-time workers each work 20 hours per week. Combined, they work a total of 40 hours per week. Since 40 hours per week is greater than 35 hours per week, this equals 1 FTE.
    - Example 2: three part-time workers each work 10, 10 and 15 hours per week respectively. Combined, they work a total of 35 hours per week, which equals 1 FTE.
    - Example 3: three part-time workers each work 10 hours per week. Combined, they work a total of 30 hours per week. Since 30 hours are less than 35 hours per week, there is no FTE. *(However, these would be counted as 3 jobs in the Part-Time Jobs category.)*

Net New Job means a job created in a Tax-Free NY Area that satisfies all of the following criteria:
a) is new to the state;
b) has not been transferred from employment with another business located in this state, through an acquisition, merger, consolidation or other reorganization of businesses or the acquisition of assets of another business, or has not been transferred from employment with a related person;
c) is not filled by an individual employed within the state within the immediately preceding sixty months by a related person;
d) has not been transferred from employment with another business located in this state, through an acquisition, merger, consolidation or other reorganization of businesses or the acquisition of assets of another business, or has not been transferred from employment with a related person;

e) is not filled by an individual employed within the state within the immediately preceding sixty months by a related person; is either a full-time wage-paying job or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week; and
f) is filled for more than six months.

Section 4: Investment

List any investment to be made in the Tax-Free NY Area including any plans for construction, rehabilitation or renovation; purchase or lease of equipment and the estimated schedule for the completion of any investment.

Only capital investments should be included. Capital investment means investments in tangible personal property or other tangible property which is depreciable pursuant to section 179 (d) of the United States Internal Revenue Code. Capital investments do not include operating expenses such as office supplies, utilities, rent, and other recurring expenses.

Section 5: Business Competitors

"Competitor" means a business that produces, manufactures, or sells the same or substantially similar product or provides the same services, and competes for the same customers or clients as an applicant for the START-UP NY program. 5

The application must describe whether or not the business competes with other businesses in the same community but outside the Tax-Free NY Area.

"Community" means the census tract or tracts containing an approved Tax-Free NY Area and the census tracts immediately contiguous to such census tract or tracts.

Section 6: Related Persons

Related person - The purpose of this question is to identify business entity(ies) that are related to the applicant in order to determine whether jobs have been transferred from a "related person" in this State. The definition for a related person can be found in section 465(B)(3)(C) of the Internal Revenue Code (see attached).

Section 7: Agreement

Statement of Consequence

Include a statement of consequences for the failure to meet performance benchmarks, as determined by the business applicant and the Sponsor, that includes: (i) suspension of such business's participation in the START-UP NY Program for one or more tax years as specified in such application; (ii) termination of such business's participation in the START-UP NY Program; and/or (iii) proportional recovery of tax benefits awarded under the START-UP NY Program as specified in Section 39 of the New York State Tax Law.

In the event that the business chooses proportional recovery of tax benefits as a consequence of realizing job creation less than the estimated amount, and the number of net new jobs created is at least 75% of the number of net new jobs promised, then the tax benefits shall be reduced by the percentage by which the business failed to meet its performance benchmark, calculated as the ratio of the difference between new net jobs promised and actual net new jobs created divided by the net new jobs promised.
Example: if the business promised to create 100 net new jobs but created only 90 net new jobs, the difference is 10 net new jobs. Dividing those 10 jobs not created by the 100 jobs promised shows that the

number of jobs created is 10% less than the number of jobs promised. The business's tax benefits would therefore be reduced by 10%.

In the event that the business chooses proportional recovery of tax benefits as a consequence of realizing job creation less than the estimated amount, and the number of net new jobs created is less than 75% of the number of net new jobs promised in any three years during the 10-year job creation schedule, then:

i. in the first year that the business does not meet the 75% threshold, there shall be a proportional recovery of tax benefits;
ii. in the second year that the business does not meet the 75% threshold, such business's participation in the START-UP NY Program will be suspended; and
iii. in the third year that the business does not meet the 75% threshold, such business's participation in the START-UP NY Program may be terminated.

Freedom of Information Law

If you would like to request protection from Freedom of Information Law for any information your business deems confidential, please include a letter with your request identifying, with specificity, any content the business deems to be confidential, proprietary, or a trade secret as defined by Article 6 of the Public Officers Law.

Section 8: Signature

The authorized representative is the person with whom the SUNY officials and Department of Economic Development staff will communicate regarding all questions and matters relating to the application. If the authorized representative of the applicant is a consultant, accountant, or other agent of the applicant, then this representative must be given power of attorney to act on behalf of the applicant. A completed power of attorney form must be attached. 7

RELATED PERSONS

INTERNAL REVENUE CODE SECTION 465 (B) (3) (C) – Related Person
(C) Related person – For purposes of this subsection, a person (hereinafter in this paragraph referred to as the "related person") is related to any person if:
(i) the related person bears a relationship to such person specified in section 267 (b) or section 707 (b)(1), or
(ii) the related person and such person are engaged in trades or business under common control (within the meaning of subsections (a) and (b) of section 52).
For purposes of clause (i), in applying section 267 (b) or 707 (b)(1), "10 percent" shall be substituted for "50 percent".

Section 267 (b) Relationships
The persons referred to in subsection (a) are:
(1) Members of a family, as defined in subsection (c)(4);
(2) An individual and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual;
(3) Two corporations which are members of the same controlled group (as defined in subsection (f));
(4) A grantor and a fiduciary of any trust;
(5) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
(6) A fiduciary of a trust and a beneficiary of such trust;
(7) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
(8) A fiduciary of a trust and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
(9) A person and an organization to which section 501 (relating to certain educational and charitable organizations which are exempt from tax) applies and which is controlled directly or indirectly by such person or (if such person is an individual) by members of the family of such individual;

(10) A corporation and a partnership if the same persons own—

(A) more than 50 percent in value of the outstanding stock of the corporation, and

(B) more than 50 percent of the capital interest, or the profits interest, in the partnership;

(11) An S corporation and another S corporation if the same persons own more than 50 percent in value of the outstanding stock of each corporation;

(12) An S corporation and a C corporation, if the same persons own more than 50 percent in value of the outstanding stock of each corporation; or

(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.

OR

§ 707(b) Certain sales or exchanges of property with respect to controlled partnerships

(1) Losses disallowed

No deduction shall be allowed in respect of losses from sales or exchanges of property (other than an interest in the partnership), directly or indirectly, between:

(A) a partnership and a person owning, directly or indirectly, more than 50 percent of the capital interest, or the profits interest, in such partnership, or

(B) two partnerships in which the same persons own, directly or indirectly, more than 50 percent of the capital interests or profits interests.

In the case of a subsequent sale or exchange by a transferee described in this paragraph, section 267 (d) shall be applicable as if the loss were disallowed under section 267 (a)(1). For purposes of section 267 (a)(2), partnerships described in subparagraph (B) of this paragraph shall be treated as persons specified in section 267(b) 8

§ 52. Special rules

(a) Controlled group of corporations

For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) determined under section 51 (a) with respect to each such member shall be its proportionate share of the wages giving rise to such credit. For purposes of this subsection, the term “controlled group of corporations” has the meaning given to such term by section 1563 (a), except that—

(1) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in section 1563 (a)(1), and

(2) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(b) Employees of partnerships, proprietorships, etc., which are under common control

For purposes of this subpart, under regulations prescribed by the Secretary—

(1) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

(2) the credit (if any) determined under section 51 (a) with respect to each trade or business shall be its proportionate share of the wages giving rise to such credit.

The regulations prescribed under this subsection shall be based on principles similar to the principles which apply in the case of subsection (a).

STARTUP NY

BUSINESS APPLICATION

Cert ID #: _____ - _____
☐ On Campus
☐ Off Campus

SECTION 1: BUSINESS CONTACT INFORMATION

Sponsor:			
Company Name:			
Contact Name:			**Contact Address:**
Phone | Fax			
E-mail			
Type of Business	☐ Sole proprietorship		☐ Corporation
	☐ Partnership		☐ Limited Liability Company

SECTION 2: BUSINESS INFORMATION

☐ **New Business**	☐ **Existing NYS Business Expanding**	☐ **Previous NYS Business relocating to NYS**	☐ **NYS Incubator Graduate**

FEIN #:	Website:

Indicate the Primary North American Industrial Classification System (NAICS) Code(6 digit code) at the PROJECT LOCATION
(For information about NAICS go to http://www.census.gov/eos/www/naics/ or http://www.tax.ny.gov/pdf/publications/general/pub910.pdf)

Business Location:	Phone:	Fax:

Please briefly describe your business, citing factors such as the business' industry, primary goods produced or services rendered, geographic presence, main customers, and significant competitors. Please also explain the factors that are driving its planned growth and expansion and explain why the company is making new investments and creating jobs.

If you are an existing business **expanding in NYS**, please provide a description of how the business will be expanding its current operations in New York state, indicate if it will attract investment from outside NYS and demonstrate how the business will create net new jobs in the Tax-Free NY Area and that the business, or any related person, has not eliminated any jobs in the state in connection with this expansion.

If you are a previous NYS business relocating to NYS please answer the following questions:

☐ Moved Operations out of NYS Date moved:	**Current Location:** (street, building, city, State)	Number of Employees in NYS prior to moving out of state:

Please provide an explanation of plans to move back to NYS and demonstrate below how the business will substantially restore the jobs in NYS that it previously had moved out of state:

SECTION 3: EMPLOYMENT

Indicate the number of employees of the business and related persons in the state as of the date this application is being completed :	

Using the table below, please indicate the average number of employees of the business and its related persons in the state during the year immediately preceding the year in which the business submits its application to locate in a Tax-Free NY Area.

To determine the average, add together the total number of employees of the business and its related persons in NYS on March 31st, June 30th, September 30th and December 31st and divide by the total number of such dates occurring within such year in which the applicant was located in NYS. Indicate "NA" for any date that the applicant was not located in NYS.

	Mar 31st	June 30th	Sept 30th	Dec 31st	Average
a. Full-Time Jobs (Employees that have worked 35 or more hours per week)					
b. Part-Time Jobs (Employees that have worked less than 35 hours per week)					
c. Full-Time Equivalents (FTEs) of above Part-Time Jobs (An FTE is any combination of two or more part-time jobs that, when combined together, constitute the equivalent of a job of at least 35 hours per week).					
Total FTEs (add rows a & c)					

Using the table below, please indicate the number of net new jobs (Full-time and full-time equivalents) and expected salaries for each job type for each year in the chart below. Please describe the type of job, by general category. The net new jobs should be indicated **as cumulative.**

		Cumulative Number of Net New Jobs				
Job Title/Category	**Average annual Salary**	**Year 1 (first year of operation)**	**Year 2**	**Year 3**	**Year 4**	**Year 5**
ex. Production Line Supervisor	32,000	3	4	4	5	5
Total Net New Jobs						

Please describe how the business plans to recruit employees from the local workforce:

Section 4: INVESTMENT

Please include only capital investments. Capital investment means investments in tangible personal property or other tangible property which is depreciable pursuant to section 179 (d) of the United States Internal Revenue Code. Capital investments do not include operating expenses such as office supplies, utilities, rent, and other recurring expenses.

Type of Investment	Total Amount of Investment				
	Year 1	Year 2	Year 3	Year 4	Year 5
Building acquisition					
Building renovation					
New construction					
Production machinery & equipment					
Furniture, fixtures & equipment					
Total Projected Investments					

SECTION 5: BUSINESS COMPETITORS

Will the business compete with other businesses in the same community but outside of the Tax-Free NY Area?

"Competitor" *means a business that produces, manufactures, or sells the same* or substantially similar *product or provides the same services, and competes for the same customers or clients as an applicant for the START-UP NY Program.*
"Community" *means the census tract or tracts containing an approved Tax-Free NY Area and the census tracts immediately contiguous to such census tract or tracts.*

☐ Yes ☐ No ☐ Unsure

By checking **no,** you are attesting that the applicant business will not compete with other businesses in the same community but outside the Tax-Free NY Area). If **yes**, please provide the names and addresses of the businesses with whom the applicant business will be competing. (*Use additional sheets as necessary)*

Name of Business Competitor:	**Name of Business Competitor:**
Address:	**Address:**

SECTION 6: RELATED PERSONS

Please indicate below, all related persons to the business applying. (*Use additional sheet if necessary) Related person is defined pursuant to §465 (b) (3) (c) of the Internal Revenue Code (See Instructions)*

Name of Entity (related person) (include address):

Form of Organization:	**FEIN (or SS#):**
Contact Person(s):	**Contact Phone:**

Comments:

Name of Entity (related person) (include address):	
Form of Organization:	**FEIN (or SS#):**
Contact Person(s):	**Contact Phone:**
Comments:	

SECTION 7: AGREEMENT

By submitting this application, as the authorized representative of the applicant above, I agree:

1. to allow the department of taxation and finance to share its tax information with the department of economic development and the sponsoring campus, university or college. However, any information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law;
2. to allow the department of labor to share its tax and employer information with the department of economic development and the sponsoring campus, university or college. However any information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law;
3. to allow the department of economic development and its agents and the sponsoring campus, university or college access to any and all books and records the department or sponsoring campus, university or college may require to monitor compliance;
4. to provide the following information to the department of economic development and sponsoring campus, university or college *upon request:* (i) the prior three years of federal and state income or franchise tax returns, unemployment insurance quarterly returns, real property tax bills and audited financial statements; (ii) the employer identification r social security numbers for all related persons to the business, including those of any members of a limited liability company or partners in a partnership;
5. to certify, under penalty of perjury, that it is in substantial compliance with all environmental, worker protection, and local, state, and federal tax laws, and that it satisfies all the eligibility requirements to participate in the START-UP NY program; and
6. to the a statement of consequences for the failure to meet performance benchmarks, as determined by the business applicant and the Sponsor, that includes: (i) suspension of such business's participation in the START-UP NY Program for one or more tax years as specified in such application; (ii) termination of such business's participation in the START-UP NY Program; and/or (iii) proportional recovery of tax benefits awarded under the START-UP NY Program as specified in Section 39 of the New York State Tax Law and pursuant to Part 220 of Title 5 of the NY Code of Rules and Regulations (See Business Application instructions for details.)

☐ Check here to request protection from FOIL for any information your business deems confidential. Enclose a letter with your request identifying with specificity any content the business deems to be confidential, proprietary, or a trade secret as defined by Article 6 of the Public Officers Law.

SECTION 8: SIGNATURE

Signature
Name and Title
Date

State of New York)
) ss:
County of _____)
On the _____ day of _____(month) 20_____(year), before me personally appeared

(name)_____to me known, who being by me duly sworn, did depose and say that he/she resides at

(address)_____

that he/she is the (title)_____of (business entity) _____, the business entity described herein which executed the foregoing instrument; and that he/she signed his/her name thereto by the authority granted by such business entity.

_____
Notary Signature

NOTARY PUBLIC (Please affix stamp here)

Print Form