

NEW YORK STATE

DEPARTMENT OF TAXATION AND FINANCE

INVITATION FOR BID

IFB # 05-03

SECURITY TRANSPORT SERVICES  
FOR DISTRICT OFFICES

I. **Introduction**

The New York State Department of Taxation and Finance (hereinafter referred to as "Department") is issuing this Invitation for Bid (IFB) for secured transportation, protection and safeguarding of valuable cargo from one point to another by means of specially designed and constructed bullet-resistant armored vehicles and armored car guards for certain of its district offices, as stated herein and in Schedule 1, which is made part of this IFB.

II. **Term**

The contract term shall commence February 16, 2006 and terminate February 15, 2011, unless modified as provided herein. In addition to the termination rights stated below, the Department shall have the right to terminate this contract early for: (1) unavailability of funds; (2) cause; or (3) convenience on February 15, 2006 and on each anniversary of the contract provided the State has given written notice to the contractor no later than thirty days or more prior to termination. If the contract is not terminated, prices may be adjusted as of February 16, 2007 and on each subsequent anniversary. Such adjustment may not exceed the lower of five (5) percent or the increase in the Consumer Price Index for All Urban Customers for the preceding twelve (12) month period as reported by the Department of Labor, Bureau of Labor Statistics for the CPI-U for All Items index.

III. **Technical Specifications/Requirements**

Bidders must be able to provide services to all the locations listed on Schedule 1. Schedule 1 (attached) and the requirements listed in Sections III. A and B represent the specifications for this IFB:

A. **Contractor Mandatory Requirements**

1. The Contractor must be licensed as an armored car carrier entity which provides secured transportation, protection and safeguarding of valuable cargo from one point to another by means of specially designed and constructed bullet-resistant armored vehicles as well as armored car guards from the New York Department of State in accordance with the Armored Car Act: Chapter 557, Laws of 1997.
2. The Contractor must provide a copy of their current armored car carrier license from the New York Department of State in accordance with General Business Law Article 8-B.

Upon the renewal of the Contractor's armored car carrier license, the Department is to be sent a copy forthwith.

3. In the event the location at which the armored car carrier business is to be conducted shall be changed, the Contractor shall immediately notify the Department in writing and have a rider attached to the license setting forth such changed location. The Department is also to be advised, if the business location changes zoning classification, from Commercial to Residential or visa versa.

4. The Contractor must have at least two armored, bullet-resistant transport vehicles to perform the services.
5. The Contractor must provide a copy of 2 or more current motor vehicle registrations identifying the vehicle as armored transport vehicles.
6. The Contractor must ensure the drivers of all armored transport vehicles are properly licensed to drive said vehicles (e.g., valid NYS Driver's License, appropriate classifications, etc.)
7. The Contractor must transport all Department deposits in an armored, bullet-resistant, transport vehicle properly registered to the Contractor.
8. Armored car guards must be employed by the armored car carrier to provide armored car services, carry a firearm or be authorized by the employer to access a firearm when providing armored car services and must be uniformed. In addition, all persons who engage in armored car activities must complete appropriate training and must be registered with the New York Department of State, Division of Licensing Services, located at 84 Holland Avenue, Albany, New York, 12208.
9. Armored car guards must hold and display a picture ID from the armored car carrier and must also hold and display a valid armored car guard registration card from the New York Department of State.
10. The Contractor must provide a Certificate of Insurance for not less than \$10 million in all risk insurance to cover the value of cash cargo consigned in transit or while safeguarded in such carrier vaults. The Certificate of Insurance must be issued to the State of New York, New York State Department of Taxation and Finance, W. A. Harriman Campus, Bureau of Fiscal Services, Building 9, Room 234, Albany, New York, 12227. Attention: The Procurement Unit. The certificate must state that, if the policy is cancelled, written notice will be mailed not less than 20 days prior of the cancellation to the Department, to the above listed unit and address.
11. The Contractor must hold and provide a copy of their current comprehensive general liability coverage for death, personal injury, and property damage in the minimum amount of \$500,000 per occurrence and \$1 million in the aggregate.
12. All insurance required must be issued by an insurance company licensed to do business in New York State or shall otherwise be procured by a duly licensed Excess Line Broker pursuant to Section 2118 of the Insurance Law.  
  
Upon the annual renewal of all required insurance policies, the Contractor must send a copy to the Department forthwith.
13. The Contractor must be a financially stable entity such that they may initiate and perform their obligations through the duration of the contract.

**B. Mandatory Service Requirements**

1. The Contractor must at the time of pick-up, provide and sign an approved log indicating the date and time the deposit was picked up.
2. The Contractor must obtain a validated written receipt for each sealed plastic deposit bag from JPMorgan Chase Bank's New Hyde Park Currency Services Center and return same to Department's contact person on the next scheduled pick-up date.
3. All pickups must be made on the days and at the times designated on Schedule 1. Pickups will be from the contact person in each of the five (5) district offices and must be delivered to the designated depository banks and/or JPMorgan Chase Bank's New Hyde Park Currency Services Center on the **same calendar day of pickup** or by the **next business day** (see Schedule 1). Deposits at JPMorgan Chase Bank's New Hyde Park Currency Services Center must be made by 5:00 PM. in order to receive timely credit. If the Contractor fails to meet these requirements payment will be withheld.
4. The Department reserves the right during the period of the contract to increase or decrease the number of calls per week indicated in the "Estimated Number of Pickups" column in Schedule 1.
5. The Contractor may be required to make unscheduled **same day** pickups at the stated rates.
6. The Contractor is to deliver the deposit bags to the JPMorgan Chase Bank Currency Services Center in a **complete and undamaged** condition.

**IV. Administrative Conditions**

**A. Purpose**

The purpose of this section is to describe the terms and conditions governing the proposal submission process. This IFB is a solicitation to bid, not an offer of a contract.

**B. Proposal questions and requests for clarifications**

Prospective bidders will have the opportunity to submit written questions and requests for clarifications regarding this Invitation For Bid (IFB). All questions regarding this IFB must be submitted via mail, e-mail or fax and received by December 12, 2005, 4:00 P.M. EST. Questions must reference the relevant page and section of the RFP and must be directed to the following individual and office:

**Written Correspondence:**

New York State Department of Taxation and Finance  
Attn: David Parkis, Chief Budget Analyst  
Procurement Services Bureau  
W. A. Harriman State Office Building Campus  
Building 9, Room 234  
Albany, New York 12227  
Attention: IFB 05-03

**E-mail:** [BFS\\_Contracts@tax.state.ny.us](mailto:BFS_Contracts@tax.state.ny.us)

**Telephone:** (518) 457-0954

**Fax:** (518) 435-8413

The Department will respond, in writing, to all substantive questions received by December 12, 2005. Written responses to all substantive questions will be posted on the Department's Procurement website at: <http://www.nystax.gov/procurement> on December 19, 2005.

All amendments, clarifications, bidder questions with Department responses and any announcements related to this bid will be posted to the Department's web site. It is the bidder's responsibility to check the Department's web site periodically for any updates. All applicable amendment information must be incorporated into the bidder proposal. Failure to include this information in your proposal may result in disqualification.

Sealed bids will be received by the issuing officer for services specified herein under the terms and conditions of this proposal. **NO BID WILL BE CONSIDERED IF RECEIVED AFTER 4:00 P.M. EST on December 28, 2005.**

**C. Timetable for Key Events**

Issuance of IFB.....	December 5, 2005
Deadline for Submission of Written Questions.....	December 12, 2005
Issuance of Department Response to Bidder Questions.....	December 19, 2005
Bid Due Date.....	December 28, 2005 by 4:00 p.m., EST
Contract Implementation.....	February 16, 2006

**1. Bidder Proposal Clarifications**

Bidders may be required to provide written clarification of portions of their proposals. Written clarifications will be considered in the evaluation process.

2. **Submission of Proposals**

In order to be considered for selection, bids must be received at the issuing office no later than **4:00 P.M. EST on December 28, 2005**. The Department assumes no responsibility for delivery delays and will not consider proposals arriving later than this day and time.

Mail deliveries requiring a signature of receipt should be addressed to the Department's campus address, but the delivery service should be instructed to deliver the bid documents to the following address:

**90 Cohoes Avenue  
Green Island, New York 12183**

To facilitate the evaluation process, four (4) copies of the Technical Proposal and our (4) copies of the Financial Proposal must be submitted. **(See Section VI for a description of Proposal Requirements.)** Proposals must be bound separately with numbered pages. Proposals must be visibly inscribed on the outside of the package in the following manner:

**"BID ENCLOSED"**

IFB #05-03

Proposal to Provide Security Transport Services for District Offices  
Bid Submission date and Time

**Bidder's name and address**

The Proposal packages must be enclosed in sealed containers and addressed to:

Mr. David Parkis  
Chief Budget Analyst, Procurement Services Bureau  
NYS Department of Taxation and Finance  
W. A. Harriman State Office Building Campus  
Building 9, Room 234  
Albany, New York 12227

**No consideration will be given to proposals received after the deadline. No individual exceptions or extensions of the deadline will be made.**

Bids that are illegible or that contain any omissions, erasures, alterations, additions, or items not called for in the itemized proposal or that contain irregularities of any kind may be rejected.

D. **Bidder Selection and Notification of Award**

The successful Bidder will be advised of selection by the Department through the issuance of a "Notification of Award Letter."

E. **Contract Negotiations and Approval**

During contract negotiations, the Department of Taxation and Finance expects to have direct access to Bidder personnel who have full authority to make commitments on behalf of the bidder. Bidders must include, as part of their proposal, any restrictions under which their primary negotiators will operate.

Any negotiated contract must conform with the laws of New York State (see Section V, Contract Conditions), and will be subject to approval by the Attorney General and the Office of the State Comptroller. The contract will not be considered fully executed until formal approval has been granted by the Attorney General and the Office of the State Comptroller.

F. **Issuing Office**

This IFB is issued by the New York State Department of Taxation and Finance, which is responsible for all criteria stated herein and for evaluation of all proposals submitted.

G. **Liability**

The State of New York is not liable for any cost incurred by a Bidder in the preparation and production of any proposal, or for any work performed prior to the execution of a formal contract.

H. **Reserved Rights**

The Department reserves the right to:

1. Reject any or all proposals received in response to this IFB, and to reissue a modified version of this IFB.
2. Amend IFB specifications to correct errors or oversights, or to supply additional information as it becomes available and so notify all bidders.
3. Direct the Bidder to submit proposal modifications addressing subsequent IFB amendments issued as per #2 above.
4. Make typographical corrections to proposals, with the concurrence of the bidder.
5. Correct computational errors with the written concurrence of the bidder.
6. Change any of the scheduled dates stated herein.
7. Eliminate any mandatory specification that can not be complied with by any of the prospective bidders.

8. Evaluate, accept and/or reject any and all proposals, in whole or in part, and to waive technicalities, irregularities, and omissions if, in the Department's considered judgment, the best interests of the Department will be served. In the event compliant bids are not received, the Department reserves the right to consider late or non-conforming bids as offers.
9. Disqualify any Contractor from receiving an award if such contractor or anyone in his/her employ, has previously failed to perform satisfactorily in connection with public bidding or contracts or is deemed otherwise not responsible by the State.
10. Require the bidder to demonstrate, to the satisfaction of the Department, any information presented as a part of their proposal
11. Withdraw the IFB, at its sole discretion
12. Determine a tie breaking mechanism for award of the contract to serve the best interests of the Department.

I. **Proposal Security**

Each bidder's proposal will be held in strict confidence by the Department staff and will not be disclosed except to the Office of the Attorney General and the Office of the State Comptroller as may be necessary to obtain the approvals of those agencies for the final contract.

Public inspection of the bids is regulated by the Freedom of Information Law (Article 6 of the New York State Public Officers Law). The bids are presumptively available for public inspection.

The Public Officers' Code of Ethics (Section 74 of the Public Officers Law) sets the standards that no officer or employee of a State Agency shall disclose confidential information that he or she acquires during the course of his or her official duties. These standards control the confidentiality of a Bidder's proposal unless the Department grants a petition for records access in accordance with the Freedom of Information Law. Bidders should be advised that the confidentiality of their proposal is founded upon statute, as described above. A nondisclosure agreement, whether prescribed by the Department or the Bidder, would not alter the rights or responsibility of either party under the Freedom of Information law. Bidders should not propose a nondisclosure agreement for Department employees, for that would be legally ineffective to alter any legal responsibility under the Freedom of Information Law or the code of ethics.

The provisions of the Freedom of Information law will also govern the confidentiality of any and all products or services supplied by the successful bidder.

J. **Proposal Ownership**

All proposals and accompanying documentation become the property of the State of New York and will not be returned.

K. **Prime Bidder**

If a bidder's proposal includes another provider's service, the Bidder is required to assume responsibility for those services as prime Bidder. The Department may consider only the prime Bidder in regard to contractual matters.

L. **Subcontracting**

The Contractor agrees not to enter into any subcontracts for the performance of contractual obligations without the Department's prior written approval. The Department shall have the right to approve each and every subcontract prior to giving written approval to the Contractor to enter into the subcontract. All agreements between the prime Contractor and subcontractor shall be by written contract. All such contracts shall contain provisions specifying that:

- The work performed by the subcontractor must be in accordance with the terms of the contract between the Department and the prime Contractor;
- Nothing contained in such agreement shall impair the rights of the Department;
- Nothing contained under the contract between the Department and the prime Contractor shall create any contractual relationship between any subcontractor and the Department; and
- The Department has final approval of subcontractor's staff.

All subcontracts must contain provisions similar to those in the contract between the Department and the prime Contractor so that the provisions of any subcontract entered into by the prime Contractor are similar to, and not inconsistent with, the contract awarded as a result of this IFB.

M. **Proposal Effective Period**

The Bidder's proposal must be in effect for at least **180 days**, following the final submission date.

N. **Bidding Practices**

Each Bidder shall submit, as part of the proposal, a completed copy of the **Certificate of Bidding Practices (Exhibit B)**. This will certify that, to the best of the bidder's knowledge and belief:

- The prices in the bid have been arrived at independently, without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices, with any other Bidder or with any competitor;

- Unless otherwise required by law, the prices which have been quoted in the bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder, directly or indirectly, to any other Bidder or to any competitor prior to completion of the selection process; and
- No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A bid shall not be considered for award nor shall any award be made where the above conditions have not been complied with; provided, however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where the above conditions have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the State, public department or agency to which the bid is made, or his designee, determine that such disclosure was not made for the purpose of restricting competition (Section 139-d of the State Finance Law).

The fact that a Bidder has published price lists, rates, or tariffs covering items or services being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same prices being bid, does not constitute a disclosure within the meaning stated above.

#### **O. Omnibus Procurement Act of 1992**

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl Street  
Albany, New York 12245  
Phone: (518) 292-5220 Fax: (518) 292-5810

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal, Bidders certify that whenever the total bid amount is greater than \$1 million:

1. The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State;
2. The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

3. The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request;
4. The Contractor acknowledges notice that New York State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**P. MacBride Fair Employment Principles**

In accordance with Chapter 807 of the Laws of 1992, the vendor is required to complete **Appendix C**, MacBride Fair Employment Principles Form, as part of their bid submission.

**Q. Minority and Women-Owned Business Enterprises**

1. Participation Levels

The Contractor agrees to make good faith efforts to promote and assist the participation of certified minority-business enterprises (MBE) as subcontractors and suppliers on this project for the provision of services and materials in the amount of 0 percent of the total dollar value of this agreement, and women-owned business enterprises (WBE) as subcontractors and suppliers on this project for provision of services and materials in the amount of 0 percent of the total dollar value of this agreement.

The parties agree as a condition of the State Contract to be bound by the provisions of Section 316 of Article 15-A of the Executive Law.

See attached **Appendix B** for a description of the requirements of Article 15-A.

**R. Equal Employment Opportunity Standard Language**

1. Contractors and subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff or termination and rates or other forms of compensation.
2. Prior to the award of a state contract, the Contractor shall submit an Equal Employment Opportunity ("EEO") Policy Statement within the time frame established by the Department.

3. The Contractor's EEO Policy Statement shall contain, but not necessarily be limited to, and the Contractor, as a precondition to entering into a valid and binding State contract, shall, during the performance of the State contract, agree to the following:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts.
  - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex age, disability or marital status.
  - c. At the request of the Department, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Bidder's obligations herein.
4. Except for construction contracts, prior to an award of a State contract, the Contractor shall submit to the Department a staffing plan of the anticipated work force to be utilized on the State contract or, where required, information on the Bidder's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the Department.
5. After execution of a State contract, the Contractor shall submit to the Department a work force utilization report (to be updated quarterly during the life of the contract), of the work force actually utilized on the State contract, broken down by specified ethnic background, gender, and Federal Occupational Categories or alternatively submit, where the work force on the contract can not be separated out from the Bidder's work force, semi-annual information on the total workforce.
6. **If the Contractor does not submit requirements 2 and 4**, the bid will be rejected unless reasonable justification for such failure is provided in writing or a commitment is made to provide said documents by a date specified by the Department.
7. The Contractor shall include the language of the above provisions in every subcontract in such a manner that the requirements of the provisions will be binding upon each subcontractors to work in connection with the State contract, including the requirement that subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and

women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal Occupational Categories of the employees to be utilized on the State contract.

V. **Contract Conditions**

A. **Invariable Contracts Provisions**

1. The Contractor will read **Appendix A**, Standard Contract Clauses, which will be incorporated as part of the contract without revision.
2. All outstanding tax liabilities, if any, against the Contractor in favor of the State of New York must be satisfied prior to contract execution or a payment schedule for their speedy satisfaction must in place.
3. The various secrecy provisions of the Tax Law (i.e., Tax Law sections 697 (e) and 1825) prohibit independent Contractors from disclosing tax information in any manner and provide for misdemeanor prosecution for violations.
4. The secrecy provisions of the Internal Revenue Code (26 USC section 6103) provide for felony prosecution for unauthorized disclosure of Federal tax information in the possession of the Department.
5. All other information about the Department's operations not covered by the preceding two provisions of law must be kept confidential as if it were so covered. Contractor representatives must comply with the administrative procedures enforcing these rules.
6. The successful Contractor shall agree:
  - (a) To sign EN: 202 The Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code in **Appendix E**;
  - (b) Not to divulge or use, for their own benefit or the benefit of others, confidential tax administration information; and
  - (c) To subscribe to section 74 of the Public Officers Law.
  - (d) The Contractor must maintain adequate records as prescribed by the Department to substantiate all claims for payment and must make those records available in New York State for examination and copying.
7. Sales and Compensating Use Tax Documentation:

Pursuant to Tax Law Section 5-a, the successful bidder will be required to complete and sign, under penalty or perjury, the **Contractor Certification Form ST-220, Exhibit F**. The contractor must also submit a copy of the Certificate of Authority, if available, for itself, any affiliates, any subcontractors and any affiliates of subcontractors required to register to collect state sales and

compensating use tax. If Certificates of Authority are unavailable, the contractor, affiliate, subcontractor or affiliate of subcontractor must represent that it is registered and that it has confirmed such status with the Department.

8. Vendor Responsibility Questionnaire:

Article XI §163(4)(d) of the State Finance Law states that "service contracts shall be awarded on the basis of best value to a responsive and responsible offerer."

Upon identification as the successful bidder with the highest score, the contractor will be responsible for completing the Responsibility Questionnaire which will be analyzed to ensure that the contractor is responsible. In the event the contractor is found to be not responsible, the bidder may be disqualified.

9. The first step of dispute resolution will be through conference between the Tax Department and the Contractor. Unresolved disputes will be arbitrated by the Commissioner of Taxation and Finance, or his designee, whose decision will be final and binding. If the Contractor pursues any legal or equitable remedy outside the Department, the Contractor will continue to perform work in accordance with the direction of the Department until such proceedings may be concluded and will continue to be paid, less an amount attributable to the disputed work.
10. Contract disputes that go to litigation must be pursued in a court of competent jurisdiction of the State of New York. New York law will govern the dispute and venue must be laid in Albany County, New York.
11. The contract will not be effective until it is approved by the Office of the Attorney General, and the Office of the State Comptroller.
12. The provisions of this IFB and of all attachments, and the Bidder's Response, will be made a part of the contract, as though separately and fully stated therein.
13. Article XI-A of the State Finance law ("prompt payment" legislation) regulates the procedures for making contract payments.
14. The laws of the State of New York shall be the law which shall govern the interpretation or application of any of the terms or conditions of this proposal or subsequent contract.

**B. Mandatory Topics**

**1. Contract Term**

The contract term shall commence February 16, 2006 and terminate February 15, 2011 unless modified as provided herein. In addition to the termination rights stated below, the Department shall have the right to terminate this contract early for: (1) unavailability of funds; (2) cause; or (3) convenience on February 15, 2006 and on each anniversary of the contract provided the State has given written notice to the contractor no later than thirty days or more prior to termination. If the contract is not terminated, prices may be adjusted as of

February 16, 2007 and on each subsequent anniversary. Such adjustment may not exceed the lower of five (5) percent or the increase in the Consumer Price Index for All Urban customers for the preceding twelve (12) month period as reported by the Department of Labor, Bureau of Labor Statistics for the CPI-U for All Items index.

Bidders must guarantee stated rates for the original term. Written notice of requested rate changes for succeeding years must be provided to the Department at least (60) days prior to the end of the contract year and will be subject to negotiation between the Contractor and this Department.

## **2. Termination**

- a. The Department reserves the right to cancel the complete contract or any part thereof, at any time, giving the Contractor thirty (30) days written notice.
- b. If in the judgment of the Department, the Contractor fails or refuses to perform the work in accordance with the contract or is failing to complete the work within the time provided by the contract, the Department may terminate the contract immediately by written notice for cause.
- c. If the Contractor's license is revoked, suspended, expires or is terminated the Department may terminate the contract immediately by written notice for cause.
- d. If the Contractor's Certificate of Insurance is canceled or expires the Department may terminate the contract immediately by written notice for cause.

## **3. Contract Payment**

Payment will be made monthly in arrears upon satisfactory completion of services and submission of a proper voucher, and in accordance with Article XI-A of the New York State Finance Law.

## **4. Liability**

The vendor shall not limit its liability for claims for personal injury or property damage to real or tangible property caused by the negligence of the vendor, its officers or employees.

## **5. Liquidated Damages**

The Department reserves the right during the period of the contract to invoke liquidated damages in the event of missed pickups and non-delivery of deposits to the designated depository the same day.

a. **Performance Standard:**

100% of all deposits must be picked up according to the agreed upon schedule.

**Liquidated Damage:**

Contractor will not receive payment for a missed pickup plus a \$50.00 penalty may be imposed for each occurrence when the Contractor does not perform the scheduled pickup (fails to pickup on the scheduled day).

b. **Performance Standard:**

100% of all deposits must be deposited according to the agreed upon schedule.

**Liquidated Damage:**

Contractor will not receive payment for a missed deposit plus a \$50.00 penalty may be imposed for each occurrence when the Contractor does not perform the scheduled deposit (fails to deposit on the scheduled day or next business day).

6. **Indemnification of the Department**

If any claim is brought against the Department for the unauthorized use of such product, information, service or thing, the vendor will indemnify the Department for any expense due to such claim and will cooperate with the Department and the Attorney General in the defense of that claim.

7. **Public Announcements**

Public announcements or news releases relating to this RFP or the resulting agreement shall not be made by any bidder or its agent without the prior approval of the Department. Such approval shall not be considered until an executed contract is in place.

VI. **Proposal Requirements**

A. **General**

To be eligible, bidders are required to submit a separate Financial and Technical Proposal in conformance with the format and content requirements set forth in this Section VI and in Section IV.

B. **Requirements for the Financial and Technical Proposals**

1. Requirements for the Financial Proposal:

Bidders are required to complete **Exhibit A, Bid Response Form** and submit the same as their Financial Proposal. Exhibit A requires (a) a set bid amount, on a per bid pickup basis, for each location, (b) the servicing of all locations and (c) the name of the Bidder's contact person for this proposal. Failure to complete any line on Exhibit A may result in the disqualification of the bid.

2. Requirements for the Technical Proposal:

Bidders are required to complete and return the documents listed in (a) and (b) below as their Technical Proposal; the documents listed in (c) and (d) below must be included with the Technical Proposal:

- a. Bidders must submit **Exhibit D, Document Checklist** response to **Section III A: Contractor Requirements, and Section III B: Service Requirements**, the bidder must sign Exhibit D stating the bidder has read **Section III A & B** in its entirety and understands and agrees to abide by all the requirements of the same as well as the administrative requirements of this IFB.

**Failure to sign Exhibit D agreeing to the above may result in the disqualification of your bid. Please direct any questions on these requirements to the issuing officer named in this IFB.**

- b. Bidder must also provide the following:

- A copy of their current New York State Armored Car Carriers license.
- A copy of their current Certificate of Insurance.
- A copy of their current comprehensive general liability coverage for death, personal injury, and property damage.
- A copy of current motor vehicle registrations for at least, two armored, bullet-resistant transport vehicles.

- c. The following administrative documents must be provided with the Technical Proposal:

- Designation of Prime Contact (**Exhibit C**)
- MacBride Fair Employment Principles Form (**Appendix C**)
- Bidding Practices Certification (**Exhibit B**)
- Document Checklist (**Exhibit D**)
- Vendor Responsibility Questionnaire (**Exhibit E**)
- Sales Tax & Compensating Use Tax Documentation (**Exhibit F**)
- EN-202 Agreement to Adhere to the Secrecy Provisions of the Tax Law and The Internal Revenue Code (**Appendix E**)

- d. Bidders must also submit the following documents with the Technical Proposal so that allow, a determination of financial stability can be made by the Department:

- Audited or reviewed financial statements for the last three (3) fiscal years prepared by a CPA in conformance with GAAP. A primary bank reference must be included, along with the name and telephone number of the relationship manager.
- Audited or reviewed financial statements for the last three (3) fiscal years, prepared by a CPA in conformance with GAAP for any parent company, and for each subsidiary company, will also be required

## VII. **Bid Evaluation Criteria**

### A. **Department Evaluation Philosophy**

The New York State Department of Taxation and Finance evaluates vendor bids for goods and services in an objective, comprehensive manner designed to benefit both the State and participating vendors. Through this process the Department identifies vendors who will best meet its needs and will be cost-effective.

The Department further intends that all proposals will be evaluated uniformly and consistently, ensuring that bidders each have an equal opportunity to be considered. The evaluation process will be conducted as described in this Section.

The Department reserves the right to request clarification of information provided in the bid response, and to conduct an on site inspection of the business location and the business's equipment.

### B. **Evaluation Process**

#### 1. **Proposal Screening**

After the bid opening, each proposal will be screened for completeness and conformance with Department requirements for bid submission as specified in **Section VI** of this IFB. Any proposal may be denied further consideration at this point, if it does not meet those requirements. Failure to complete all sections of the Bid response form may result in the disqualification of the proposal.

#### 2. **Evaluation**

- Technical Evaluation:** Proposals passing the proposal screening described above will be evaluated for compliance with the mandatory requirements set forth in Section III. A: Contractor Mandatory Requirements, and Section III. B: Mandatory Service Requirements as evidenced by completion of **Exhibit D** and submission of required supporting documentation, except that a determination of Financial Stability shall be made as set forth in paragraph (c) below. Failure to meet the mandatory requirements will result in bidder disqualification. The technical evaluation shall be conducted by the Technical Evaluation Team.
- Financial Evaluation:** Each proposal passing the screening shall be evaluated based upon the aggregate cost for the Security Transport Service for all offices

specified in Schedule 1. Such evaluation shall be conducted by the Financial Evaluation Team.

- c. **Financial Stability:** The Bidder submitting the lowest cost proposal that passes the technical evaluation and meets the administrative requirements will be rated for financial stability.
- The Bidder will be rated on a pass/fail basis on the aggregate of all factors.
  - The Bidder's financial information will be evaluated in a similar fashion to the process a bank would utilize to evaluate financial transactions.
    - i. This analysis will be utilized to evaluate, at a minimum, the following factors:
      - Strength of balance sheet, income statement, and cash flow
      - Consistency and strength of earnings and cash flow (trend analysis)
      - Prospect for future earnings
    - ii. Bidders financial information will be compared to the industry statistics as provided on the customary commercial suitability analysis (see above) utilizing the standards developed by Risk Management Association.
    - iii. The relationship between the bidder and any parent company, especially any financial reliance on said parent company, will also be evaluated and factored into the financial evaluation. The relationship between the bidder and any subsidiary company, including any financial support of said company, will also be evaluated and factored into the financial evaluation.
      - The primary bank reference check will address, but not be limited to, length of relationship, depository information and loan information.
      - Credit History: External sources will be utilized, to determine, if a bidder is meeting its' credit obligations in a prescribed manner.

### 3. **Contract Award**

The contract will be awarded based on the lowest cost for the services to the Department to the bidder whose proposal passes the technical evaluation and the financial stability requirement and meets the administrative requirements.

Notwithstanding the foregoing, the Department reserves the right to evaluate and/or reject all bids, in whole or in part, award other than the low bidder, and to waive technicalities, technicalities, irregularities, and omissions, or solicit new proposals if in the Department's judgment the best interest of the State will be served. The Department also reserves the right to award to multiple vendors or a single vendor as it best serves the interest of the Department, and the public.

**Schedule 1**

District Office	DO Contact Person	Exchange Account	Location of Depository	Average Daily Cash	Pick Up Schedule
Westchester 90 So. Ridge Street Rye Brook, NY 10573	Isabel Schechter TCD-Manager (914) 933-2307	JPMorgan Chase 73 Purchase Rye, NY 10580	JPMorgan Chase Currency Services Center New Hyde Park, NY 11042	\$1,000	Tuesday & Friday 9 A.M. - 12 P.M.
Suffolk NYS Office Bldg.-Rm. IB4 Vets Memorial Highway Hauppauge, NY 11788	Richard Buehring TCD-Manager (631) 952-6235	JPMorgan Chase Albany, New York 12211	JPMorgan Chase Currency Services Center New Hyde Park, NY 11042	\$1,000	Tuesday & Friday 9 A.M. - 12 P.M.
Queens 80-02 Kew Gardens Rd. Kew Gardens, NY 11415	Gregory Greenwood TCD-Manager (718) 459-5395	JPMorgan Chase 92-41 Queens Blvd. Rego Park, NY 11374	JPMorgan Chase Currency Services Center New Hyde Park, NY 11042	\$3,000	Daily 9 A.M. - 12 P.M.
Metropolitan 55 Hanson Place 8 <sup>th</sup> Floor Brooklyn, NY 11217	Richard Center TCD-Manager (718) 722-2100	JPMorgan Chase 401 Flatbush Avenue Brooklyn, NY 11238	JPMorgan Chase Currency Services Center New Hyde Park, NY 11042	\$3,000	Daily 9 A.M. - 12 P.M.
Nassau 400 Oak Street Garden City, NY 11550	Anne Marie Pagano TCD-Manager (516) 542-5353	JPMorgan Chase Albany, New York 12211	JPMorgan Chase Currency Services Center New Hyde Park, NY 11042	\$1,000	Tuesday & Friday 9 A.M. - 12 P.M.

NEW YORK STATE  
DEPARTMENT OF TAXATION AND FINANCE  
IFB #05-03  
SECURITY TRANSPORT SERVICES FOR DISTRICT OFFICES

**BID RESPONSE FORM (FINANCIAL)**

In accordance with the above-numbered Invitation For Bid, the attachments thereto and the instructions specified below, the undersigned bids as follows:

Amount of Bid Per Pickup: \$ \_\_\_\_\_

Name of Contact Person : \_\_\_\_\_

***This confirms that I can meet the mandatory specifications as outlined in this bid and agree to all of the terms and conditions stated therein.***

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Official Title

\_\_\_\_\_  
City

\_\_\_\_\_  
Federal ID#

\_\_\_\_\_  
State                      Zip

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax #

\_\_\_\_\_  
Date

***By signing you indicate your express authority to sign on behalf of your company and full knowledge and acceptance of this INVITATION FOR BID. The bid must be fully and properly executed by an authorized person.***

**CORPORATION**

**STATE OF \_\_\_\_\_**

**COUNTY OF \_\_\_\_\_**

**On this \_\_\_\_\_ day of December, 2005, before me personally came \_\_\_\_\_, to me known, who being duly sworn, did depose and say that s/he resides in \_\_\_\_\_; that s/he is the \_\_\_\_\_ of the \_\_\_\_\_, the corporation described in and which executed the foregoing instrument; that s/he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal, that it was so affixed by the order of the Board of Directors of said corporation, and that s/he signed his/her name thereto by like order.**

\_\_\_\_\_  
**NOTARY PUBLIC**

Mr. David Parkis  
Chief Budget, Procurement Services Bureau  
New York State Department of Taxation and Finance  
The W. Averell Harriman State Office Building Campus  
Building 9, Room 234  
Albany, NY 12227

**BIDDING PRACTICES CERTIFICATION**

The bidder certifies adherence to all conditions in the Bidding Practices subsection of this IFB.

Bidder's Name: \_\_\_\_\_

Bidder's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2005

NEW YORK STATE  
DEPARTMENT OF TAXATION AND FINANCE  
IFB 05-03  
SECURITY TRANSPORT SERVICES FOR DISTRICT OFFICES

DESIGNATION OF PRIME CONTACT

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

As required by **Section IV. Administrative Conditions**, the bidder designates the following individual as the prime contract for this proposal. The bidder also acknowledges, that this individual is authorized to respond on behalf of the bidder.

PRIME CONTACT

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_

E-mail address: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 2005



# New York State

## Vendor Responsibility Questionnaire

A contracting agency is required to conduct a review of a prospective contractor to provide reasonable assurances that the vendor is responsible. This questionnaire is designed to provide information to assist a contracting agency in assessing a vendor's responsibility prior to entering into a contract with the vendor. Vendor responsibility is determined by a review of each bidder or proposer's authorization to do business in New York, business integrity, financial and organizational capacity, and performance history.

**Prospective contractors must answer every question contained in this questionnaire.** Each "Yes" response requires additional information. The vendor must attach a written response that adequately details each affirmative response. The completed questionnaire and attached responses will become part of the procurement record.

It is imperative that the person completing the vendor responsibility questionnaire be knowledgeable about the proposing contractor's business and operations as the questionnaire information must be attested to by an owner or officer of the vendor. **Please read the certification requirement at the end of this questionnaire.**

**Vendor Responsibility Questionnaire**

EIN:

<b>1. VENDOR IS:</b> <input type="checkbox"/> PRIME CONTRACTOR <input type="checkbox"/> SUB-CONTRACTOR			
<b>2. VENDOR'S LEGAL BUSINESS NAME</b>		<b>3. IDENTIFICATION NUMBERS</b> a) FEIN# b) DUNS #	
<b>4. D/B/A— Doing Business As (if applicable) &amp; COUNTY FILED:</b>		<b>5. WEBSITE ADDRESS (if applicable)</b>	
<b>6. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE</b>		<b>7. TELEPHONE NUMBER</b>	<b>8. FAX NUMBER</b>
<b>9. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE IN NEW YORK STATE, if different from above</b>		<b>10. TELEPHONE NUMBER</b>	<b>11. FAX NUMBER</b>
<b>12. PRIMARY PLACE OF BUSINESS IN NEW YORK STATE IS:</b>  <input type="checkbox"/> Owned <input type="checkbox"/> Rented  If rented, please provide landlord's name, address, and telephone number below:		<b>13. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE</b>  Name: Title: Telephone Number: Fax Number: e-mail:	
<b>14. VENDOR'S BUSINESS ENTITY IS (please check appropriate box and provide additional information).</b>			
<b>a) <input type="checkbox"/> Business Corporation</b>	<b>Date of Incorporation</b>	<b>State of Incorporation*</b>	
<b>B <input type="checkbox"/> Sole Proprietor</b>	<b>Date Established</b>		
<b>c) <input type="checkbox"/> General Partnership</b>	<b>Date Established</b>		
<b>d) <input type="checkbox"/> Not-for-Profit Corporation</b>	<b>Date of Incorporation</b>	<b>State of Incorporation*</b> Charities registration number	
<b>e) <input type="checkbox"/> Limited Liability Company (LLC)</b>	<b>Date Established</b>		
<b>f) <input type="checkbox"/> Limited Liability Partnership</b>	<b>Date Established</b>		
<b>g) <input type="checkbox"/> Other — Specify:</b>	<b>Date Established</b>	<b>Jurisdiction Filed (if applicable)</b>	
* If not incorporated in New York State, please provide a copy of authorization to do business in New York.			
<b>15. PRIMARY BUSINESS ACTIVITY - (Please identify the primary business categories, products or services provided by your business)</b>			
<b>16. NAME OF WORKERS' COMPENSATION INSURANCE CARRIER:</b>			
<b>17. LIST ALL OF THE VENDOR'S PRINCIPAL OWNERS AND THE THREE OFFICERS WHO DIRECT THE DAILY OPERATIONS OF THE VENDOR (Attach additional pages if necessary):</b>			
<b>a) NAME (print)</b>	<b>TITLE</b>	<b>b) NAME (print)</b>	<b>TITLE</b>
<b>c) NAME (print)</b>	<b>TITLE</b>	<b>d) NAME (print)</b>	<b>TITLE</b>

Vendor Responsibility Questionnaire

EIN:

<p><b>A DETAILED EXPLANATION IS REQUIRED FOR EACH QUESTION ANSWERED WITH A “YES,” AND MUST BE PROVIDED AS AN ATTACHMENT TO THE COMPLETED QUESTIONNAIRE. YOU MUST PROVIDE ADEQUATE DETAILS OR DOCUMENTS TO AID THE CONTRACTING AGENCY IN MAKING A DETERMINATION OF VENDOR RESPONSIBILITY. PLEASE NUMBER EACH RESPONSE TO MATCH THE QUESTION NUMBER.</b></p>		
<p><b>18.</b> Is the vendor certified in New York State as a (check please):</p> <p><input type="checkbox"/> Minority Business Enterprise (MBE)</p> <p><input type="checkbox"/> Women’s Business Enterprise (WBE)</p> <p><input type="checkbox"/> Disadvantaged Business Enterprise (DBE)?</p> <p><i>Please provide a copy of any of the above certifications that apply.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>19.</b> Does the vendor use, or has it used in the past ten (10) years, any other Business Name, FEIN, or D/B/A other than those listed in items 2-4 above?</p> <p><i>List all other business name(s), Federal Employer Identification Number(s) or any D/B/A names and the dates that these names or numbers were/are in use. Explain the relationship to the vendor.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>20.</b> Are there any individuals now serving in a managerial or consulting capacity to the vendor, including principal owners and officers, who now serve or in the past three (3) years have served as:</p> <p><b>a)</b> An elected or appointed public official or officer?</p> <p><i>List each individual’s name, business title, the name of the organization and position elected or appointed to, and dates of service.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>b)</b> A full or part-time employee in a New York State agency or as a consultant, in their individual capacity, to any New York State agency?</p> <p><i>List each individual’s name, business title or consulting capacity and the New York State agency name, and employment position with applicable service dates.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>c)</b> If yes to item #20b, did this individual perform services related to the solicitation, negotiation, operation and/or administration of public contracts for the contracting agency?</p> <p><i>List each individual’s name, business title or consulting capacity and the New York State agency name, and consulting/advisory position with applicable service dates. List each contract name and assigned NYS number.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>d)</b> An officer of any political party organization in New York State, whether paid or unpaid?</p> <p><i>List each individual’s name, business title or consulting capacity and the official political party position held with applicable service dates.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>21.</b> Within the past five (5) years, has the vendor, any individuals serving in managerial or consulting capacity, principal owners, officers, major stockholder(s) (10% or more of the voting shares for publicly traded companies, 25% or more of the shares for all other companies), affiliate<sup>1</sup> or any person involved in the bidding or contracting process:</p> <p><b>a)</b></p> <ol style="list-style-type: none"> <li>1. been suspended, debarred or terminated by a local, state or federal authority in connection with a contract or contracting process;</li> <li>2. been disqualified for cause as a bidder on any permit, license, concession franchise or lease;</li> <li>3. entered into an agreement to a voluntary exclusion from bidding/contracting;</li> <li>4. had a bid rejected on a New York State contract for failure to comply with the MacBride Fair Employment Principles;</li> <li>5. had a low bid rejected on a local, state or federal contract for failure to meet statutory affirmative action or M/WBE requirements on a previously held contract;</li> <li>6. had status as a Women’s Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise denied, de-certified, revoked or forfeited;</li> <li>7. been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal government contract;</li> <li>8. been denied an award of a local, state or federal government contract, had a contract suspended or had a contract terminated for non-responsibility; or</li> <li>9. had a local, state or federal government contract suspended or terminated for cause prior to the completion of the term of the contract?</li> </ol>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>b)</b> been indicted, convicted, received a judgment against them or a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

## Vendor Responsibility Questionnaire

EIN:

<p>c) been issued a citation, notice, violation order, or are pending an administrative hearing, or proceeding or determination for violations of:</p> <ol style="list-style-type: none"> <li>1. federal, state or local health laws, rules or regulations, including but not limited to Occupational Safety &amp; Health Administration (OSHA) or New York State labor law;</li> <li>2. state or federal environmental laws;</li> <li>3. unemployment insurance or workers' compensation coverage or claim requirements;</li> <li>4. Employee Retirement Income Security Act (ERISA);</li> <li>5. federal, state or local human rights laws;</li> <li>6. civil rights laws;</li> <li>7. federal or state security laws;</li> <li>8. federal Immigration and Naturalization Services (INS) and Alienage laws;</li> <li>9. state or federal anti-trust laws; or</li> <li>10. charity or consumer laws?</li> </ol> <p><i>For any of the above, detail the situation(s), the date(s), the name(s), title(s), address(es), of any individuals involved and, if applicable, any contracting agency, specific details related to the situation(s) and any corrective action(s) taken by the vendor.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>22.</b> In the past three (3) years, has the vendor or its affiliates<sup>1</sup> had any claims, judgments, injunctions, liens, fines or penalties secured by any governmental agency? <i>Indicate if this is applicable to the submitting vendor or affiliate. State whether the situation(s) was a claim, judgment, injunction, lien or other with an explanation. Provide the name(s) and address(es) of the agency, the amount of the original obligation and outstanding balance. If any of these items are open, unsatisfied, indicate the status of each item as "open" or "unsatisfied".</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>23.</b> Has the vendor (for profit and not-for profit corporations) or its affiliates<sup>1</sup>, in the past three (3) years, had any governmental audits that revealed material weaknesses in its system of internal controls, compliance with contractual agreements and/or laws and regulations or any material disallowances? <i>Indicate if this is applicable to the submitting vendor or affiliate. Detail the type of material weakness found or the situation(s) that gave rise to the disallowance, any corrective action taken by the vendor and the name of the auditing agency.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>24.</b> Is the vendor exempt from income taxes under the Internal Revenue Code? <i>Indicate the reason for the exemption and provide a copy of any supporting information.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>25.</b> During the past three (3) years, has the vendor failed to:</p> <ol style="list-style-type: none"> <li>a) file returns or pay any applicable federal, state or city taxes? <i>Identify the taxing jurisdiction, type of tax, liability year(s), and tax liability amount the vendor failed to file/pay and the current status of the liability.</i></li> <li>b) file returns or pay New York State unemployment insurance? <i>Indicate the years the vendor failed to file/pay the insurance and the current status of tile liability.</i></li> </ol>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>26.</b> Have any bankruptcy proceedings been initiated by or against the vendor or its affiliates<sup>1</sup> within the past seven (7) years (whether or not closed) or is any bankruptcy proceeding pending by or against the vendor or its affiliates regardless of the date of filing? <i>Indicate if this is applicable to the submitting vendor, or affiliate. If it is an affiliate, include the affiliate's name and FEIN. Provide the court name, address and docket number. Indicate if the proceedings have been initiated, remain pending or have been closed. If closed, provide the date closed.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>27.</b> Is the vendor currently insolvent, or does vendor currently have reason to believe that an involuntary bankruptcy proceeding may be brought against it? <i>Provide financial information to support the vendor's current position, for example, Current Ratio, Debt Ratio, Age of Accounts Payable, Cash Flow and any documents that will provide the agency with an understanding of the vendor's situation.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>28.</b> Has the vendor been a contractor or subcontractor on any contract with any New York State agency in the past five (5) years? <i>List the agency name, address, and contract effective dates. Also provide state contract identification number, if known.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p><b>29.</b> In the past five (5) years, has the vendor or any affiliates<sup>1</sup>:</p> <ol style="list-style-type: none"> <li>a) defaulted or been terminated on, or had its surety called upon to complete, any contract (public or private) awarded;</li> <li>b) received an overall unsatisfactory performance assessment from any government agency on any contract; or</li> <li>c) had any liens or claims over \$25,000 filed against the firm which remain undischarged or were unsatisfied for more than 90 days?</li> </ol> <p><i>Indicate if this is applicable to the submitting vendor or affiliate. Detail the situation(s) that gave rise to the negative action, any corrective action taken by the vendor and the name of the contracting agency.</i></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

<sup>1</sup> "Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.

Vendor Responsibility Questionnaire

FEIN: ) ss:

State of: )

County of: )

CERTIFICATION:

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions in making a determination regarding an award of contract or approval of a subcontract; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

The undersigned certifies that he/she:

- has not altered the content of the questions in the questionnaire in any manner;
- has read and understands all of the items contained in the questionnaire and any pages attached by the submitting vendor;
- has supplied full and complete responses to each item thereof to the best of his/her knowledge, information and belief;
- is knowledgeable about the submitting vendor's business and operations;
- understands that New York State will rely on the information supplied in this questionnaire when entering into a contract with the vendor; and
- is under duty to notify the procuring State Agency of any material changes to the vendor's responses herein prior to the State Comptroller's approval of the contract.

Name of Business: \_\_\_\_\_ Signature of Owner/Officer \_\_\_\_\_

Address \_\_\_\_\_ Printed Name of Signatory \_\_\_\_\_

City, State, Zip \_\_\_\_\_ Title \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



New York State Department of Taxation and Finance  
**Contractor Certification**  
 (Pursuant to Section 5-a of the Tax Law)

**ST-220**  
 (1/05)

For more information, see Publication 222, *Question and Answers Concerning Tax Law Section 5-a*.

Contractor name			For office use only	
Contractor's principal place of business			City	State
Mailing address (if different than above)			ZIP code	Contract number
Contractor's federal employer Identification number (EIN)			Estimated contract value	
Contractor's sales tax ID number (if different from contractor's EIN)			\$	
Contractor's telephone number ( )	Contracting state agency			

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

**Part I. Contract services that are not services for purposes of Tax Law section 5-a**  
 (Mark an X in the box if this statement is applicable. If you mark this box, you do not have to complete Parts II through V.)

- The requirements of Tax Law section 5-a do not apply because the subject matter of the contract concerns the performance of services which are not *services* within the meaning of Tax Law section 5-a.

(If you did not mark the box next to the statement in Part I, mark an X next to the applicable statement in Parts II through V.)

**Part II. Contractor registration status**

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made, and is registered for New York State and local sales and compensating use tax purposes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law.
- As of the date of this certification, the contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made.

**Part III. Affiliate registration status**

- As of the date of this certification, the contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made, and each affiliate exceeding the \$300,000 sales threshold during such periods is registered for New York State and local sales and compensating use tax purposes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed on Schedule A of this certification the name, address, and identification number of each affiliate exceeding the \$300,000 sales threshold during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made.
- To the best of the contractor's knowledge, the contractor has one or more affiliates and, as of the date of this certification, each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made.

**Part IV. Subcontractor registration status**

- As of the date of this certification, the contractor does not have any subcontractors.
- The contractor has one or more subcontractors, and each subcontractor has informed the contractor of whether or not, as of the date of this certification, it has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made. Each subcontractor informing the contractor that it has made sales in excess of the \$300,000 threshold during such periods has further informed the contractor that it is registered for New York State and local sales and compensating use tax purposes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed on Schedule A of this certification the name, address and identification number of each subcontractor exceeding the \$300,000 sales threshold during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made.
- The contractor has one or more subcontractors, and each subcontractor has informed the contractor that, as of the date of this certification, it has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made.

**Part V. Subcontractor affiliate registration status**

- The contractor has one or more subcontractors, and each subcontractor has informed the contractor that, as of the date of this certification, it does not have any affiliates.
- The contractor has one or more subcontractors, and each subcontractor has informed the contractor of whether or not, as of the date of this certification, it has any affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made. Each subcontractor informing the contractor that it has one or more affiliates having made sales in excess of the \$300,000 threshold during such periods has further informed the contractor that each such affiliate is registered for New York State and local sales and compensating use tax purposes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed on Schedule A of this certification the name, address and identification number of each affiliate exceeding the \$300,000 sales threshold during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made.
- The contractor has one or more subcontractors, and each subcontractor has informed the contractor that, as of the date of this certification, it has no affiliate having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(title)





## Instructions

### General information

On August 20, 2004, New York State enacted section 5-a of the Tax Law requiring persons awarded contracts valued at more than \$15,000 with state agencies, public authorities or public benefit corporations to certify that they, their affiliates, their subcontractors, and the affiliates of their subcontractors have a valid certificate of authority to collect New York State and local sales and compensating use taxes. A contractor, affiliate, subcontractor or affiliate of a subcontractor must be certified as having a valid certificate of authority if such person makes, or has made, aggregate sales delivered within New York State of more than \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made. A contractor must use Form ST-220, *Contractor Certification*, to make this certification before the contract may be approved by the Office of the State Comptroller (OSC), or other contract approver if OSC is not required to approve the contract.

This statute applies to contracts resulting from solicitations to purchase issued by governmental entities on or after January 1, 2005. In the case of contracts resulting from issuance of an invitation for bid (IFB) or a request for proposal (RFP), the statute would apply if the IFB or RFP was first issued on or after January 1, 2005. The statute would not apply if the bid document was first issued before January 1, 2005, even if the bid document was amended, or the resulting contract was awarded, approved, amended, or extended after January 1, 2005.

The statute does not apply to purchases from preferred sources. For additional information, please see Publication 222, *Questions and Answers Concerning Tax Law Section 5-a*.

### Definition of terms associated with section 5-a

The following is a partial list. Please see Publication 222 for additional information.

A *contractor* is defined as a person awarded a contract by a covered agency.

The term *person* is defined as any entity in business for either profit or not-for-profit purposes and can refer to an individual, partnership, limited liability company, society, association, joint stock company, or corporation.

A *covered agency* is defined as New York State or any department, board, bureau, commission, division, office, council or agency of New York State; public authorities and public benefit corporations. The State Legislature, the judiciary, Department of Law, Office of State Comptroller, State Education Department, State University of New York and the senior colleges of City University of New York are included in this definition.

An *affiliate* is an entity which, through stock ownership or any other affiliation, directly, indirectly or constructively, controls another entity, is controlled by another entity, or is, along with another entity, under the control of a common parent company.

A *subcontractor* is an entity specifically engaged by a contractor or another subcontractor to provide commodities or perform services necessary to allow a contractor to fulfill a particular contract with a covered agency.

*Commodities* means, other than with respect to contracts for State printing, material goods, supplies, products, construction items or other standard articles of commerce other than technology which are the subject of any purchase or other exchange.

*Tangible personal property* means physical personal property, of any nature, that has a material existence and is perceptible to the human senses. Tangible personal property includes, without limitation: (1) raw materials, such as wood, metal, rubber and minerals; (2) manufactured items, such as gasoline, oil, diesel motor fuel and kero-jet fuel, chemicals, jewelry, furniture, machinery and equipment, parts, tools, supplies, computers, clothing, motor vehicles, boats, yachts, appliances, lighting fixtures, building materials; (3) pre-written off-the-shelf software; (4) artistic items such as sketches, paintings, photographs, moving picture films and recordings; (5) animals, trees, shrubs, plants and seeds; (6) bottled water, soda and beer; (7) candy and confections; (8) cigarettes and tobacco products; (9) cosmetics and toiletries; (10) coins and other numismatic items, when purchased for purposes other than for use as a medium of exchange; (11) postage stamps, when purchased for purposes other than mailing; and (12) precious metals in the form of bullion, ingots, wafers and other forms.

### Completing Form ST-220

#### Identification information

**Contractor name:** Enter the exact legal name of the person or entity who is contracting to provide commodities or services to a covered agency of New York State. This is the name registered with the New York Department of State.

**Contractor's principal place of business:** Enter a street address, not a PO box number.

**Mailing address:** Enter the address where contractor receives mail, if different than the principal place of business.

**Contracting state agency:** Enter the state agency awarding the contract to the contractor.

**Certification statement:** If the contractor is a corporation, the statement must be completed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other officer authorized by the corporation. If the contractor is a partnership, the statement must be completed by a partner or person authorized by the partnership. If the contractor is a limited liability company, the statement must be completed by a member of the LLC and be authorized by the LLC.

### Part I – Contract services not pursuant to Tax Law section 5-a

If the services to be performed under the contract are not services within the meaning of Tax Law section 5-a, mark an **X**. You do not have to complete Parts II through V. You must sign and have the certification acknowledged.

For procurement law purposes, *services* means, other than with respect to contracts for State printing, the performance of a task or tasks and may include a material good or a quantity of material goods, and which is the subject of any purchase or other exchange. For procurement law purposes, technology is a service. The term *services* for procurement law purposes does not apply to contracts for architectural, engineering or surveying services, or to contracts with not-for-profit organizations approved in accordance with Article eleven-B of the State Finance Law.

The term *taxable services* for New York State and local sales and compensating use tax law purposes includes, but is not limited to: 1) providing information by printed, mimeographed or multigraphed matter or by duplicating written or printed manner in any other

manner; 2) processing, assembling, fabricating, printing or imprinting tangible personal property furnished by a customer who did not purchase the tangible personal property for resale; 3) installing, maintaining, servicing, or repairing tangible personal property that is not held for sale by the purchaser of the service in the regular course of business (for example, servicing automobiles, installing appliances, and repairing radio and television sets); 4) storing tangible personal property that is not being held for sale; 5) renting safe deposit boxes, vaults, and similar storage facilities; 6) maintaining, servicing, or repairing real property both inside and outside buildings (for example, cleaning, painting, gardening, snow plowing, trash removal, and general repairs); 7) providing parking, garaging, or storing services for motor vehicles; 8) interior decorating and designing; 9) protective or detective services; and 10) entertainment or information services provided by means of telephony or telegraphy.

### **Parts II through V**

If the contract is covered under Tax Law section 5-a, you must mark an **X** in one box in each of these parts. You must also sign and have the certification acknowledged, and complete Schedule A.

### **Schedule A**

#### **Column A – Relationship to the contractor**

The contractor should enter a **C**. It is not necessary for the contractor to complete columns C through E since this information has been provided on page 1.

If the person listed in column B is an affiliate of the contractor, enter an **A**; if a subcontractor, enter an **S**; if an affiliate of a subcontractor, enter **SA**.

#### **Column B – Name**

Enter the exact legal name as registered with the New York Department of State of each corporation or limited liability company. If the person is a partnership or sole proprietor, enter each partner's or the owner's given name. If the person uses a different name or DBA (doing business as), enter that name as well.

#### **Column C – Address**

Enter the street address of the person's principal place of business. Do not enter a PO box.

#### **Column D – ID number**

If the person listed in column B is an individual, enter the social security number of that person. Otherwise enter the employer identification number (EIN) assigned to the person.

#### **Column E – Sales tax ID number**

Enter the sales tax identification number, if different from the federal identification.

#### **Column F – Proof of registration**

Enter **CA** and attach a copy of the certificate of authority for the person.

If the certificate of authority is not readily available and if the person is registered with the Department of Taxation and Finance and has confirmed this status with the DTF, enter **RC**.

**Return a signed and acknowledged original Form ST-220, and a copy, with the contract to the procuring state agency.**

## STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

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

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$15,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$30,000 (State Finance Law Section 163.6.a).

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract.

Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations there under. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized (3) to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii)

designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers. (b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of (4) affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; (b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and (c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements

thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles

(as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St -- 7<sup>th</sup> Floor  
Albany, New York 12245

Telephone: 518-292-5220

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was

manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

September 2004

**REMAINDER OF THIS PAGE LEFT BLANK**

**New York State  
Department of Taxation and Finance  
Participation by Minority Group Members and  
Women with Respect to State Contracts**

In accordance with Article 15-A of the Executive Law, the parties to the attached contract, (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract:

**1. Definitions**

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

b) "Director" shall mean the Director of the Division of Minority and Women's Business Development established by section 117 of Article 4A of the Economic Development Law.

c) "Goal" shall mean a percentage of the value of the contract, which is not set aside or quota, that represents a target toward which the contractor must aim in expending good faith efforts to ensure the participation of minority group members and women on the contract.

d) "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

- i) Black persons having origins in any of the Black African racial groups;
- ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
- iii) Native American or Alaskan native persons having origins in any of the original peoples of North America;
- iv) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

e) "Minority-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:

- i) At least fifty-one percent owned by one or more minority group members;
- ii) An enterprise in which such minority ownership is real, substantial and continuing;
- iii) An enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
- iv) An enterprise authorized to do business in this state and independently owned and operated.

f) "Subcontract" shall mean an agreement providing for a total expenditure in excess of \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contract and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a contractor's obligation under a state contract is undertaken or assumed, but shall not include work undertaken for the beneficial use of the contractor.

g) "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:

- i) At least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women; real, substantial and continuing;
- ii) An enterprise in which the ownership interest of such women is
- iii) An enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
- iv) An enterprise authorized to do business in this state and independently owned and operated.

## **2. Directory of Certified Businesses**

The Department of Taxation and Finance shall make copies of the Directory of Certified Businesses available for inspection at its Albany Office. The contractor may purchase a copy from the Division of Minority and Women Business Development at the price of fifty-nine dollars for a printed copy and twenty-three dollars for the Directory on computer diskette.

## **3. Equal Employment Opportunities**

a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

b) At the request of Tax and Finance the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of this contract to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligation hereunder.

c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor in the performance of this contract that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex age, disability or marital status.

d) The contractor will include the provisions of clauses (a), (b) and (c) above in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with this contract.

e) The provisions of these equal employment clauses shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or another activity that are unrelated, separate or distinct from the state contract as expressed by its terms.

f) The requirements of these equal employment clauses shall not apply to any employment outside this State or application for employment outside this State or solicitations or advertisements therefore, or any existing programs or affirmative action regarding employment outside this state and the effect of contract provisions required by clauses (a), (b) an (c) above shall be so limited.

## **4. Minority and Women-Owned Business Enterprise Utilization Plan; Equal Employment Opportunity Program; Waivers.**

a) If goals have been established by Tax and Finance for this agreement, no later than seven business days after receiving notice that the bidder has submitted the lowest responsible bid, the bidder shall submit to Tax and Finance a Minority and Women-Owned Business Enterprise (M/WBE) utilization plan on forms to be provided by Tax and Finance. The M/WBE utilization plan shall list those M/WBEs which will be used by the contractor to meet the contracts M/WBE goals.

b) Tax and Finance will review the M/WBE utilization plan and will issue to the contractor a written notice of acceptance or deficiency within twenty calendar days of receipt. An M/WBE notice of deficiency shall include (i) the name of any M/WBE which is not acceptable for the purpose of complying with the goal requirements' (ii) elements of the contract scope of the work which Tax and Finance has determined can be reasonably structured by the contractor to increase the likelihood of participation in the contract by M/WBEs; and (iii) other information which Tax and Finance determines to be relevant to the utilization plan.(iii) information which Tax and Finance determines to be relevant to the utilization plan.

c) The contractor shall respond to the notice of deficiency within seven business days of receipt by submitting to Tax and Finance a written statement which remedies the deficiencies in the original plan. If the written remedy which the contractor submits is not timely or is found by Tax and Finance to be inadequate, Tax and Finance shall so notify the contractor within five business days and direct the contractor to submit a request for a partial or total waiver of goal requirements on forms to be provided by Tax and Finance. The request for waiver must be submitted within five business days of receipt from Tax and Finance of a notice that the contractor's statement of remedy was untimely or inadequate.

d) A contractor who has made good faith efforts to obtain commitments from M/WBE subcontractors and suppliers prior to submitting its M/WBE utilization plan may submit a request for waiver at the same time it submits its utilization plan. If a request for waiver is submitted with the utilization plan, and is not accepted by Tax and Finance at that time, the provisions of clauses (b) and (c), regarding the notice of deficiency and written remedy will apply. In this case, the contractor may submit a second request for waiver as directed by Tax and Finance.

e) If the contractor does not submit a request for waiver, or if Tax and Finance determines that the good faith efforts of the contractor have been inadequate to justify the granting of the request for waiver, Tax and Finance may make a determination that the contractor's failure to remedy deficiencies is non-responsible and disqualify the bid or proposal. Notice of disqualification, along with a denial of a request for waiver, where applicable, shall be delivered to the contractor no later than twenty calendar days after Tax and Finance receives the request for waiver.

f) If Tax and Finance disqualifies the bidder as non-responsible for failure to remedy deficiencies in its M/WBE utilization plan and to document good faith efforts, Tax and Finance may award the contract to the next lower responsible or otherwise acceptable bidder, whether or not the disqualified bidder pursues any remedies established pursuant to Article 15A of the Executive Law.

g) The contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its M/WBE utilization plan, at least to the extent indicated in the plan.

## **5. Administrative Hearing on Disqualification**

a) If Tax and Finance disqualifies the bid on the ground that the contractor has failed to remedy the deficiencies in its M/WBE utilization plan or to document good faith efforts to remedy such deficiencies and is, therefore, determined to be non-responsible, the contractor shall be entitled to an administrative hearing, on the record, before a hearing officer appointed by Tax and Finance, to review the determination of disqualification of the bid and determination of non-responsibility. The contractor shall request such hearing in writing no less than seven business days of receipt of notice of disqualification. The determination of the hearing officer shall not interfere with Tax and Finance disposition of the

contract. The hearing shall be conducted pursuant to Article 3 of the State Administrative Procedures Act, as it applies to these circumstances. The rules and regulations of Article 15-A override any inconsistencies with Article 3.

b) The hearing officer's determination shall be a final administrative determination of Tax and Finance and shall be reviewable by the proceeding brought pursuant to the Civil Practice Law and Rules, provided such proceeding is commenced within thirty days of notice given by certified mail, return receipt requested, rendering such final administrative determination in accordance with the provisions of section 313 of the Executive Law.

c) Such review shall be commenced in the Supreme Court, Appellate Division, Third department, and shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the Court of Appeals of the State of New York shall be subject to the same preference.

## **6. Good Faith Efforts**

In order to show that it has made good faith efforts to comply with the goal requirements of this contract, if applicable, the contractor shall submit such documentation as will enable Tax and Finance to make a determination in accordance with the following criteria:

a) Was a completed, acceptable utilization plan submitted in accordance with applicable requirements to meet goals for participation of certified minority and women-owned business enterprises established in the state contract?

b) Were advertisements placed in appropriate general circulation, trade and minority and women-oriented publications in a timely fashion?

c) Were written solicitations made in a timely fashion of certified minority and women-owned business enterprises listed in the directory of certified businesses?

d) Were timely responses to any such advertisements and solicitations provided by certified minority and women-owned business enterprises?

e) Did the contractor attend pre-bid, pre-award, or other meetings, if any, scheduled by the state agency awarding the state contract, with certified minority or women-owned business enterprises which the state agency determined were capable of performing the state contract scope of work, for purposes of complying with goal requirements?

f) What efforts were undertaken by the contractor to reasonably structure the contract scope of work for purposes of subcontracting with certified minority and women-owned business enterprises?

g) How many minority and women-owned business enterprises in the directory of certified businesses could perform work required by the state contract scope of work in the region as defined in paragraphs (1) and (2) of subdivision (a) of section 543.2 of this part?

h) What actions were taken to contact and assess the financial ability of certified minority and women-owned business enterprises to participate on the state contract, which enterprises are located outside of the region in which the state contract scope of work was or will be performed?

- i) Were relevant plans, specifications or terms and conditions of the state contract, necessary to prepare an informed response to a contractor solicitation, provided in a timely fashion to certified minority or women-owned business enterprises?
- j) What subcontract terms and conditions were offered to certified minority and women-owned business enterprises, and how do those subcontract terms and conditions compare to those offered in the ordinary course of the contractor's business and to other subcontractors of the contractor?
- k) Has the contractor made payments for work performed by certified minority and women-owned business enterprises in a timely fashion so as to facilitate continued performance by certified minority or women-owned business enterprises?
- l) Has the contractor offered to make up any inability to comply with the minority and women-owned business enterprise goals established in a state contract, in other state contracts being performed or to be awarded to the contractor?

## **7. Compliance Reports**

The contractor shall submit, and shall require subcontractors to submit, compliance reports on forms and at intervals to be established by Tax and Finance. Reports not submitted at such times as shall be required by Tax and Finance may be cause for Tax and Finance to delay implementing scheduled payments to the contractor.

## **8. Contractor's Failure or Inability to Meet Goal Requirements.**

- a) If the contractor, after making good faith efforts, is unable to comply with a contract's M/WBE goal requirements, where applicable, the contractor may submit a request for a partial or total waiver on forms to be provided by Tax and Finance. If the documentation required with the request for waiver is complete, Tax and Finance shall evaluate the request and issue a written notice of acceptance or denial within twenty calendar days of receipt.
- b) If Tax and Finance, upon review of the contractor's M/WBE utilization plan and the contractor's compliance reports, determines that the contractor is failing or refusing to comply with the contract's M/WBE requirements, and no waiver has been issued in regards to such non-compliance, Tax and Finance may issue a notice of deficiency to the contractor. The contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of M/WBE goal requirements.

## **9. Contractor and Agency Complaints; Arbitration.**

- a) If the contractor submits a request for waiver of M/WBE goal requirements and Tax and Finance denies the request or fails to respond in any way within twenty days of receiving it, the contractor may file a complaint with the Director according to the provisions of section 316 of Article 15-A of the Executive Law. The complaint must be filed within twenty calendar days of Tax and Finance receipt of the request for waiver, if Tax and Finance has not responded in that time, or with twenty calendar days of a notification that the request has been denied by Tax and Finance.
- b) If the contractor fails to respond to a notice of deficiency, or if Tax and Finance denies a request for waiver of M/WBE goal requirements, Tax and Finance shall file a complaint with the Director pursuant to section 316 of Article 15-A of the Executive Law.
- c) A complaint should set forth the facts and circumstances giving rise to the complaint together with a demand for relief.

d) The party filing a complaint, whether the contractor or Tax and Finance shall deliver a copy to the other party. Both the complaint and the copy shall be delivered by either personal service or by certified mail, return receipt requested.

e) Upon receipt of a complaint, the Director shall provide the party against whom the complaint has been filed with an opportunity to respond to the complaint. If within thirty days of receipt of the complaint, the Director is unable to resolve the complaint to the satisfaction of Tax and Finance and the contractor, the complaint shall be referred to the American Arbitration Association for resolution pursuant to section 316 of Article 15-a of the Executive Law.

f) Upon conclusion of the arbitration proceedings, the arbitrator will submit to the Director his or her award regarding the alleged violation of the contract or the refusal of Tax and Finance to grant a waiver request by the contractor. The award of the arbitrator with respect to an alleged violation of the contract or the refusal of the state agency to a waiver shall be final and may be vacated or modified only as provided by Article 75 of the Civil Practice Law and Rules.

g) Upon conclusion of the arbitration proceedings and the rendition of an award, the arbitrator will also recommend to the Director a remedy, including, if appropriate, the imposition of the sanctions, fines or penalties, provided however, that no fines or penalties shall be recommended with respect to the refusal of Tax and Finance to grant a waiver requested by a contractor. The Director will either (i) adopt the recommendation of the arbitrator; (ii) determine that no sanctions, fines or penalties should be imposed; or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or imposed; or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or imposed any new sanction, or increase the amount of any recommended fine or penalty

h) The Director, within ten days of receipt of the arbitrator's award and recommendations, will file a determination of such matter and shall cause a copy of such determination to be served upon the parties by personal service or by certified mail, return receipt requested. The determination of the Director as to the imposition of any fines, sanctions, or penalties shall be review able pursuant to Article 78 of the Civil Practice Law and Rules.

**REMAINDER OF THIS PAGE LEFT BLANK**

**MACBRIDE FAIR EMPLOYMENT PRINCIPLES FORM**

Mr. David Parkis  
Chief Budget Analyst, Procurement Services Bureau  
New York State Department of Taxation and Finance  
W.A. Harriman State Office Building Campus  
Building #9, Room 234  
Albany, New York 12227

Bidder Name: \_\_\_\_\_

**"NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:  
MacBRIDE FAIR EMPLOYMENT PRINCIPLES"**

In accordance with Chapter 807 of the Laws of 1992, the bidder, by submission of this bid, certifies that it, and any individual or legal entity in which the bidder holds a 10% or greater ownership interest, and any individual or legal entity that holds a 10% or greater ownership interest in the bidder, either:

(Answer: Yes to one of the following as applicable),

1. Have no business operations in Northern Ireland: \_\_\_\_Yes

or

2. Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity, and shall permit independent monitoring of their compliance with such Principles: \_\_\_\_Yes

**New York State Department of Taxation and Finance**

**EN-202: Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code**

The New York State Tax Law and the Department of Taxation and Finance impose secrecy restrictions on:

- All officers, employees and agents of the Department of Taxation and Finance
- Any person engaged or retained by this Department on an independent contract basis
- Any depository, its officers and employees, to which a return may be delivered
- Any person who is permitted to inspect any report or return
- Bidders and workmen hired by the Department to work on its equipment, buildings or premises or to process returns or other papers
- Visitors to the Department's buildings or premises

Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for anyone to divulge or make known in any manner the contents or any particulars set forth or disclosed in any report or return required under the Tax Law. Computer files and their contents are covered by the same standards and secrecy provisions of the Tax Law and Internal Revenue Code that apply to physical documents.

Any unlawful disclosure of information is punishable by a fine not exceeding one thousand dollars and/or Imprisonment not exceeding one year. State officers and employees making unlawful disclosures are subject to dismissal from public office for a period of five years.

Unauthorized disclosure of automated tax systems information developed by the department is strictly prohibited. Examples of confidential systems information include: functional, technical and detailed systems design; systems Architecture, automated analysis techniques; systems analysis and development methodology; audit selection methodologies; or proprietary vendor products such as software packages.

The Internal Revenue Code contains secrecy provisions which apply to federal tax reports and returns. Pursuant to Section 6103 and 7213(a) of the Internal Revenue Code, penalties similar to those in the New York State Law are imposed on any person making an unauthorized disclosure of federal information.

---

I certify that I have read the above document and that I have been advised of the statutory and Department of Taxation and Finance secrecy requirements and will adhere thereto even after my relationship with the Department is terminated.

**Organization:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Name (Printed):** \_\_\_\_\_

**Date:** \_\_\_\_\_, 2005