

**INVITATION FOR BIDS**

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| **BID DUE DATE: November 12**, 2020 by 2PM ET | **TITLE**: Business Auction Services  | **IFB #**: 19-203 |
| **CONTRACT PERIOD:** The Contract term will be for a five (5) year period commencing upon approval by the Attorney General (AG) and the Office of the State Comptroller (OSC).  |
| **DESIGNATED CONTACTS:**  |
| Kathy Cavanaugh, Contract Management Specialist 1 Trainee Phone: (518) 530-4484Email**:** bfs.contracts@tax.ny.gov  | Shannon Plasencia, Contract Management Specialist 2Peter Russell, Contract Management Specialist 3 Phone: (518) 530-4484Email:bfs.contracts@tax.ny.gov  |
| **The bid must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this INVITATION FOR BIDS, Appendix A (Standard Clauses For New York State Contracts) and Appendix B (Bid Protest Policy) and that all information provided is complete, true and accurate. By signing, Bidder also affirms that it understands and agrees to comply with the Department of Taxation and Finance (“DTF”)** **procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b). Information may be found at:** <http://www.tax.ny.gov/about/procure>  |

|  |  |
| --- | --- |
| **Bidder’s Federal Tax Identification Number:** *(Do Not Use Social Security Number)* | **NYS Vendor Identification Number:***(See “New York State Vendor File Registration” clause)* |
| If applicable, place an “**x**” in the appropriate box (***check all that apply***):  | [ ] NYS Small Business \*\_\_\_\_\_ # of Employees  | [ ] NYS Certified Minority Owned Business  | [ ] NYS Certified Women Owned Business  |
| Legal Business Name of Company Bidding:  |
| D/B/A - Doing Business As (if applicable):  |
| Street City State Zip County  |
| If you are not bidding, place an “x” in the box and return this page only. [ ] WE ARE UNABLE TO BID NOW BECAUSE: |
| Bidder’s Signature:Title:  | Printed or Typed Name: Date:  |

**\* Note: A “New York State Small Business” is defined as a company that is a resident to New York State, independently owned and operated, with 100 or fewer employees, and not dominant in its field. There is no certification process to be considered a New York State Small Business**.

1. GENERAL INFORMATION

**IMPORTANT NOTICE TO POTENTIAL BIDDERS: Receipt of these bid documents does not indicate that the Department of Taxation and Finance has pre-determined your company's qualifications to receive a contract award. Such determination will be made after the bid opening and will be based on our evaluation of your bid submission compared to the specific requirements and qualifications contained in these bid documents.**

* 1. NOTICE TO BIDDERS:

Through this Invitation for Bids (“IFB”), the New York State Department of Taxation and Finance (“DTF” or “Department”) is seeking competitive bids from qualified firms (the “Offerer” or the “Bidder”) to perform Business Auction Services for seized businesses in accordance with the detailed specifications outlined in this document. For the purposes of these services, the State has been broken out into six (6) regions. There will be a Contract awarded for each region as a result of this IFB. Each of the regions outlined in **Section** **1.3. INTRODUCTION** will be independently awarded.

Pursuant to the provisions of Article XI of the State Finance Law, bids will be received by DTF as follows:

* + 1. Prepare and submit your bid in accordance with this IFB and **Attachment 1, Bidder’s Checklist**. This IFB and Attachment 1 outline the terms and conditions, and all applicable information required for submission of a bid.
		2. Certified mail, first class mail, overnight delivery, hand delivered proposals or walk-ins will **not** be accepted. Facsimile submissions will **not** be accepted. All proposals **must** be submitted as an **MS Word** compatible (.doc or .docx) or **PDF** filetype. The Department of Taxation and Finance will **not** acknowledge receipt of proposals delivered by mail, fax or in person. **Proposals must be submitted via e-mail** **to:** **BFS.Contracts@tax.ny.gov** and include the subject “Proposal for IFB 19-203, Business Auction Services.” An official who is authorized to commit the company to an agreement must sign the proposal. You will receive an email confirmation when the Department receives your proposal.
		3. All proposals and accompanying documentation will become the property of the Department and will not be returned. The content of each Bidder’s proposal will be held in strict confidence during the bid evaluation process, and no details of any proposal will be discussed outside the evaluation process.

 An improperly submitted bid resulting in a late bidmay not be considered.

All amendments, clarifications, and any announcements related to this IFB will be posted on the Department’s website at: <http://www.tax.ny.gov/about/procure>.

It is the responsibility of the Bidder to check the website for any amendments, clarifications or updates. All applicable amendment information must be incorporated into the Bidder’s bid. Failure to include this information may result in the Bidder’s bid being deemed non-responsive.

* 1. SCHEDULE OF EVENTS

|  |  |
| --- | --- |
| October 1, 2020 | Issuance of IFB |
|  |  |
| October 15, 2020 | Deadline for Filing Offer Understanding of, and Compliance with, Procurement Lobbying Guidelines (Attachment 2) |
|  |  |
| October 15, 2020 | Deadline for Submission of Round One of Written Questions |
|  |  |
| October 22, 2020 | Department Response to Round One of Bidder Questions Posted |
|  |  |
| October 29, 2020 | Deadline for Submission of Round Two of Written Questions |
|  |  |
| November 6, 2020 | Department Response to Round Two of Written Questions |
|  |  |
| November 12, 2020 by 2PM ET | Bid Due Date |
|  |  |
| November 19 ,2020 | Anticipated Notification of Intent to Award |
|  |  |
| December 3, 2020 | Latest Date for Contract Signature |
|  |  |
| January 7, 2021 | Anticipated Date for Contract Execution |

* 1. INTRODUCTION

The Civil Enforcement Division (CED) of the New York State Department of Taxation and Finance is charged with the collection of unpaid NYS tax debt. The Department utilizes numerous methods in the collection of the debt. Once voluntary efforts to collect these debts have been exhausted, CED performs an investigation to identify any assets that may be seized to satisfy the debt. When a business is seized to satisfy a delinquent tax debt, the Department will secure the assets at the place of business.

The Department is seeking proposals to provide Auction Services for businesses that have been seized to satisfy outstanding tax debt in six (6) regions throughout New York State. The Department reserves the right to restructure regions.

* + **Region 1**:
		- Allegany
		- Cattaraugus
		- Chautauqua
		- Erie
		- Genesee
		- Livingston
		- Monroe
		- Niagara
		- Orleans
		- Wyoming
	+ **Region 2**:
		- Broome
		- Cayuga
		- Chemung
		- Chenango
		- Cortland
		- Delaware
		- Herkimer
		- Jefferson
		- Lewis
		- Madison
		- Oneida
		- Onondaga
		- Ontario
		- Oswego
		- Otsego
		- Schuyler
		- Seneca
		- St. Lawrence
		- Steuben
		- Tioga
		- Tompkins
		- Wayne
		- Yates
	+ **Region 3**:
		- Albany
		- Clinton
		- Columbia
		- Dutchess
		- Essex
		- Franklin
		- Fulton
		- Greene
		- Hamilton
		- Montgomery
		- Putnam
		- Rensselaer
		- Saratoga
		- Schenectady
		- Schoharie
		- Sullivan
		- Ulster
		- Warren
		- Washington
	+ **Region 4**:
		- Bronx
		- Kings
		- New York
		- Queens
		- Richmond
	+ **Region 5:**
		- Nassau
		- Suffolk
	+ **Region 6**:
		- Orange
		- Rockland
		- Westchester



The table below represents the historical data of all business seizures by region for the last three (3) fiscal years. Once seized, each business was either auctioned or redeemed, as shown on the table below. **Note:** All quantities listed below are based on historical data and provided for reference. The Department does not guarantee these quantities for future fiscal years and will be invoiced only for actual services provided for each region.

Table 1 – Business Seizures

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Region** | **Seizures FYE 3/17** | **Auctioned FYE 3/17** | **Redeemed FYE 3/17** | **Seizures FYE 3/18** | **Auctioned FYE 3/18** | **Redeemed FYE 3/18** | **Seizures FYE 3/19** | **Auctioned FYE 3/19** | **Redeemed FYE 3/19** |
| 1 | 5 | 2 | 3 | 11 | 1 | 10 | 8 | 0 | 8 |
| 2 | 9 | 0 | 9 | 18 | 2 | 16 | 12 | 8 | 4 |
| 3 | 37 | 2 | 35 | 51 | 1 | 50 | 31 | 5 | 26 |
| 4 | 121 | 8 | 113 | 102 | 7 | 95 | 99 | 20 | 79 |
| 5 | 33 | 3 | 30 | 47 | 7 | 40 | 23 | 9 | 14 |
| 6 | 30 | 0 | 30 | 32 | 1 | 31 | 8 | 1 | 7 |
| Totals | 235 | 15 | 220 | 261 | 19 | 242 | 181 | 43 | 138 |

1. SCOPE:

When the Department seizes a business, the Department will secure the assets at the place of business. Once the Business assets have been released for auction, the Contractor must perform the Auction without refusal, in a mutually agreed upon timeframe. As a part of their auction services, the Contractor must:

* Assist the Department in identifying the reserve amount for the assets at auction, if requested by the Department;
* Hold the auction at the place of business or at a location within the Region, as determined by the Department;
* Advertise the Public Auction of assets that the Department has made available for auction to publications. **Note**: Advertising for Department Auctions is a pass-through cost and will be charged to the Department with no mark-up. All advertising and associated costs must be approved by the Department prior to the publishing of the advertisement;
* The Contractor must keep information relating to the bids received at the auction. In the event that the winning bidder of the auction does not complete the purchase, the Department reserves the right to move to the next bidder or reject all offers;
* The Department reserves the right to refuse any or all bids if it determines in its sole judgment the bids received are unacceptable;
* If the Contractor accepts a deposit at the time of Auction and does not complete the transaction with the winning auction bidder, such deposit is non-refundable and shall be remitted, in full, to the Department; and
* When multiple assets are seized from the same owner, they are to be auctioned as both a bulk lot and individually, as directed by the Department. The auction will be awarded to the bids that generate the highest grand total for the assets.

**Payment/Remitting Auction funds to the Department:**

Remittance of all funds received from the Auction of the asset(s) must be **transmitted to the Department in guaranteed funds within 10 business days of the Auction**. The remittance must include a statement for each asset sold containing the: 1) case number, 2) debtor’s name, and 3) auction bid price. **In no instance shall the Contractor deduct their fees from the funds received from auction and remit the difference**.

**Process for Invoicing**

Upon receipt of the asset, the Contractor will maintain an itemized accounting of all expenses associated with said asset. **Within 10 days of return of the assets to the tax debtor or auction of the assets, the Contractor shall submit to the Department an itemized invoice for all costs associated with that business.** The invoice must include, at a minimum, the case number, debtor’s name and Auction Fees as shown on **Attachment 14, Financial Response Form**.

1. MANDATORY SERVICE REQUIREMENTS:
	1. **Auction Regularity**

The Contractor must conduct auctions of seized assets upon DTF’s request without refusal, in a mutually agreed upon timeframe. Due to advertising requirements, auctions must take place no earlier than three (3) weeks and no later than six (6) weeks after the request from DTF.

* 1. **Auction Process**

The Contractor must conduct a live auction of the seized assets. The Contractor may conduct auctions via web or phone **in addition to** the live auction component. Web or phone auctions may open prior to the live auction; however, all auctions must be closed at the same time. The auction must contain a live component and cannot be conducted by web or phone alone.

**Hourly Rate for Cancelled Auctions:** In the event the auction is cancelled and the assets are redeemed by the taxpayer, the Contractor my charge a cancellation charge for any work performed on this case prior to the cancellation of the auction. The Bidder must provide this charge as an hourly rate on **Attachment 14 – Financial Response Form**.

* 1. **Property Inventory System**

The Contractor must have a system in place to operate and maintain a property inventory and records system which will track and maintain the following information for a minimum of seven (7) years:

* All asset contents of a business, including appraised value, pertinent information relative to bids received at the auction, and receipt of asset by the winning auction bidder.  **NOTE**: In the event the winning auction bidder does not complete the purchase, the Department reserves the right to move to the next auction bidder or reject all offers;
* Collection of funds for purchase;
* Confirmation of receipt of services (e.g. storage fees, other services, appraised value, auction sale price, etc.);
* Certificate of Sale of Personalty;
* Copies of Lien Releases, if applicable.
	1. **Insurance**

3.5.1 WORKERS COMPENSATION AND DISABILITY BENEFITS CERTIFICATIONS

§ 57 and § 220 of the New York State Workers’ Compensation Law (WCL) provide that the State shall not enter into any contract unless proof of workers’ compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with the State, Successful Proposers will be required to verify for the State, on forms authorized by the New York State Workers’ Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. Any questions relating to either workers’ compensation or disability benefits coverage should be directed to the State of New York Workers’ Compensation Board, Bureau of Compliance at (518) 486-6307. Failure to provide verification of either of these types of insurance coverage by the time contracts are ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

**Proof of Workers’ Compensation Coverage:**

Upon notification of award, the successful Bidder will be requested to submit ONE of the following forms as Workers’ Compensation documentation:

* Form C-105.2 – Certificate of Workers’ Compensation Insurance issued by private insurance carrier (or Form U-26.3 issued by the State Insurance Fund); or
* Form SI-12 – Certificate of Workers’ Compensation Self-Insurance (or Form GSI-105.2 Certificate of Participation in Workers’ Compensation Group Self-Insurance); or
* Form CE-200 – Certificate of Attestation of Exemption from New York State Workers’ Compensation and/or Disability Benefits Coverage.

**Proof of Disability Benefits Coverage:**

Upon notification of award, the successful Bidder will be requested to submit ONE of the following forms as Workers’ Compensation documentation:

* Form DB-120.1 – Certificate of Disability Benefits Insurance; or
* Form DB-155 – Certificate of Disability Benefits Self-Insurance; or
* Form CE-200 – Certificate of Attestation of Exemption from New York State Workers’ Compensation and/or Disability Benefits Coverage.

Further information is available at the Workers’ Compensation Board’s website, which can be accessed at: <http://www.wcb.ny.gov>.

Please note that although these forms are not required as part of the bid submissions, the State encourages Bidders to include them with their bid submissions to expedite Contract execution if the Bidder is awarded the Contract. Note also that only the forms listed above are acceptable; ACORD forms cannot be accepted.

3.5.2 ADDITIONAL INSURANCE REQUIREMENTS

Prior to the commencement of Services by the Contractor, the Contractor shall file with The Department Certificates of Insurance evidencing compliance with all requirements contained in **Section XXII, Insurance** of **Exhibit A, Preliminary Base Contract**.

1. METHOD OF AWARD

For each region, the contract award will be made to the Bidder who successfully meets all the Mandatory Requirements and provides the lowest overall cost. Award shall be made by grand total for ***all*** items to one Bidder.

In the event of a tie, the winning Bidder will be determined by:

* Earliest bid received.
1. PRICE

Prices are to be provided by the Bidder on **Attachment 14, Bidder’s Financial Response Form**. A Bidder’s failure to provide a complete pricing response will result in the Bidder’s proposal being deemed non-responsive. Bidders must provide all pricing information requested on **Attachment 14** and should not modify or change the Attachment. Any pricing information or add-on costs that do not conform to the presentation allowed on **Attachment 14** cannot be evaluated, will be disregarded as extraneous, and cannot be charged to the Department after award of a Contract for services provided under the Contract.

All quantities listed on **Attachment 14, Bidder’s Financial Response Form**, are based on the historical data provided in **Section** **1.3 INTRODUCTION**. The Department does not guarantee these quantities and will be invoiced only for actual services utilized.

The Fees provided on **Attachment 14** will not be increased during the first three (3) years of the five-year term. Thereafter, fees may be increased for each subsequent annual period of said term upon the anniversary of the Contract resulting from this IFB with no less than sixty (60) days prior written notice to the Department. Such increase will be limited to the lesser of the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, as reported by the U.S. Department of Labor, Bureau of Statistics for the preceding 12-month period or 3% per annum over the prior year’s fees. Any increase granted shall be effective on the contract anniversary date and calculated using the index number published four (4) months preceding the anniversary date of the contract. If at any time the above index is discontinued or becomes unavailable, the Department reserves the right to implement a comparable index.

Prices quoted shall be good for 120 days from date of bid submission indicated on the IFB cover page.

1. ADMINISTRATIVE REQUIREMENTS

**With the submission of a response to this Invitation for Bids, the Bidder agrees to the Contract conditions outlined in this Section 6, Administrative Requirements, except that Bidders may propose changes as allowable in 6.4, Bidder-Proposed Changes to Contract terms.**

* 1. NON-COLLUSIVE BIDDING CERTIFICATION:

**(Reference: State Finance Law Section 139-d and Appendix A, Clause 7)**

By submission of this bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

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

 (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

 (3) No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not submit a bid for the purpose of restricting competition.

* 1. APPENDIX A:

**Appendix A, Standard Clauses for NYS Contracts**, dated October 2019 attached hereto, is hereby expressly made a part of this Bid Document as fully as if set forth at length herein. **Please retain this document for future reference.**

* 1. APPENDIX B:

The Department’s procedures for handling protests of bid awards are set forth in **Appendix B, Bid Protest Policy**. **Please retain this document for future reference.**

* 1. BIDDER-PROPOSED CHANGES TO CONTRACT TERMS

Proposals must conform to the terms and conditions set forth in this IFB and the **Exhibit A** **Preliminary Base Contract.** Any Bidder-proposed change(s) to terms and conditions set forth in this section of the IFB (**Section 6.4**) and/or **Exhibit A,** **Preliminary Base Contract,** must be provided to the Department in the Bidder’s Proposal. Material deviations from the terms and conditions set forth in the IFB (including additional, inconsistent, conflicting or alternative terms) may render the bid non-responsive and may result in rejection.

**Response Requirement:**

The Bidder must attach any Bidder-proposed change(s) to the terms and conditions outlined in **Section 6.4** of this IFB and/or the **Exhibit A,** **Preliminary Base Contract.**

Only those Bidder-proposed change(s) that meets the following requirement will be considered as having been submitted as part of the proposal:

* Each Bidder-proposed change(s) (addition, counter-offer, deviation or modification) must be specifically enumerated in writing; and the writing enumerating the Bidder-proposed Change must identify the particular term to which the Bidder objects, or proposes to modify, and the reasons therefore.

Bidder-proposed change(s) submitted on standard, pre-printed forms (product literature, order forms, contracts), whether or not deemed “material,” which are attached or referenced with submissions which do not meet the above requirements will not be considered part of the bid or resulting contract, but rather will be deemed to have been included for informational or promotional purposes only.

Acceptance and/or processing of the bid proposal shall not constitute written acceptance of Bidder-proposed change(s) or a waiver of the Department’s right set forth in **Section 7**. Failure to object to any terms identified in **Section 7** of this IFB and/or **Exhibit A, Preliminary Base Contract**, shall be deemed to constitute acceptance thereof by the Bidder.

* 1. INQUIRIES/ISSUING OFFICE:

Prospective Bidders have the opportunity to submit written questions and requests for clarifications regarding this IFB. All questions regarding this IFB must be submitted by email and received **by the date specified on the Schedule of Events**. Bidders are cautioned to read this document thoroughly to become familiar with all aspects of the bid. Questions should cite the specific bid section and page number and the Bidder should indicate the name, address, telephone number and email address of the individual submitting questions.

All inquiries concerning this bid solicitation must be addressed to the following Designated Contacts and issuing office:

**DESIGNATED CONTACTS:**  Kathy Cavanaugh, Contract Management Specialist 1 Trainee

Shannon Plasencia, Contract Management Specialist 2

Peter Russell, Contract Management Specialist 3

 Phone: (518) 530-4484

 Email: bfs.contracts@tax.ny.gov

Contacting someone else may result in rejection of bid – see more on this in **Section 6.6,** **PROCUREMENT LOBBYING LAW**.

The Department will respond, in writing, to all substantive questions by the date specified in the Schedule of Events. All amendments, clarifications, Bidder questions with the Department’s responses and any announcements related to this bid will be posted on the Department’s Procurement Opportunity website at:

<https://www.tax.ny.gov/about/procure/current_bid_opportunities.htm>

It is the responsibility of the Bidder to check the website for any amendments, clarifications or updates. All applicable amendment information must be incorporated into the Bidder’s proposal. Failure to include this information in your proposal may result in the Bidder’s proposal being deemed non-responsive.

**IT IS INCUMBENT ON THE PROSPECTIVE BIDDER TO NOTIFY THE DESIGNATED CONTACT(S) OF ANY TERM, CONDITION, ETC. THAT PRECLUDES THE VENDOR FROM SUBMITTING A BID.**

* 1. PROCUREMENT LOBBYING LAW
		1. SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING:

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the DTF and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by the DTF and, if applicable, the Office of the State Comptroller (“restricted period”) to other than the Designated Contact(s) unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated Contact(s), as of the date hereof, is identified above. The DTF employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for Contract award and in the event of two findings within a four-year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Information related to the Procurement Lobbying Law and DTF guidelines can be found on the DTF’s Procurement website at: <https://www.tax.ny.gov/about/procure/> .

* + 1. AFFIRMATION OF UNDERSTANDING OF, AND COMPLIANCE WITH PROCUREMENT LOBBYING GUIDELINES

New York State Finance Law 139-j(6)(b) requires that the DTF seek written affirmation from all Offerers as to the Offerer’s understanding of and agreement to comply with the DTF procedures relating to permissible contacts during a Government Procurement. Information related to the Procurement Lobbying Law and DTF guidelines can be found on the Department’s Procurement website at: <https://www.tax.ny.gov/about/procure/> **Attachment 2: Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines** is to be completed and submitted with this bid.

* + 1. PROCUREMENT LOBBYING ACT OFFERER DISCLOSURE OF PRIOR NON-RESPONSIBILITITY DETERMINATIONS:

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or Contract documents, as applicable, for procurement contracts. **Attachment 3: Offerer Disclosure of Prior Non-Responsibility Determinations** is to be completed and submitted with this bid.

* + 1. OFFERER’S CERTIFICATION OF COMPLIANCE WITH STATE FINANCE LAW 139-k(5)

New York State Finance Law 139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law 139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Government Entity with respect to State Finance Law 139-k is complete, true and accurate. **Attachment 4: Offerer Certification of Compliance with State Finance Law 139-k(5)** is to be completed and submitted with this bid.

* + 1. PROCUREMENT LOBBYING TERMINATION:

DTF reserves the right to terminate this Contract in the event it is found that the certification filed by the Offerer/bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, The DTF may exercise its termination right by providing written notification to the Offerer/bidder in accordance with the written notification terms of this Contract.

* 1. PAYMENTS:
		1. ELECTRONIC PAYMENT

Payment for invoices submitted by the Contractor will only be rendered electronically and in accordance with ordinary State procedures and practices. Contractor shall comply with the State Comptroller’s procedures to authorize electronic payments and acknowledges that Contractor will not receive payment on any invoices submitted under this Agreement if it does not comply with the State Comptroller’s electronic payment procedures.  The Commissioner, in his/her sole discretion, *may* authorize payment by paper check, if specifically requested by the Contractor in advance, due to extenuating and documented circumstances necessitating payment by paper check.

**In order to receive payment, Contractor must complete and update, as appropriate, its Vendor Record through the online Vendor Self-Service Portal with the applicable Automated Clearing House (ACH) information** (e.g., bank routing number, bank account number, account type) into which the Contractor wants payment deposited. It is the Contractor’s responsibility to access the self-service portal, follow instructions provided there, and accurately supply the required information to set up electronic payments. Contractor must input the required ACH information and not permit the payment type to default to payment by paper check.  In addition to inputting the appropriate ACH information in the State Comptroller’s Vendor Record system, the Contractor must also advise DTF in writing of the ACH payment information (bank account location) into which it wants payment remitted for this Agreement. The Vendor Self-Service Portal can be found at <https://esupplier.sfs.ny.gov/psp/fscm/SUPPLIER>. Contractors requiring assistance with accessing or using the self-service portal should contact the NYS Statewide Financial System (SFS) by email at helpdesk@sfs.ny.gov, or by telephone at (855) 233-8363.

* + 1. Properly Submitted Invoices

Payment will be made only upon submission of proper invoices by the Contractor, and in accordance with Article 11-A of New York State Finance Law.

Required Information on properly submitted invoices:

* Contractor's SFS Vendor Number;
* Invoice or account number;
* Name of NYS Agency to which goods or services related to the invoice were provided;
* A valid NYS Purchase Order (PO) Number and/or Contract number associated with the invoice; and
* Line item details that match the corresponding PO line item.
	+ 1. Invoice Submission
* Preferred Method: Email invoices to the OGS-BSC at:

accountspayable@ogs.ny.gov including the case number, invoice number and the name of the agency being billed in the subject field. (Note: Do not send a paper copy in addition to the electronic invoice.)

* Alternate method: Mail invoices to OGS-BSC at the following U.S. postal address:

New York State Department of Taxation and Finance

c/o NYS OGS Business Services Center

1220 Washington Avenue

Building 5, 5th Floor

Albany, NY 12226-1900

* 1. PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES
		1. GENERAL PROVISIONS
			1. The Department of Taxation and Finance (“Department”) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.
			2. The Contractor to the subject Contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the Department, to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.
		2. CONTRACT GOALS

For purposes of this Contract, the Department hereby establishes an overall goal of 0% for MWBE participation, 0% for New York State-certified minority-owned business enterprise (“MBE”) participation and 0% for New York State-certified women-owned business enterprise (“WBE”) participation (collectively, “MWBE Contract Goals”) based on the current availability of MBEs and WBEs.

* + 1. EQUAL EMPLOYMENT OPPORTUNITY (“EEO”)
			1. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
			2. In performing the Contract, the Contractor shall:
				1. Ensure that each Contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs 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, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
				2. The Contractor shall submit an EEO policy statement to the Department within seventy-two (72) hours after the date of the notice by the Department to award the Contract to the Contractor.
				3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, the Department may require the Contractor or subcontractor to adopt a model statement (see **Attachment 5 – Minority and Women-Owned Business Enterprises - Equal Employment Opportunity Policy Statement**).
				4. The Contractor’s EEO policy statement shall include the following language:
* 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 EEO programs 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.
* The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
* 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.
* The Contractor will include the provisions of all Subdivisions of this Subsection 6.8.3.2.4 and Subsection 6.8.3.4, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
	+ - 1. **WORKFORCE UTILIZATION REPORT – EXHIBIT B**
				1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the Department on a QUARTERLY basis during the term of the Contract.
				2. Separate forms shall be completed by the Contractor and any subcontractors.
				3. Pursuant to Executive Order #162, Contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the Contract on a quarterly basis.
			2. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
	1. PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERIVCE-DISABLED VETERAN-OWNED BUSINESSES

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

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

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

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

* 1. PERMISSION TO INVESTIGATE

In the event that the Department determines it necessary to investigate evidence relative to a possible or actual 1) crime, or 2) breach of confidentiality or security, the awarded Contractor shall cooperate fully with the Department, to the extent permitted by law, to investigate and identify the responsible individuals. Contractor shall, to the extent permitted by law, make their employees and all relevant records, including personnel records and employee photographs, available to Department investigators upon request by the Department’s Office of Risk Management. The Department may exclusively interview Contractor’s employees and/or agents in connection with an investigation during normal business hours.

* 1. NYS STANDARD VENDOR RESPONSIBILITY QUESTIONNAIRE

Article XI §163(a)(ii) of the State Finance Law states that “Commodities contracts shall be awarded on the basis of lowest price to a responsive and responsible offerer.”

Upon identification of the Bidder with the lowest price, the Bidders’ Vendor Responsibility will be analyzed to ensure that the Bidder is responsible.

In the event that a Bidder is found to be not responsible, the Bidder may be disqualified.

6.11.1 For Bids Equal to or Exceeding $100,000

For bids equal to or exceeding $100,000, Bidders must complete a Vendor Responsibility Questionnaire. Bidders are invited to file the required Vendor Responsibility Questionnaire online via the OSC New York State VendRep system or may choose to complete and submit a paper questionnaire. To enroll and use the New York State VendRep system, see the VendRep system instructions available at: [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep system online at: <https://onlineservices.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at (866) 370-4672 or (518) 408-4672 or by email at ITServiceDesk@osc.ny.gov. Bidders opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact one of the Department’s designated contacts.

Bidders awarded a contract with a value equal to or greater than $100,000 must complete a copy of the Vendor Responsibility Questionnaire, upon notification of award. Bidders who have not filed a Vendor Responsibility Questionnaire online will be required to complete **Attachment 6, Vendor Responsibility Response Form**. If a Vendor Responsibility Questionnaire has been filed online and has not been certified within the last six (6) months, the Bidder must either update/recertify the online questionnaire or submit a new paper Vendor Responsibility Questionnaire.

* 1. NEW YORK STATE VENDOR FILE REGISTRATION

Prior to being awarded a contract pursuant to this Solicitation, the Bidder(s) must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, a unique New York State ten-digit vendor identification number (Vendor ID) will be assigned to your company and Vendor IDs will be assigned to each of your authorized subcontractors (if any) for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage certain vendor information in one central location for all transactions related to the State of New York.

If the Bidder is already registered in the Vendor File, the Bidder must enter its ten-digit Vendor ID number on the first page of this IFB.

If the Bidder is not currently registered in the Vendor File, the Bidder must request assignment of a Vendor ID number from DTF. Complete the OSC Substitute W-9 Form (available at <http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf>), and submit the form to DTF preferably in advance of bidding. Please send this document to the Designated Contact in the solicitation. DTF will initiate the vendor registration process for all Bidders. Once the process is initiated, registrants will receive an email identifying their unique ten-digit Vendor ID and instructions on how to enroll in the online Vendor Self-Service application.

* 1. ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the State and nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders for this Contract for commodities are strongly encouraged and expected to consider New York State businesses in the fulfillment of the Requirements of the Contract. Such partnering may be as suppliers, protégés or other supporting roles.

Each Bidder must complete and submit **Attachment 7, Encouraging Use of New York State Businesses in Contract Performance**.

* 1. NEW YORK STATE TAX SECRECY REQUIREMENTS
		1. Tax Secrecy Provisions

The various secrecy provisions of the Tax Law (e.g., Tax Law § 697 (e) and 1825) prohibit independent Contractors from disclosing tax information in any manner and provide for misdemeanor prosecution for violations. The secrecy provisions of the Internal Revenue Code (26 USC § 6103) provide for felony prosecution for unauthorized disclosure of Federal tax information in the possession of the Department.

All other information about the Department's operations not covered by the preceding provisions of law must be kept confidential as if it were so covered. Contractor representatives must comply with the administrative procedures enforcing these rules.

The awarded Contractor, all staff members and subcontractors shall agree to view, access and use only that confidential information relevant and necessary to provide services to the State under the Agreement; and to subscribe to the provisions of § 73 and 74 the Public Officers Law.

* + 1. Breach of Confidentiality

The awarded Contractor shall be liable for breach of the confidentiality provisions of this Agreement in an amount not to exceed the amount allowed by applicable Federal or New York State law (including any damages construed as incidental, consequential or indirect).

* 1. ETHICS PROVISIONS
		1. Public Officers Law/Former State Employees

The awarded Contractor shall comply will all applicable requirements of Public Officers Law §73 and § 74, the Procurement Lobbying Reform Act of 2005, and other New York State statutes, rules and regulations establishing ethical standards for the conduct of business with New York State. Failure to comply with those provisions may result in termination of the Agreement and/or other civil or criminal proceedings as required by law.

Contractor, and any Subcontractors, may hire former DTF employees. However, former employees of DTF may neither appear nor practice before DTF, nor receive compensation for services rendered on a matter before DTF, for a period of two years following their separation from DTF-service. In addition, former DTF employees are subject to a “lifetime bar” from appearing before DTF or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with DTF.

Each Bidder must complete and submit **Attachment 8 - Public Officers Law Form and Attachment 9 - Public Officers Law – Post Employment Restrictions** which addresses business or professional activities by current or past state officers and employees and party officers. These forms shall be made part of the resultant Agreement.

* + 1. Ethics Requirements

The awarded Contractor and its Subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the “Ethics Requirements”). The Contractor certifies that all its employees and those of its Subcontractors who are former employees of the State and who are assigned to perform services under this Contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the Contractor or its Subcontractors and who is disqualified from providing services under this Contract pursuant to any Ethics Requirements may share in any net revenues of the Contractor or its Subcontractors derived from this Contract. The Contractor shall identify and provide the State with notice of those employees of the Contractor and its Subcontractors who are former employees of the State that will be assigned to perform services under this Contract, and make sure that such employees comply with all applicable laws and prohibitions. The State may request that the Contractor provide it with whatever information the State deems appropriate about each such person’s engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The State shall have the right to withdraw or withhold approval of any Subcontractor if utilizing such Subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The State shall have the right to terminate this Contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

* + 1. NO CONFLICT OF INTEREST (CONTRACTOR & SUBCONTRACTOR)

The Bidder has provided a form (**Attachment 10**, **Vendor Assurance of No Conflict of Interest or Detrimental Effect**), signed by an authorized executive or legal representative attesting that the Contractor’s performance of the services does not and will not create a conflict of interest with, nor position the Contractor to breach any other contract currently in force with the State of New York, that the Contractor will not act in any manner that is detrimental to any State project on which the Contractor is rendering services.

The awarded Contractor hereby reaffirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the Contractor’s satisfactory or ethical performance of duties required to be performed pursuant to the terms of this Agreement. The Contractor shall have a duty to notify DTF immediately of any actual or potential conflicts of interest.

In conjunction with any subcontract under this Agreement, the awarded Contractor shall obtain and deliver to DTF, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the Subcontractor. The Contractor shall also require in any subcontracting agreement that the Subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to DTF a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its Subcontractors prior to entering into a subcontract.

DTF and the awarded Contractor recognize that conflicts may occur in the future because the Contractor may have existing, or establish new, relationships. DTF will review the nature of any relationship and reserves the right to terminate this Agreement for any reason, or for cause, if, in the judgment of DTF, a real or potential conflict of interest cannot be cured.

* 1. EXECUTIVE ORDER NO. 177 CERTIFICATION

In accordance with Executive Order No. 177, the Bidder must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

The Bidder is responsible for reading, signing and submitting **Attachment 11, EO 177 Certification**.

* 1. CONTRACTOR AND SUBCONTRACTOR
		1. Contractor

The awarded Contractor is acting as the prime Contractor under this Agreement and agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written of approval of DTF. Approval shall not be unreasonably withheld upon written request to subcontract. Any such approval does not relieve Contractor of its ultimate responsibility for all services performed under the Agreement. The Contractor shall be:

1. Responsible for, and liable to, the Department for performing in accordance with this Agreement. Contractor shall not in any way be relieved of any financial, programmatic or service responsibility under the Agreement by its agreement with any Subcontractor or by the Department’s approval of such an agreement with a Subcontractor.
2. Responsible for supervising the work of its Subcontractors performing any Services under the Agreement consistent with industry standards applicable to such work.
3. As fully responsible for the acts and omissions of its Subcontractors and employees as it is for acts and omissions of its own employees and agents.
4. Responsible for payment of all Subcontractors and suppliers engaged by or through the Contractor in performance of this Agreement.
	1. TAX LAW § 5-A:

For bids equal to or exceeding $100,000, pursuant to Tax Law Section 5-a, the awarded Contractor will be required to complete and sign, under penalty of perjury**, Attachment 12, Contractor Sales Tax Certification Forms** ST-220-CA and ST-220-TD. The awarded Contractor must also submit a copy of the Certificate of Authority, if available, for itself, any affiliates, and any 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 conferment of such status with the Department.

**Attachment 12, Contractor Sales Tax Certification Forms** provides the Contractor Certification Forms and Instructions for completing the forms. ST-220-TD must be filed with and returned directly to the Department address provided on the form. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with the Department. If the information changes for the Contractor, its affiliate(s), or its subcontractor(s), a new form ST-220-TD must be filed with the Department. Completion of the form at the time of bid submission is not required; however, Form ST-220-TD must be filed and returned to the Department upon notification of Contract award.

Form ST-220-CA must be provided to the Department’s Office of Budget and Management Analysis upon notification of contract award certifying that the Contractor filed ST-220-TD. Proposed Contractors should complete and return the certification form within two business days of request.

Failure to make either of these filings may render a Bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Vendors may call the Department at 1-518-485-2889 for any and all questions relating to Section 5-a of the Tax Law and relating to a company’s registration status with the Department. For additional information and frequently asked questions, please refer to the Department’s website: <http://www.tax.ny.gov>.

6.19 SEXUAL HARRASSMENT PREVENTION CERTIFICATION

State Finance Law §139-l requires Bidders on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training to all its employees and that such policy, at a minimum, meets the requirements of section two hundred one-g of the labor law.

The Bidder must complete and submit **Attachment 13, Sexual Harassment Prevention Certification.**

1. RESERVED RIGHTS

The Department of Taxation and Finance reserves the right to exercise the following:

1. Change any of the scheduled dates herein.
2. Prior to the bid opening, amend IFB specifications after their release to correct errors or oversights, or to supply additional information as it becomes available and so notify all Bidders.
3. Withdraw the IFB, at its sole discretion.
4. Eliminate a mandatory requirement when all Bidders cannot meet such requirement.
5. 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 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.
6. Require the Bidder to demonstrate, to the satisfaction of the Department, any information presented as a part of their proposal.
7. Determine a tie breaking mechanism for award of the contract, to be set prior bid opening, to serve the best interests of the State.
8. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB.
9. Prior to the bid opening, direct Bidders to submit proposal modifications addressing subsequent IFB Amendments.
10. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer’s proposal and/or to determine an offerer’s compliance with the requirements of the solicitation.
11. Use proposal information obtained through the Department’s investigation of a Bidder’s qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to the Department’s request for clarifying information, in the course of evaluation and selection under this IFB.
12. Negotiate with the successful Bidder within the scope of the IFB to serve the best interests of the State.
13. Conduct contract negotiations with the next lowest cost responsible Bidder should the Department be unsuccessful in negotiating an Agreement with the selected Bidder.
14. Utilize any and all ideas submitted in the proposals received.
15. Make an award under the IFB, in whole or in part.
16. Seek clarifications and revisions of proposals.

**APPENDIX A**

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT

FOR FUTURE REFERENCE.

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**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, licenser, 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 State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments 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 $50,000 (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 $25,000, 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 $85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**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 affirms, under penalty of perjury, that its bid was arrived at indepen­dently and without collusion aimed at restricting competition. Contractor further affirms 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 thereunder. 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 (2 NYCRR § 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 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) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee’s Federal employer identification number, (ii) the payee’s Federal social security number, and/or (iii) the payee’s Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, 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 the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, 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 and 5 NYCRR Part 143, 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 the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor’s equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, 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 and will undertake or continue existing programs of 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. 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 clause. 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 Department of Economic Development’s Division 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 Section 165 of the State Finance Law, (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

Albany, New York 12245

Phone: 518-292-5100

Fax: 518-292-5884

email: opa@esd.ny.gov

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

633 Third Avenue

New York, NY 10017

212-803-2414

email: mwbecertification@esd.ny.gov

<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) ) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**26**. **IRAN DIVESTMENT ACT.**  By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27.** **ADMISSIBILITY OF REPRODUCTION OF CONTRACT.** Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

# Appendix B – Bid Protest Policy

It is the policy of the Department of Taxation and Finance (hereafter “DTF”) to provide all Bidders with an opportunity to administratively resolve complaints or inquiries related to bid solicitations or pending contract awards. DTF encourages Bidders to seek resolution of complaints concerning the contract award process through consultation with DTF’s Procurement Unit. All such matters will be accorded impartial and timely consideration.

**Formal Written Protests**

Any potential Bidder who believes that there are errors or omissions in the procurement process, or that the Bidder has been aggrieved in the drafting or issuance of a bid solicitation or pending contract award, may present to a formal complaint to DTF and request administrative relief concerning such action (“formal protest”).

**Submission of Bid or Award Protests**

**Deadline for Submission**

* 1. Concerning Errors, Omissions or Prejudice in the Bid Specifications or Documents - Formal protests which concern the drafting of bid specifications must be received by DTF at least twenty (20) business days before the date set in the solicitation for receipt of bids. If the date set in the solicitation for receipt of bids is less than twenty (20) business days from the date of issue, formal protests concerning the specifications must be received by DTF at least seventy-two (72) hours before the time designated for receipt of bids.
	2. Concerning Proposed Contract Award - Formal protests concerning a pending contract award must be received within five (5) business days after the protesting party (“protester”) knows or should have known of the facts which form the basis of the protest, and, where State Finance Law § 112 approval is required, prior to final approval of the recommendation by the State Comptroller.

**Transmittal**

A formal protest must be submitted in writing to DTF by ground mail or, where permitted in the solicitation, facsimile or email transmission. The following statement must be clearly and prominently displayed on the envelope or package or header of electronic or facsimile transmittal: “Bid Protest of DTF Solicitation (Reference Number).”

**Contents**

A formal protest must include:

* + 1. a statement of all legal and/or factual grounds for disagreement with a specification or a procurement determination;
		2. a description of all remedies or relief requested; and
		3. copies of all applicable supporting documentation.

Protests should be delivered to the Contact named in the IFB.

**Review and Final Determination**

Copies of all protests will be provided to the Director, Procurement Unit, Office of Budget and Management Analysis and appropriate program staff. DTF will/may also provide a copy of any protest filed to the successful offer/tentative awardee.

Protests shall be resolved through written correspondence, however, either the protester or DTF may request a meeting to discuss a formal protest, at which time the participants may present their concerns. Where further formal resolution is required, the Director, Procurement Unit, Office of Budget and Management Analysis may designate an alternate (“designee”) to determine and undertake the initial resolution or settlement of any protest.

The Program staff in conjunction with Procurement Unit staff will conduct a review of the records involved in the protest, consult with the Director, Procurement Unit, Office of Budget and Management Analysis, and provide a memorandum to the Chief Financial Officer of the Office of Budget and Management Analysis summarizing the results of the review and recommendation. The Chief Financial Officer of the Office of Budget and Management Analysis will evaluate the recommendation, the material presented by the protester, and, if necessary, consult with appropriate senior level program staff, Counsel, and the Executive Deputy Commissioner, and prepare a written response to the protest.

A copy of the decision, stating the reason(s) upon which it is based shall be sent to the protester or its agent within thirty (30) business days of receipt of the protest, except that upon notice to the protester such period may be extended. The protest determination should be recorded and included in the Procurement Record, or otherwise forwarded to OSC upon issue. The decision of the Chief Financial Officer of the Office of Budget and Management Analysis will be final.

**Reservation of Rights and Responsibilities of DTF**

DTF reserves the right to waive or extend the time requirements for protest submissions, decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the State and DTF.

If DTF determines that there are compelling circumstances, including the need to proceed immediately with contract award in the best interest of the State, then these protest procedures may be suspended and such determination shall be documented in the procurement record.

DTF will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action including solicitation of bids or withdraw the recommendation of contract award prior to issuance of a formal protest decision.

If a formal bid protest is received by DTF, a final determination on the protest must be made prior to OSC approval of the award under State Finance Law § 112. However, during the pendency of the protest, bid evaluation by DTF and subsequent OSC review of the recommended award may continue to progress at the discretion of the Chief Financial Officer of the Office of Budget and Management Analysis.

If a formal protest is received prior to a determination by DTF on a recommended award, notice of receipt of the protest must be given in the procurement record forwarded to OSC. If a final protest determination has been reached prior to transmittal to OSC, a copy of the final determination should be included in the Procurement Record and forwarded with the recommendation for award.

If a final protest determination is made after the transmittal of a bid package to OSC but prior to OSC approval under State Finance Law § 112, a copy of the final DTF determination shall be forwarded to OSC when issued, along with a letter either: a) confirming the original DTF recommendation for award and supporting the request for final State Finance Law § 112 approval, b) modifying the proposed award recommendation in part and supporting a request for final State Finance Law § 112 approval as modified; or c) withdrawing the original award recommendation.

All records related to formal Bidder protests and appeals shall be retained for at least one (1) year following resolution of the protest. All other records concerning the procurement shall be retained according to the statutory requirements for records retention.

# Exhibit A – Preliminary Base Contract

# The Preliminary Base Contract, Exhibit A, is published as a separate file and can be found at: <https://www.tax.ny.gov/about/procure>.

# Exhibit B – Workforce Employment Utilization

The **Workforce Employment Utilization, Exhibit B,** is published as a separate file and can be found at: <https://www.tax.ny.gov/about/procure>.

# Attachment 1 – Bidder’s Checklist

**Bids must be submitted as an MS Word or PDF attachment via email** **to:** **BFS.Contracts@tax.ny.gov** and include the subject “Proposal for IFB 19-203, Business Auction Services” with the following Attachments in the order presented. (See NOTE below)

[ ]  Cover Page (Page 1 of this IFB) completed with all requested information

[ ]  Attachment 1 – Bidder’s Checklist showing all provided items checked

[ ]  Attachment 2 – Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines

[ ]  Attachment 3 – Offerer Disclosure of Prior Non-Responsibility Determinations

[ ]  Attachment 4 – Offerer Certification of Compliance with State Finance Law 139-k(5)

[ ]  Attachment 5 – Minority and Women-Owned Business Enterprises - Equal Employment Opportunity Policy Statement

[ ]  Attachment 7 – Encouraging Use of New York State Businesses in Contract Performance

[ ]  Attachment 8 –Public Officers Law Form

[ ]  Attachment 9 – Public Officers Law – Post Employment Restrictions

[ ]  Attachment 10 – Vendor Assurance of No Conflict of Interest or Detrimental Effect

[ ]  Attachment 11 – EO-177 Certification

[ ]  Attachment 13 – Sexual Harassment Prevention Certification

[ ]  Attachment 14 – Bidder’s Financial Response Form

**NOTE**: **Attachments 6 and 12 are not to be provided with the bid. These Attachments will be completed upon notification of award for contracts equal to or exceeding $100,000.**

[ ]  Attachment 6 – Vendor Responsibility Response Form (plus hard copy of the Vendor Responsibility Questionnaire if not submitting electronically via the OSC VendRep portal).

[ ]  Attachment 12 – Contractor Sales Tax Certification Forms

*Do not include any additional information or Attachments that attempt to change and/or conflict with the Terms and Conditions of this IFB. Including any such additional information or Attachments may result in the bid being determined non-responsive and disqualified.*

# Attachment 2 – Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines

New York State Finance Law 139-j(6)(b) requires the DTF seek written affirmation from all Offerers as to the Offerer’s understanding of, and agreement to comply, with the DTF procedures relating to permissible contacts during a Government Procurement pursuant to subdivision three of this section.

Procurement Description, Contract or Bid Number:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Offerer affirms it has read, understands and agrees to comply with the Guidelines of the New York State Department of Taxation and Finance relative to permissible contacts as required by the State Finance Law 139-j(3) and 139-j(6)(b).

By *(signature)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name *(Please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title *(Please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Attachment 3 - Offerer Disclosure of Prior Non-Responsibility Determinations

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with State Finance Law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required article of procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

**Offerer Disclosure of Prior Non-Responsibility Determinations**

Procurement Description, Contract or Bid Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Name and Title of Person Submitting this Form: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Has any New York State agency or authority made a finding of non-responsibility regarding the Offerer in the last four (4) years? (Please circle):

 No Yes

If you responded “Yes” to Question 1, please answer the following questions:

1. Was the basis for the finding of the Offerer’s non-responsibility due to a violation of State Finance Law 139-j? (Please circle):

 No Yes

1. Was the basis for the finding of the Offerer’s non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

 No Yes

1. If you responded “Yes” to Questions 1, 2 or 3, please provide details regarding the finding of non-responsibility below:

Government Entity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of Finding of Non-responsibility: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Facts Underlying Finding of Non-Responsibility (Add additional pages as necessary):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Has any New York State agency or authority terminated a procurement contract with the Offerer due to the intentional provision of false or incomplete information? (Please circle):

 No Yes

If you responded “Yes” to Question 5, please provide details regarding the termination below:

Government Entity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of Finding of Non-Responsibility: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Facts Underlying Finding of Non-Responsibility (Add additional pages as necessary):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Offerer certifies that all information provided to the DTF with respect to State Finance Law 139-k is complete, true and accurate.**

Offerer’s Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Offerer’s Name *(Please print):* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Attachment 4 – Offerer Certification of Compliance with State Finance Law 139-k(5)

New York State Finance Law 139-k(5) requires that every Procurement Contract Award subject to the provisions of State Finance Law 139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Government Entity with respect to State Finance Law 139-k is complete, true and accurate.

**Offerer Certification**

I certify that all information provided to the DTF with respect to State Finance Law 139-k is complete, true and accurate.

Offerer’s Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Procurement Description, Contract or Bid Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name *(Please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

# Attachment 5 – Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the (awardee/contractor) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |
| --- |
| **M/WBE** |

|  |
| --- |
| **EEO** |

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

1. Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
2. Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
3. Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
4. Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
5. Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
6. Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

a. This organization 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 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. This organization shall state in all solicitation 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 disability or marital status.

c. At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized 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 this organizations’ obligations herein.

1. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
2. This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2\_\_\_\_\_\_\_\_\_\_\_

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is designated as the Minority Business Enterprise Liaison

 (Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment

Opportunity (M/WBE-EEO) program.

**M/WBE Contract Goals**

\_\_\_\_\_\_\_\_% Minority and Women’s Business Enterprise Participation

\_\_\_\_\_\_\_\_% Minority Business Enterprise Participation

\_\_\_\_\_\_\_\_% Women’s Business Enterprise Participation

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Authorized Representative)

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

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Attachment 6\* – Vendor Responsibility Response Form

**\*For reference only: To be completed upon notification of award for contracts equal to or exceeding $100,000.**

Bidder’s Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bidders must complete a Vendor Responsibility Questionnaire in response to this IFB. Bidders are invited to file the required Vendor Responsibility Questionnaire online via the OSC New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us. Bidders opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact one of the Department’s designated contacts.

Please check one of the following:

 [ ]  A Vendor Responsibility Questionnaire has been filed online and has been certified/updated within the last six months.

 [ ]  A Vendor Responsibility Questionnaire is attached to this bid proposal.

NOTE: If a Vendor Responsibility Questionnaire has been filed online and has not been certified within the last six months, the Bidder must either update/recertify the online questionnaire or submit a new paper Vendor Responsibility Questionnaire. Upon notification of award, the Contractor will be required to update/recertify the online questionnaire.

# Attachment 7 – Encouraging Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the State and nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this Contract will be strongly encouraged to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Bidders/proposers are reminded that they must continue to utilize small, minority- and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York’s infrastructure and maximize economic activity to the mutual benefit of the Contractor and its New York State business partners. New York State businesses will promote the Contractor’s optimal performance under the Contract, thereby fully benefitting the public-sector programs that are supported by associated procurements.

Public procurements can drive and improve the State’s economic engine through promotion of the use of New York businesses by its Contractors. The State therefore expects Bidders/proposers to provide maximum assistance to New York businesses in their use of the Contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract? [ ]  Yes [ ]  No

If “Yes,” identify New York State businesses that will be used and attach identifying information.

By *(signature)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name *(Please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title *(Please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Attachment 8 – Public Officers Law Form

Disclosure of business or professional activities by state officers and employees and party officers.

**§ 73. Business or professional activities by state officers and employees and party officers.**

4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

1. Is the Bidder a New York State officer, employee, or party officer? YES ☐ NO ☐
2. Are any of the members of Bidder’s firm or corporation, who own or control ten per centum or more of stock, a New York State officer, employee, or party officer? YES ☐ NO ☐
3. Is the proposed subcontractor (if applicable) a New York State officer, employee, or party officer? YES ☐ NO ☐

Bidder affirms it has read, understands and agrees to comply with the Guidelines of Public Officers Law § 73 (4)(a).

By *(signature)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name *(please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title *(please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Attachment 9 – Public Officers Law – Post Employment Restrictions

By signing below and submitting a proposal to this IFB, the signatory certifies, for and on behalf of the Bidder, that:

1. He/she has read and understands the provisions applicable to post employment restrictions affecting former State officers and employees, available using the link\* below:
2. Public Officers Law § 73(8)(a)(i), (the two-year bar); and
3. Public Officers Law § 73(8)(a)(ii), (the life-time bar);
4. Submission of this proposal does not violate either provision;
5. He/she is familiar with or has made diligent inquiry of, the Bidder's relevant employees, and agents;
6. No violation shall occur by entering into a contract or in performance of the contractual services;
7. This certification is material to the proposal; and
8. He/she understands that the Department intends to rely on this certification.

The Bidder shall fully disclose to the Department, within its proposal and on a continuing basis, any circumstances that affect this certification or the Bidder’s ability to comply with the cited laws. Bidders shall address any questions concerning §73(8) of the Public Officers Law to:

The New York State Joint Commission on Public Ethics
540 Broadway
Albany, NY 12207
Phone: (518) 408-3976

By *(signature)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name *(please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title *(please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# *\*Click on this link:* [*Public Officers Law, Article 4*](http://public.leginfo.state.ny.us/menuf.cgi)*. When the page opens, click on “Laws of New York”. On the next page, select “PBO Public Officers”. When this page opens, select “Article 4 – (60 - 79) POWERS AND DUTIES OF PUBLIC OFFICERS” and choose Sections 73 (8-a)(i) and 73 (8-a)(ii).*

# Attachment 10 – Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Bidder offering to provide services pursuant to this IFB attests that its performance of the services outlined does not and will not create a conflict of interest with, nor position the Bidder to breach, any other contract currently in force with the State of New York.

Furthermore, the Bidder attests that it will not act in any manner that is detrimental to any State project on which the Bidder is rendering services. Specifically, the Bidder attests that:

1. The fulfillment of obligations by the Bidder, as proposed in the response, does not violate any existing contract or agreement between the Bidder and the State;
2. The fulfillment of obligations by the Bidder, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Bidder has with regard to any existing contract or agreement between the Bidder and the State;
3. The fulfillment of obligations by the Bidder, as proposed in the response, does not and will not compromise the Bidder’s ability to carry out its obligations under any existing contract between the Bidder and the State;
4. The fulfillment of any other contractual obligations that the Bidder has with the State will not affect or influence its ability to perform under any contract with the State resulting from this solicitation;
5. During the negotiation and execution of any contract resulting from this solicitation, the Bidder will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this solicitation, the Bidder will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Bidder, nor any former officer or employee of the Bidder who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Bidder has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the

official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

The Bidder should note that the State recognizes that conflicts may occur in the future because a Bidder may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

By *(signature)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name *(please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title *(please print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This form must be signed by an authorized executive or legal representative.

# Attachment 11 - EO 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

* all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
* employers with fewer than four employees in all cases involving sexual harassment; and,
* any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor:

By (*signature*): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name (*Please Print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This form must be signed by an authorized executive or legal representative.

#

# Attachment 12\* - Contractor Sales Tax Certification Forms

**\*For reference only: To be completed upon notification of award for contracts equal to or exceeding $100,000.**

**Contractor** **Certification (ST-220-TD)**

<https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf>

**Contractor** **Certification to Covered Agency (ST-220-CA)**

<https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf>

For Frequently Asked Questions on Tax Law Section 5-a, please review the following:

<https://www.tax.ny.gov/pdf/publications/sales/pub223.pdf?_ga=1.182183655.1161750456.1470166341>

**Attachment 13 – Sexual Harassment Prevention Certification**

State Finance Law §139-l requires Bidders on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training to all its employees and that such policy, at a minimum, meets the requirements of section two hundred one-g of the labor law.

By submission of this bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the Bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

The Bidder’s signature below certifies its compliance with State Finance Law §139-I.

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

By (*signature*): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name (*Please Print)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***This form must be signed by an authorized executive or legal representative.***

If the Bidder cannot make the above certification, the Bidder must provide a statement with their bid detailing the reasons therefor:

**Attachment 14 – Financial Response Form**

This form is for the financial proposal requirement as requested in **Section 5. Price** of IFB 19-203:

All costs associated with the requirements of this IFB must be incorporated into the Bidder’s financial response. Bidders shall not modify this form in any manner or add any additional information. All items must contain a price, even if that price is zero. Failure to follow these instructions may result in the bid being deemed non-responsive and disqualified. The Department does not guarantee the amount of work to be assigned to the region or the dollar amounts of the contracts awarded. The basis of award will be to the Bidder who successfully meets all the Mandatory Requirements and provides the lowest overall cost.

1. **Region**

**Check the Appropriate Region: [ ] 1 [ ]  2 [ ] 3 [ ] 4 [ ] 5 [ ] 6**

**\*If submitting a bid for multiple regions, please submit one Attachment 14 – Financial Response Form for each region.**

1. **Auction Fees**

The Bidder must identify the fee for auction services below and include all expenses (e.g., travel):

[ ]  Buyer’s Premium only \_\_\_\_\_\_\_\_\_\_\_%; or

[ ]  Commission only \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_%; or

[ ]  Combination Buyers Premium \_\_\_\_\_% and commission \_\_\_\_\_%

[ ]  Labor Rate for Cancelled Auctions (as defined in section 3.2) $\_\_\_\_\_\_\_ per Hour.

**Note**: Advertising for Department Auctions is a pass-through cost and will be charged to the Department with no mark-up. All advertising and associated costs must be approved by the Department prior to the publishing of the advertisement.

1. **Attestation**

By signature below, the Bidder affirms understanding of, and agreement to comply with, all Provisions of this IFB 19-203.

Bidder’s Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ten-Digit Vendor Identification Number (if Available): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_