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| **BUREAU OF FISCAL SERVICES** **Procurement Unit** |  |  |

**April 4, 2024**

**Request for Proposals (RFP) 23-103**

**Check 21 Services**

**Responses to Round Two Bidder Questions and Amendment #2**

To All Potential Bidders:

Attached are the Department’s Responses to Round Two Bidder Questions received for the above referenced RFP.

Additionally, the Department is issuing Amendment #2 as clarification to:

* Amend RFP Table 2.2, Requirement 1.2
* Amend RFP Table 2.2, Requirement 17.4
* Amend RFP Section 4.2.8

Corrected pages are attached to this document. All additions are made in blue underlined text (additions) and all deletions are made in red strikethrough text (~~deletions~~).

All other requirements and conditions remain as indicated in the RFP.

| **#** | **RFP** | **QUESTION** | **DEPARTMENT RESPONSE** |
| --- | --- | --- | --- |
| **SECTION** | **PG** |
| **1** | **Table 2.1, *Functional Requirements*****Requirement 3.3** | **16** | Can DTF clarify what the assigned identifying number is for each non-conforming image? Would the ECE Institution Sequence number of BOFD item sequence number suffice? | **Yes, this is the field used.** |
| **2** | **Table 2.1, *Functional Requirements*****Requirement 6.1** | **18** | Does the Department have a preference on when the representments should occur? | **The Department prefers that re-presentment occur at least 24 hours after the initial notice of Dishonorment.** |
| **3** | **Table 2.2, *Development / Support Service Requirements*****Section 2, *Internal Controls and Security For Physical Assets and Data***  | **22-26** | 1. Given Section 2.5 contemplates cooperation in performance of a security review/risk prior to implementation, and given the highly confidential nature of certain information requested in this section, is the State willing to negotiate proposed modifications in place upon award or conditional award subject to necessary confidentiality and security requirements?
2. As a general matter, Bank cannot agree to future changes to legal requirements without a formal change control, amendment, or termination process being available. We also do not generally agree to specific client information security requirements, but are willing to do so for the State provided they are formally incorporated as attachments/exhibits to the contract and subject to non-material edits from negotiations.
 | **DTF sought clarification from the entity that submitted this question. Upon receiving the clarification as it relates to this question asked, DTF offers the following response:**1. **The Department acknowledges there could be a need for confidentiality in certain aspects of a Bidder’s Proposal and/or descriptions of information technology systems. Accordingly, Bidders should review and comply with:**
* **RFP Section 4.1.5 regarding Proposal Security (Note that this Section also speaks to nondisclosure agreements); and**
* **RFP Section 4.2.19 regarding the procedure for a Request for Exemption from Disclosure.**

**To fully evaluate Proposals, the Department requires all of the information requested in the RFP. Failure to fully provide the requested information may result in a reduced technical score for the Proposal.** 1. **The Department is amenable to attaching printouts of the current versions of the State policies referenced in RFP Table 2.2, at Requirement 2.1 to the contract. However, the ITS standards and policies referenced in the RFP are baseline security protections, compliance with which is required for the State and any of the State’s contractors.** **The State will not “negotiate” the requirements *per se*. However**, **if a Bidder is unable to meet any of the requirements in the policies and the State deems that an exception to an ITS policy is necessary and prudent, the State and the Bidder could apply for an exception using the process set out in** [nys-p23-002-technology-exception-policy.pdf](https://its.ny.gov/system/files/documents/2023/09/nys-p23-002-technology-exception-policy.pdf). **Given compliance with the ITS policies is required, the Bidder should provide with its Proposal submission a summary of the reasons that an exception would be sought.**
 |
| **4** | **Table 2.2, *Development / Support Service Requirements*** **Requirement17.4** | **45** | As the national bank subsidiary of a publicly traded company, Bank is unable to provide advance notice of such an event but can agree to prompt notification upon actual consummation of such an event. Will the State consider revising this requirement accordingly? | **The Department has clarified RFP Table 2.2, Requirement 17.4 and also amended RFP Table 2.2, Requirement 1.2 concerning acceptable timeframes for notifications. See Amendment #2.** |
| **5** | **Table 2.3, *Cash Management Requirements*** **Requirement 5.1** | **47** | Regarding the requirement below, please provide clarification what the Department considers to be “*available*.” Does the Department intend to sweep out the funds before they are fully collected, creating a negative collected balance position or would the Department only sweep out the collected balance? “*The Contractor must agree that check deposits will be immediately and fully credited to the Department’s/OSC’s bank accounts and available…*” | **The Department is still formulating its response to this question. This document will be updated with a response by end of day tomorrow, Friday, April 5, 2024** |
| **6** | **Table 2.5, *Financial Stability Requirements***  | **50-53** | Is the State willing to negotiate modifications to this provision upon award or conditional award that the Bank considers non-material? As a national bank subject to federal oversight (and a wholly owned subsidiary of a publicly traded company), much of the information sought is already publicly available; and, to the extent it is not, may be subject to conflicting confidentiality requirements. | **The State does not negotiate mandatory RFP requirements. However, the information required to satisfy the requirement may be provided as a link to publicly available information. For the financial stability-related information subject to “*conflicting confidentiality requirements*,” the Bidder may explain the reason and request an exemption from disclosure.** |
| **7** | **RFP Section 4.2.8**, ***Cooperation with Investigations*** | **66** | Is the State willing to negotiate modifications to this provision upon award or conditional award that the Bank considers non-material? Specifically, to avoid regulatory conflicts, the Bank would like to qualify this provision with “to the extent both permitted and required under law.” Additionally for regulatory reasons, the Bank cannot grant the State sole discretion to interview representatives without Bank representation. | **The State does not negotiate mandatory RFP requirements.** **However, the State has amended RFP Section 4.2.8, *Cooperation with Investigations*. See Amendment #2.** |
| **8** | **Section 5.2, *Proposal Submission***  | **76-77** | Would NYS Dept of Taxation and Finance consider accepting all electronic copies via email and eliminate paper copies as well as other digital media? | **No, the Department requires original paper copies as specified in the RFP.** |
| **9** | **Attachment 22, *Cost Proposal Requirements Response Form*** | **32** | Would we be able to charge multiple bank charges under a single category on our account analysis statement as long as all related elements use the same unit price?For example, for Manual Deposits, if we use separate billing line items for Canadian vs Non-Canadian foreign checks deposited, are we able to charge for both elements as long as they both use the same fee quoted for Manual Deposits on our Cost Proposal? | **Yes, this is acceptable. However, it should be noted that any foreign check to be processed must be made payable in US funds, in accordance with RFP Table 2.1, Requirement 4.3. Additionally, the Transaction Fees proposed on Attachment 22 must only be charged once per check deposit transaction.** |
| **10** | **Exhibit B, *Volumes*** | **7** | How many unique credits post to the bank accounts for Manual Deposits on an annual basis? | **The Department posts approximately 1,270 credits annually across all bank accounts.****Note: DTF interprets the phrase ‘unique credits’ to represent the number of times a credit is made to our account. For example, if we deposit 100 checks for $5,000 dollars, the unique credit is $5,000 dollars in the line item on our account statement.** |
| **11** | **Exhibit B, *Volumes*** | **7** | How many unique credits post to the bank accounts for Electronic Payments deposits on an annual basis? | **The Department posts approximately 3,300 credits annually across all bank accounts.****Note: DTF interprets the phrase ‘unique credits’ to represent the number of times a credit is made to our account. For example, if we deposit 100 checks for $5,000 dollars, the unique credit is $5,000 dollars in the line item on our account statement.** |
| **12** | **Exhibit B, *Volumes*****Overdraft Information Table** | **8** | What is a typical cause of an account overdraft? | **The bank accounts are regularly swept to certain fund balances. An overdraft can occur when an unusually large item is returned and there is an insufficient fund balance to cover the returned item.** |
| **13** | **Exhibit B, *Volumes*****Overdraft Information Table** | **8** | Is “*Number of Days in Negative Balance*” an annual or monthly figure and does this refer to a negative collected balance or a ledger overdraft?Does these occur as single day events or across consecutive days? | **This number reflects the cumulative number of days within a given year. This refers to negative collected balance. These overdrafts can be single day events, or could occur across consecutive days (for example, an overdraft occurring on a Friday, Saturday, or Sunday may not be resolved until the next business day).** |
| **14** | **Exhibit F, *Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement*** | **15-16** | Are there specific contract goals that DTF is looking for in Exhibit F? | **Per RFP Section 4.2.5, Contractor Requirements and Procedures for Participation by New York State-Certified Minority and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women, there are no goals for this contract:*****“For purposes of this solicitation, the Department of Taxation and Finance hereby establishes an overall goal of 0% for MWBE participation, 0% for New York State-Certified Minority-Owned Business Enterprise (“MBE”) participation and 0% for New York State-Certified Women-Owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs).”***  |
| **15** | **Exhibit I, *Preliminary Base Contract*** **Article IX** ***(Contractor Performance Monitoring / Reviews)*** | **35-36** | Is the State willing to negotiate modifications to this provision upon award or conditional award? Specifically, we would request that any discretion provided to the State should require a “reasonableness” qualifier. As a regulatory matter and to protect client confidentiality, physical access to non-public Bank facilities is highly restricted. | **The State does not negotiate contract terms prior to award. Rather, along with its Proposal submission, a Bidder must propose any changes in the manner described in RFP at Preface G., Contract Signing:** **“*Preliminary Base Contract. The Preliminary Base Contract is attached hereto as Exhibit I. Bidders may only propose language amending Exhibit I that does not materially change the Requirements of the RFP. All objections, proposed changes, and/or additions to the terms and conditions set out in Exhibit I (“Bidder-Proposed Changes”) must be specifically identified in the Bidder’s Proposal. If there are any terms about which a Bidder wishes to request changes, or specific terms the Bidder wishes the Department to consider for inclusion in the Base Contract, the terms must be clearly identified and specific requests for changes must be submitted in accordance with the requirements of Section 4.2.18. The Department requests that any changes proposed to its language/terms be submitted as a mark-up of Exhibit I. The Bidder agrees to all terms set forth in Exhibit I not so identified for discussion.*”** |
| **16** | **Exhibit I, *Preliminary Base Contract*** **Article XVII *(Performance Deficiencies, Corrective Action, Remedies, and Reimbursements)*** | **41-42** | Is the State willing to negotiate modifications to this provision upon award or conditional award? Specifically, we would request that any cure period provided by DTF should require a “reasonably” set timeframe. Additionally, we would request clarifying language on the setoff provision that the State’s rights “under this contract” are specific to retention of funds “under this contract,” and state law more generally addresses the State’s broader setoff rights. | **See response to Question #15 above.** **See also Appendix A to RFP 23-103, *Standard Clauses for New York State Contracts* (dated June 2023). The terms and conditions of Appendix A are not negotiable.**  |
| **17** | **Exhibit I, *Preliminary Base Contract*** **Article XVIII *(Dispute Resolution)*** | **42-43** | Is the State willing to negotiate modifications to this provision upon award or conditional award? Specifically, the Bank cannot provide sole discretion to DTF to resolve potential disputes as a regulatory matter, and we would seek modifications to this Article to insert “unless otherwise agreed” and then specify scenarios where Bank must preserve regulatory and judicial jurisdiction over potential disputes, all subject to NY State law. | **See response to Question #15 above.**  |
| **18** | **Exhibit I, *Preliminary Base Contract*** **Article XIX *(Termination or Suspension*)** | **43-44** | Will the State consider revising the language in this provision to provide the State with additional discretion to manage the relationship? Specifically, for the provided examples of termination for cause, revise the language to “may include”? In that event, the State may still terminate for cause based on the examples, but termination would not be required if the State didn’t deem it in the State’s best interest. This appears consistent with the subsequent paragraph’s intent. | **See response to Question #15 above.**  |
| **19** | **Exhibit I, *Preliminary Base Contract*** **Article XXV *(General Terms and Conditions)*****Subsection H *(Dual Employment Provision)*** | **56-57** | Will the State consider revising the language in this provision upon award or conditional award? Specifically, to clarify that the notification requirement should be triggered to the extent the Bank hires a former NYS employee who is “providing services under this Agreement.” | **See response to Question #15 above.**  |

**2.2 Development / Support Service Requirements**

This section contains the specific Development / Support Service Requirements.

| **TABLE 2.2: DEVELOPMENT / SUPPORT SERVICE REQUIREMENTS** |
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| **#** | **REQUIREMENT** | **RESPONSE** |
|  | **SERVICE LOCATION(S)** |
| **1.1** | The Department prefers that all Services be performed (all data processed and stored) at geographical Site(s) located within the Continental United States (“CONUS”). | The Bidder should provide complete information describing the primary and backup Site locations where it will perform, as follows: * identify the service/activity, and the entity that performs the service/activity (if other than the Bidder), and the specific geographic location(s) in which the service/activity is performed;
* for each geographic location identified, describe the security and data protection safeguards that Bidder has implemented to protect against breaches, unauthorized access, and data misuse; and
* for each geographic location identified, describe the investigative and remedial measures that will be undertaken on behalf of DTF in the event of a breach or suspected malfeasance involving State data.
 |
| **Describe:** |
|  |
| **1.2** | During the term of the Agreement, including any extensions, the Contractor must provide DTF with written ~~advance~~ notice of any proposed change(s) to the geographical Site(s) where Services are performed (identified in its Proposal). ~~The~~ Unless prohibited by law from releasing such information prior to changing a location(s) identified in its Proposal, the Contractor will provide such notice to DTF: (1) ~~a minimum of 60 days’ before~~ promptly, upon determining to make a change, but no later than 10 days prior to changing to a different geographical location within CONUS; and (2) ~~a minimum of  180 days’ before~~ promptly, upon determining to make a change, but no later than 60 days prior to changing to a geographical location outside of CONUS. If the Contractor cannot disclose the change(s) in advance due to legal restrictions on the release of the information, such change(s) will be provided to DTF at the earliest possible date consistent with applicable law. | The Bidder must affirm understanding of, and agreement to comply with, this Requirement.  |
| [ ]  | Yes, the Bidder affirms its understanding of, and agreement to comply with, this Requirement. |
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| 1.
 | **INTERNAL CONTROLS AND SECURITY FOR PHYSICAL ASSETS AND DATA** |
| **2.1** | The Contractor must be able to assure the security, confidentiality, integrity, and availability of Department Data in accordance with:* Generally accepted information security policies, procedures, best practices and standards in the banking industry, and
* NYS Security Policies, as follows:
* 802.11 Wireless Network Security No. NYS-S15-003 - [https://its.ny.gov/80211-wireless-network-security](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fits.ny.gov%2F80211-wireless-network-security&data=05%7C01%7CPatricia.Kahn%40tax.ny.gov%7C8ba8d5dfbe0a4792cca308dbbf7a40c8%7Cf46cb8ea79004d108ceb80e8c1c81ee7%7C0%7C0%7C638314304012183567%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=h4LHaU8BIJWNkko2xOwKlCaW%2BcMqRALCeORk0%2FCmpc8%3D&reserved=0)
* Information Security Risk Management No. NYS-S14-001 - [https://its.ny.gov/information-security-risk-management-standard](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fits.ny.gov%2Finformation-security-risk-management-standard&data=05%7C01%7CPatricia.Kahn%40tax.ny.gov%7C8ba8d5dfbe0a4792cca308dbbf7a40c8%7Cf46cb8ea79004d108ceb80e8c1c81ee7%7C0%7C0%7C638314304012339789%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=zjBrZ4fh8HEMwq7J7tcoEPHMefOzY1lQPd7fDXxm6%2Fk%3D&reserved=0)
* Security Logging No. NYS-S14-005 - [https://its.ny.gov/security-logging-standard](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fits.ny.gov%2Fsecurity-logging-standard&data=05%7C01%7CPatricia.Kahn%40tax.ny.gov%7C8ba8d5dfbe0a4792cca308dbbf7a40c8%7Cf46cb8ea79004d108ceb80e8c1c81ee7%7C0%7C0%7C638314304012339789%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=mjiqKCLm6xTn%2BAEUx9mIVX%2BqZSmsjofB%2BShDALK381k%3D&reserved=0)
* Sanitation Secure Disposal No. NYS-13 -003 -[https://its.ny.gov/sanitization-secure-disposal-standard](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fits.ny.gov%2Fsanitization-secure-disposal-standard&data=05%7C01%7CPatricia.Kahn%40tax.ny.gov%7C8ba8d5dfbe0a4792cca308dbbf7a40c8%7Cf46cb8ea79004d108ceb80e8c1c81ee7%7C0%7C0%7C638314304012339789%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=9CPoGKylrCQRk0iZ%2BCmX%2FRx7IcCKlICKZt5Vxxk1EGg%3D&reserved=0)
* Secure Configuration No. NYS-S14-008 - [https://its.ny.gov/secure-configuration-standard](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fits.ny.gov%2Fsecure-configuration-standard&data=05%7C01%7CPatricia.Kahn%40tax.ny.gov%7C8ba8d5dfbe0a4792cca308dbbf7a40c8%7Cf46cb8ea79004d108ceb80e8c1c81ee7%7C0%7C0%7C638314304012339789%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=5sHkF6SeuP%2BOIxglDBqPlmXXhm%2Bu51DcouBt6%2F2SpSI%3D&reserved=0)
* Vulnerability Management No. NYS-S15-002 - [https://its.ny.gov/vulnerability-management](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fits.ny.gov%2Fvulnerability-management&data=05%7C01%7CPatricia.Kahn%40tax.ny.gov%7C8ba8d5dfbe0a4792cca308dbbf7a40c8%7Cf46cb8ea79004d108ceb80e8c1c81ee7%7C0%7C0%7C638314304012339789%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=XKxN%2BJQS54rzQmg%2BnLqQmS6b9qG2PMGomIENGkhvaoQ%3D&reserved=0)
* Patch Management No. NYS-S15-001 - [https://its.ny.gov/patch-management](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fits.ny.gov%2Fpatch-management&data=05%7C01%7CPatricia.Kahn%40tax.ny.gov%7C8ba8d5dfbe0a4792cca308dbbf7a40c8%7Cf46cb8ea79004d108ceb80e8c1c81ee7%7C0%7C0%7C638314304012339789%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=O%2BTxpGoPYM0ZPlS0Szak6boLaN2MBbMOVtj2npE81Y4%3D&reserved=0)
 | The Bidder must affirm understanding of, and agreement to comply with, this Requirement. |
| [ ]  | Yes, the Bidder affirms its understanding of, and agreement to comply with, this Requirement. |
| The Bidder should:1. Describe how this Requirement will be met.
2. Describe its current security programs, policies, and procedures which will be evaluated and scored to the extent they demonstrate:
* Programs, policies & procedures used to provide discretionary access control to systems and data. This information should address both physical security and electronic data security.
* Defined roles and responsibilities of all of those using the Contractor's information systems.
* Separate computing environments for test, quality assurance, and production systems.
* Policies, procedures and controls for backup and recovery of data.
* Off-site storage and disaster recovery operations.
* A process and procedure which provides for controlled destruction of system output or other records containing Department Data.
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| **TABLE 2.2: DEVELOPMENT / SUPPORT SERVICE REQUIREMENTS** |
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| **#** | **REQUIREMENT** | **RESPONSE** |
|  | with a notarized document.  Said document must be executed under penalty of perjury by an official authorized to bind the Contractor, affirming the Contractor has complied with the terms and conditions for record destruction and sanitation requirements during the transition period that are prescribed by the Department. |  |
| **17.4** | In the event of a reorganization, merger, acquisition, consolidation or other change to Contactor’s business impacting its performance under the Agreement (herein “Acquired Business Event” or “ABE”), the Contractor shall notify the Department in writing of such ABE as soon as possible, in accordance with any timing restrictions that may be imposed on the release of such information by applicable law, but no later than ~~five (5)~~ within two (2) business days ~~after execution of a notice of intent regarding~~ of the occurrence of the ABE.The ABE written notification must be sent to the address for notices set forth in the Agreement and provide sufficient detail about the ABE and its impacts on the Services provided by the Contractor for the Department to assess whether the circumstances require contract termination. | The Bidder must affirm understanding of, and agreement to comply with, this Requirement. |
| [ ]  | Yes, the Bidder affirms its understanding of, and agreement to comply with, this Requirement. |
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| **17.5** | If the Contract is terminated by the Department prior to Contractor’s drafting a complete and acceptable Transition Plan, Contractor shall immediately begin work with the Department to complete a detailed Transition Plan. The Department will set a deadline for transition activities in the notice of termination and Contractor will comply with the deadline in good faith.  | The Bidder must affirm understanding of, and agreement to comply with, this Requirement. |
| [ ]  | Yes, the Bidder affirms its understanding of, and agreement to comply with, this Requirement. |
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| **END OF TABLE 2.2** |

**the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

1.

### **Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Business Enterprises**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. The Department of Taxation and Finance recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of the Department of Taxation and Finance contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, the Department conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor.  Nevertheless, the Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>.

The Bidder/Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

### **Cooperation with Investigations**

In the event that the Department determines it necessary to investigate relative to a possible or actual 1) crime or 2) breach of confidentiality or security, in connection with the performance of this Agreement, Contractor and its Subcontractor(s), as applicable, shall cooperate fully with the Department and any other state or federal oversight authorities. ~~Upon~~ Unless prohibited by law, upon written request of the State, the Contractor and its Subcontractor(s), as applicable, shall make their respective employees and all relevant records deemed necessary by the State, including personnel records and employee photographs, available to the State for inspection and review. ~~At the State’s sole discretion, Contractor and Subcontractor representatives may be excluded from any interview where the State determines that such attendance may present a potential or actual conflict of interest or impede an interview.~~ The State must be permitted by the Contractor or Subcontractor, as applicable, to conduct interviews and document reviews during normal business hours.