



STATE OF NEW YORK
Department of Taxation and Finance

Invitation For Bids # 12-03
Secured Delivery, Storage and Pick-up Services

IFB Issue Date: May 4, 2012
Bid Due Date: June 6, 2012
By 2:00 PM EST

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PREFACE

SCHEDULE OF EVENTS

Bid Timetable

<u>Date</u>	<u>Event</u>
May 4, 2012	IFB Issued
May 16, 2012 By *2:00 P.M. EST*	<p>Deadline for Submission of “Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines”</p> <p style="text-align: center;"><i>And</i></p> <p>Deadline for Submission of Written Questions and Requests for Clarification(s)</p>
May 23, 2012	<p>Issuance of Department Responses to Written Questions and Requests for Clarification(s)</p> <p>NOTE: This IFB, including any amendments, and DTF written responses to bidder questions are the only official DTF record bidders should use in preparing a bid proposal.</p>
June 6, 2012 By *2:00 P.M. EST*	Final Date for Receipt of Bidder Proposals
June 7, 2012	Bid Opening Date
June 15, 2012	Tentative Notification of Intent to Award Contract
July 13, 2012	Signed Contract Received by DTF from Vendor
September 3, 2012	Services Anticipated to Begin

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Definitions

- (A) **“AG”** – shall mean the Attorney General of the State of New York or his/her designee.
- (B) **“Agency Representative”** - shall mean the authorized representative(s) of DTF identified in the contract entered into under this IFB.
- (C) **“Agreement”** – shall mean the contract resulting from this IFB.
- (D) **“Business Day”** – shall mean Monday - Friday, with the exception of Federal or State holidays.
- (E) **“Contractor”** – shall mean *<Successful bidder’s name to be inserted>*
- (F) **“DTF or Department”** – shall mean the New York State Department of Taxation and Finance.
- (G) **“IFB”** – shall mean the Secured Delivery, Storage and Pick-up Services Invitation for Bids (#12-03) issued by the Department.
- (H) **“OSC”** – shall mean the New York State Office of the State Comptroller or his/her designee.

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PREFACE

1. Proposal Questions/Inquiries

Prospective bidders have the opportunity to submit written questions and/or requests for clarification regarding this Invitation for Bids (IFB). All questions/inquiries regarding this IFB must be submitted via e-mail (preferred), fax or mail and be received **by the date and time specified on the Schedule of Events**. Questions/inquiries must reference the relevant page and section of the IFB and must be directed to one of the designated contacts identified below:

E-mail: bfs.contracts@tax.ny.gov

Fax: (518) 435-8413

Written Correspondence:

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New York State Department of Taxation and Finance
 Attn: Ms. Catherine Golden
 Director, Procurement Services
 Office of Budget and Management Analysis
 W. A. Harriman State Office Building Campus
 Albany, New York 12227
 Attention: IFB #12-03

Prospective bidders should note that all clarifications and exceptions are to be resolved prior to the submission of a bid. **The bidder must agree to sign a contract within thirty (30) days of Notification of Award. If the bidder fails to do so, the Department reserves the right to begin negotiations with the next highest ranked bidder.** The Preliminary Contract is attached as Exhibit C. Any exceptions or additions to the terms and conditions of the Preliminary Contract must be identified in the bidder’s proposal. The Department will not sign any vendor supplied contract documents. As such, if there are specific terms to be included in the final contract, they must be submitted in response to Section IX.B.10. Failure to object to any terms identified in *Section IX* of this IFB and the *Preliminary Contract, Exhibit C*, shall be deemed to constitute acceptance thereof by the bidder.

All inquiries concerning this solicitation should be addressed to the following designated contacts:

Catherine Golden	(518) 457-0954	bfs.contracts@tax.ny.gov
Dorothy Lechmanski	(518) 457-0954	bfs.contracts@tax.ny.gov
Karen Brino	(518) 457-0954	bfs.contracts@tax.ny.gov
Christine DiVeglia	(518) 457-0954	bfs.contracts@tax.ny.gov

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Contacting individuals other than the designated contacts listed above may result in the disqualification of the bidder's proposal – please refer to the Procurement Lobbying Law and the Department of Taxation and Finance guidelines posted on the Department's Procurement website at: <http://www.tax.ny.gov/about/procure> and additional requirements in *Section IX, Proposal Conditions and Administrative Requirements*.

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 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 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 CONTACTS OF ANY TERM, CONDITION, ETC. THAT PRECLUDES THE VENDOR FROM SUBMITTING A BID.

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

New York State Finance Law 139-j(6)(b) requires the Department of Taxation and Finance (DTF or Department) to 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: <http://www.tax.ny.gov/about/procure>.

Offerers are required to sign and submit **Attachment A, Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines**, by the date and time specified on the Schedule of Events.

3. Submission of Bids

The bidders must submit proposals as instructed in *Section X, Submission of Bid Proposal*.

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I. INTRODUCTION

The New York State Department of Taxation and Finance (DTF or Department) is soliciting pricing proposals from qualified armored car businesses to provide secured receipt of, secured storage, and secured delivery and/or pick-up services of sealed cases of Cigarette Tax Stamps. Qualified entities are those that meet the requirements identified in *Section V, Mandatory Requirements*.

The Department of Taxation and Finance is responsible for the collection of tax revenue and the provision of associated services in support of government operations in New York State. In fulfilling its responsibilities, the Department collects and accounts for approximately \$60 billion in State taxes and nearly \$40 billion in local taxes; administers 37 State and nine local taxes, processes almost 28 million returns, registrations, and associated documents; and oversees the local property tax administration. The Department also manages the State Treasury, which provides investment and cash management services to various State agencies and public benefit corporations, and acts on the Commissioner's behalf as the joint custodian of the State's General Checking Account.

The Department is in-sourcing the Cigarette Tax Stamp distribution process and needs to procure secure storage and delivery services in order to protect State revenues. An armored car service will take possession of the Cigarette Tax Stamps from the manufacturer, securely store the stamps, and then securely deliver the stamps to the Department's distribution center(s) on an as needed basis. Deliveries are estimated to be made four (4) to five (5) times per year containing approximately 160 cases per delivery. This is in addition to the Department's existing stock of Cigarette Tax Stamps (estimated at 750 cases) that will need to be transported and securely stored. The sealed cases contain NYS and/or NYC Cigarette Tax Stamps. Each case of stamps is approximately 13 inches square and generally contains 25 rolls of stamps. The Contractor shall keep sealed cases of stamps at Contractor secured storage facility until directions have been received from the Department for delivery and/or pick-up of sealed cases of stamps. The maximum number of cases of stamps to be stored at the secured facility at any one time is estimated to be 900 cases. Secured deliveries to the Department's distribution center(s) are anticipated to be made twice per month, with an average delivery of 20-30 cases per trip.

This Invitation for Bids (IFB) outlines the terms and conditions, and all applicable information required for submitting a bid. To ensure compliance with IFB requirements and prevent possible disqualification, bidders should follow the format and instructions in *Section IX, Proposal Conditions and Administrative Requirements* and *Section X, Submission of Bid Proposal*.

The Department's objective is to enter into a contract with one successful bidder to provide secured storage and secured delivery and/or pick-up services as described herein.

II. CONTRACT/CONTRACT TERM

The bidder must agree to sign a contract within thirty (30) days of Notification of Award. If the bidder fails to do so, the Department reserves the right to begin negotiations with the next highest ranked bidder. The Preliminary Contract is attached as Exhibit C. Any exceptions or additions to the terms and conditions of the Preliminary Contract must be identified in the bidder's proposal. The Department will not sign any vendor supplied contract documents. As such, if there are specific terms to be included in the final contract, they must be submitted in response to Section IX.B.10.

The Department will award one contract to the successful bidder for a five-year period. The initial term of the contract will commence upon Office of the State Comptroller approval and will continue through September 2,

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2013. Subsequent terms will be from September 3 – September 2 of successive years, with a contract termination date of September 2, 2017.

Contractors must guarantee stated rates for the initial contract term. Any proposed cost increase after the initial contract term shall be limited to the lower of the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for All Items, Table A, as reported by the U.S. Department of Labor, Bureau of Statistics for the CPI-U for the preceding twelve (12) month period, or five percent (5%). Any request for an increase in cost must be submitted to the Department sixty (60) days prior to the beginning of the renewal period and will be subject to negotiation between the Contractor and the Department, and shall require approval by the Office of the State Comptroller.

III. CONTRACTOR'S RESPONSIBILITIES

The Contractor agrees to:

1. Securely receive and provide secured storage of sealed shipments of Cigarette Tax Stamps (pallets of shrink-wrapped stamps) from DTF's designated agent or Manufacturer procured by the Department. Deliveries are estimated to be made four (4) to five (5) times per year containing approximately 160 cases per delivery. This is in addition to the Department's existing stock of Cigarette Tax Stamps (estimated at 750 cases) that will need to be transported and securely stored. The sealed cases contain NYS and/or NYC Cigarette Tax Stamps. Each case of stamps is approximately 13 inches square and generally contains 25 rolls of stamps. The Contractor shall keep sealed cases of stamps at Contractor secured storage facility until directions have been received from the Department for delivery and/or pick-up of sealed cases of stamps. The maximum number of cases of stamps to be stored at the secured facility at any one time is estimated to be 900 cases.

Such storage area must be adequately protected against damage or loss. The Department shall have access to the storage area for purposes of inspection(s) and examination(s) without advance notice.

The Contractor shall endeavor to meet the following storage conditions:

- A. Temperature – 60 to 80 Degrees Fahrenheit.
- B. Humidity – 10% to 90%.

2. Provide the Department's designated Auditors with a signed receipt document verifying delivery and storage of shrink-wrapped pallets of stamps from Manufacturer; and forward a cover letter and Bill of Lading, including the total number of cases on pallets; seal number; signature of shipper and Manufacturer's truck driver, to the Department's designated contact.
3. Provide secured pick-up; secured transport and/or secured delivery services of sealed cases of Cigarette Tax Stamps to/from the Department's designated, mutually agreed upon location(s) and provide written log entries and/or signed receipts to the Department and/or designee as necessary.
4. Make secured delivery of sealed cases of stamps to State Street, Albany, NY location, or other designated location, within three (3) business days upon receipt of request by the Department. Secured deliveries to the Department's designated location(s) are anticipated to be made twice per month, with an average delivery of 20-30 cases per trip. The Contractor's armored guard will transport sealed cases of stamps by accompanying designated Department staff on the Service Elevator to the Department's secured storage area. A delivery receipt shall be signed by the armored guard and provided to Department staff upon acceptance of delivery of stamps.

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5. Provide secured transportation, protection and safeguarding of sealed cases of Cigarette Tax stamps from one point to another by means of bullet-resistant armored vehicles and armored car guards as stated herein at such times as may be specified by the Department.
6. Comply with the Secrecy requirements as set forth herein in *Section IX.B7*. The Contractor must not disclose any data or other information/materials provided by the Department to any other individual or entity as expressly provided by law.
7. Pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees and give all notices and comply with all federal, State, and local, laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Agreement.
8. Remain a licensed armored car carrier entity for the life of this Agreement.
9. Bill the Department by monthly invoice for services provided.
10. Maintain maximum liability coverage of Two Million dollars (\$2M) for the secured storage and receipt of Cigarette Tax Stamps from Manufacturer; and \$50,000 per each shipment/delivery of the sealed cases of stamps to the Department's designated location(s). In addition, prior to commencement of the work to be performed by the Contractor hereunder, the Contractor shall file with The People of the State of New York, Department of Taxation and Finance Certificates of Insurance. Such certificates shall be of a form and substance acceptable to the Department. Certificate acceptance and/or approval by DTF does not and shall not be construed to relieve the Contractor of any obligations, responsibilities or liabilities under the Agreement.

IV. DEPARTMENT'S RESPONSIBILITIES

The Department agrees to:

1. Notify the Contractor when Contractor can expect shipments of sealed cases of Cigarette Tax Stamps to be delivered by the Manufacturer for storage, and when the Department expects Contractor to deliver cases of Cigarette Tax Stamps to designated location(s).
2. Assign and dispatch designated Department auditors to Contractor's storage location to be present upon delivery of shipment of stamp stock from Manufacturer. Upon arrival of Manufacturer's sealed truck, and prior to unloading inventory, Department auditors will verify the outdoor seal on the Manufacturer's truck has not been broken and ensure seal number matches the loading report document obtained from the Manufacturer.
3. Designate Department auditors to witness removal of shrink-wrapped pallets of sealed stamps from Manufacturer's truck by the Contractor's personnel at the Contractor's receiving/loading dock.
4. Designate Department auditors to inspect pallets of shrink-wrapped stamps upon unloading from Manufacturer's truck to ensure to the best of their ability seals are intact and have not been broken or tampered with on the pallets of stamps.
5. Designate Department auditors to verify pertinent information contained on Manufacturer's loading report for the shipment of stamps and accompany Contractor personnel to secured storage are to witness placement of shrink-wrapped pallets of stamps in the Department's designated secured area.

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6. Contact the Contractor in advance to schedule deliveries and/or pick-ups of sealed cases of Cigarette Tax Stamps to designated location(s).
7. Assign and dispatch designated Department auditors every 45 days to Contractor's storage facility to inspect storage area; count cases/pallets of stamps; and verify seals are still intact. Any discrepancies in the number of sealed cases/pallets of stamps will immediately be brought to the attention of the Contractor's Manager for resolution.
8. Use its best efforts to ensure that any reasonable deficiencies identified by the Contractor are corrected expeditiously.
9. Compensate the Contractor for said secured storage and delivery of sealed cases of stamps based on the terms set forth herein under *Article VI, Fees and Payment*.

V.# MANDATORY REQUIREMENTS (P/F)

All requirements listed in this section of the IFB are mandatory. Only bidders who can meet **all** of the mandatory requirements should submit a proposal in response to this IFB. **Proposals that fail to meet all of the mandatory requirements below will be removed from further consideration.**

The bidder must provide all information requested to insure DTF can evaluate the bidder's response appropriately. **Incomplete or vague responses may result in the bidder's proposal being deemed non-responsive.** All responses to the IFB will be subject to verification for accuracy.

The bidder's affirmation to the mandatory requirements will be verified in Phase One of the evaluation. **Bidders must complete and submit Attachment 5, Bidder Attestation Form and any other response requirements or attestations.**

A. GENERAL

1. Licensing

a. The bidder must possess a current license issued by the New York State Department of State (NYS DOS) to operate as an armored car carrier and bidder must have at least one branch or office with a physical location in New York State from which secured storage, secured delivery and/or secured pick-up services will be provided. **A copy of the bidder's license must be submitted with Attachment 2, Licensing Response Form.**

b. All armored car guards employed by the bidder must hold a conditional letter of authority or a valid registration card issued by the NYS DOS. In addition to the minimum firearms training required by the NYS DOS Division of Licensing Services, each armored car guard shall satisfactorily complete any additional annual training required to maintain his/her registration card.

Response Requirement

The bidder must complete and submit **Attachment 2, Licensing Response Form.**

2. Armored Car Service and Secured Storage, Delivery and/or Pick-up Services Experience

The bidder must have been in the business of providing armored car services including secured storage, delivery and/or pick-up services (Handling industrial, commercial, institutional or government accounts)

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for at least three (3) years immediately prior to bid due date. The bidder may provide information for up to two (2) contracts to meet this three-year requirement.

If information for only one contract is submitted to meet the three-year experience requirement, the bidder must provide information for an additional contract for DTF review of the bidder's past performance relating to secured storage and secured delivery and/or pick-up services.

The bidder shall be solely responsible for providing information including contact names, e-mail addresses and phone numbers for two (2) client references who are readily available to be contacted by the Department and capable of responding to performance questions. The Department will contact client references provided to determine, on a Pass/Fail basis, the bidder's performance related to providing armored car services including secured storage, delivery and/or pick-up services. If DTF is unable to contact any reference, the bidder will be provided one opportunity, with a deadline, to assist in obtaining cooperation from those clients who have not responded. If DTF is unable to verify required responses, the bidder's proposal will not be considered for further evaluation.

Response Requirement

The bidder must complete and submit **Attachment 3, Mandatory Experience and Reference Form** with applicable information.

3. Insurance

At the time of proposal submission, the bidder's company and all staff must be insured against financial losses resulting from their actions. The bidder must also agree they will obtain insurance coverage as defined in *Exhibit C, Preliminary Contract* prior to commencement of services to be performed by the Contractor.

Response Requirement

The bidder must complete and submit **Attachment 4, Insurance Response Form**.

4. Attestation

The bidder must attest it has read, understands and agrees to abide by all terms and conditions outlined in *Section V, Mandatory Requirements*, of this IFB.

Response Requirement

The bidder must complete and submit **Attachment 5, Bidder Attestation Form**.

VI. FEES AND PAYMENT

The Contractor will be reimbursed monthly, in advance, for secured storage services, upon receipt of a proper invoice in accordance with Article XI-A of the New York State Finance Law. Reimbursement for secured delivery and/or secured pick-up services will be made monthly, in arrears, upon receipt of a proper invoice in accordance with Article XI-A of the New York State Finance Law.

Contractors must guarantee stated rates for the initial contract term. Any proposed cost increase after the initial contract term shall be limited to the lower of the percentage change in the Consumer Price Index for All Urban Customers (CPI-U) for All Items, Table A, as reported by the U.S. Department of Labor, Bureau of Statistics for the CPI-U for the preceding twelve (12) month period, or five percent (5%). Any request for an increase in cost must be submitted to the Department sixty (60) days prior to the beginning of the renewal period and will be subject to negotiation between the Contractor and the Department, and shall require approval by the Office of the State Comptroller.

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Payment for services performed hereunder will be made as specified in the *Preliminary Contract, Exhibit C*, upon receipt of a proper invoice in accordance with Article XI-A of the New York state Finance Law. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm by email at epunit@osc.state.ny.us or by telephone at 518-474-4032. *Contractor acknowledges that it will not receive payment on any invoices submitted under the Contract if it does not comply with the State Comptroller's electronic procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.*

VII. CONTRACT NEGOTIATIONS

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

Any negotiated contract must conform to the laws of New York State and will be subject to approval by the New York State Attorney General and the Office of the State Comptroller. The contract will not be considered fully executed and binding until formal approval has been granted by the New York State Attorney General and the Office of the State Comptroller.

VIII. COST PROPOSAL REQUIREMENTS

The Bidder must provide the rates they will charge for receipt, storage and pick-up/delivery of cases of Cigarette Tax Stamps in the tables provided on Attachment 1. Responses must be inclusive of all costs associated with the requirements of the IFB. **No other add-on costs will be allowed.**

Bidders who fail to complete and submit **Attachment 1, Pricing Proposal**, will be deemed non-responsive and will be removed from further consideration.

Receipt

The Bidder will receive sealed shipments of cases of Tax Stamps from the Manufacturer on an as needed basis; however, frequency is not expected to exceed five (5) times annually. The Department requires a maximum liability coverage amount of Two Million Dollars (\$2M) per receipt of shipment.

Storage

A case of stamps measures approximately 13 inches square. It is estimated that the maximum number of cases to be stored at the secure facility at one time is 900. It is anticipated that the storage fee will fluctuate based on the number of boxes stored. The Department requires a maximum liability coverage of Two Million Dollars (\$2M) for the storage of stamps.

Pickup/Delivery

Secured pick-up or secured delivery of sealed cases of tax stamps to/from Department specified location(s). This service is to be provided as an On-call service (anticipated to be twice per month throughout the contract term). The Department requires a maximum liability coverage of \$50,000.00 per pick-up/delivery.

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IX. PROPOSAL CONDITIONS AND ADMINISTRATIVE REQUIREMENTS

This Section outlines conditions concerning the IFB and the bidder's response requirements related to any awarded contract.

A. Proposal Conditions

These conditions are directly related to the submission of bids in response to this IFB.

1. Issuing Agency

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

2. Solicitation

This IFB is a solicitation to bid, not an offer of a Contract.

3. Liability

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

4. Proposal Ownership

All proposals and accompanying documentation become the property of the State of New York and will not be returned. The Department reserves the right to use any portions of the bidder's proposal not specifically noted as proprietary.

5. Timely Submission

Bidders are solely responsible for timely delivery of their proposal to the location set forth by the stated bid due date/time and are solely responsible for delays in receipt, including but not limited to those due to third-party carriers.

6. Non-Collusive Bidding Certification

(Reference State Finance Law Section 130-d and Appendix A, Clause 7)

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

- i. 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;
- ii. 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
- iii. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

b. A bid shall not be considered for award nor shall any award be made where (a), (i), (ii), and (iii) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (i), (ii), and (iii) above have not been

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complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the State, public department or agency to which the bid was made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

7. Proposal Effective Period

The bidder's proposal must be firm and binding for a period of at least ninety (90) days following the proposal due date.

8. Bidder Proposal Clarification and Revisions

The Department reserves the right to seek clarifications for purposes of fully understanding responsiveness to solicitation requirements, and seek revisions from all bidders capable of receiving award. Nothing in the foregoing shall mean or imply that it is obligatory upon the Commissioner, or designee, to allow clarifications or adjustments of bids as provided for herein. Failure of a bidder to cooperate with the Department's effort to clarify a proposal may result in the proposal being labeled as non-responsive and may result in rejection of the bid.

Additionally, the Department reserves the right to use 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.

9. Bid Opening

Bids will not be opened publicly. The Department reserves the right at any time to postpone or cancel a scheduled bid opening.

10. Bid Evaluation and Selection

See *Section XI, Bid Evaluation*, regarding bid selection and method of award. To the extent permitted by law, bidder proposals shall not be disclosed, except for purposes of evaluation and approval, prior to approval of any resulting Contract by the Office of the State Comptroller. Submitted proposals may be reviewed and evaluated by any personnel or agents of the Department, other than one associated with a competing bidder.

11. Disqualification for Past Performance and Findings of Non-Responsibility

The bidder may be disqualified from receiving awards if the bidder, or anyone in the bidder's employment, has previously failed to perform satisfactorily in connection with public Bidding or Contracts or is deemed non-responsible.

12. Bidder Notification of Intent to Award

The successful bidder will be advised of selection by the Department through the issuance of a "Notification of Intent to Award Letter." Bidders who have not been selected by the Department in response to this IFB shall be notified of such non-selection.

13. Contract Approval

Any Contract resulting from this IFB shall not be deemed executed, valid and binding until and unless approved by the State Attorney General's Office and the Office of the State Comptroller.

14. Disclosure of Contract Award Information

Public announcements or news releases pertaining to Contracts shall not be made by the bidder prior to Contract award or without prior approval by the Department.

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15. Debriefing Sessions

Bidders will be notified in writing of selection/non-selection and may request the opportunity for a debriefing session. Such sessions will be limited to discussions of evaluation results as they apply to the bidder receiving the debriefing.

16. Bid Protest Policy

The Department's procedures for handling protests of bid awards are set forth in *Exhibit A, Bid Protest Policy*.

17. Reserved Rights

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

- a. Change any of the scheduled dates stated herein.
- b. 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.
- c. Withdraw the IFB, at its sole discretion.
- d. Not award a Contract as a result of this IFB.
- e. Re-bid this IFB, at its sole discretion.
- f. Eliminate a mandatory requirement when all bidders cannot meet such requirement.
- g. Evaluate, accept and/or reject any and all proposals, in whole or in part, and to waive technicalities, irregularities, and omissions if, in the Department's considered judgment, the best interests of the State 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.
- h. Require the bidder to demonstrate, to the satisfaction of the Department, any information presented as a part of their proposal.
- i. 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.
- j. Make typographical corrections and correct computational errors with the concurrence of the bidder.
- k. Determine a tie breaking mechanism for award of the Contract to serve the best interests of the Department.
- l. Negotiate with the successful bidder(s) within the scope of the IFB to serve the best interests of the State.
- m. Conduct Contract negotiations with the next ranked responsible bidder should the Department be unsuccessful in negotiating an agreement with the selected bidder within 30 days.

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B. Administrative Requirements

Bidders must provide the following administrative information in response to this IFB.

PLEASE NOTE: Where indicated, the bidder must provide the information requested under the Proposal Response Requirement with its bid proposal.

1. Proposal Transmittal Letter

A transmittal letter must be signed by an official authorized to bind the bidder to proposal provisions.

Response Requirement

The transmittal letter must include the following information:

- the complete name and address of the bidder entity;
- the Federal or Taxpayer Identification Number of the entity;
- an affirmation that the proposal is binding for the required period indicated in Section IX.A.7;
- any restrictions under which the bidder's primary negotiators will operate during Contract negotiation;
- designation of any trade secret, confidential or proprietary information in response to Section IX.B.11 of this IFB; and
- any extraneous terms as outlined in Section IX.B.10.**

****Note: The bidder must agree to sign a contract within thirty (30) days of Notification of Award. If the bidder fails to do so, the Department reserves the right to begin negotiations with the next highest ranked bidder.** The Preliminary Contract is attached as Exhibit C. Any exceptions or additions to the terms and conditions of the Preliminary Contract must be identified in the bidder's proposal. The Department will not sign any vendor supplied contract documents. As such, if there are specific terms to be included in the final contract, they must be submitted in response to Section IX.B.10.

2. Designation of Prime Contact and Authorized Contract Negotiators

During the bid evaluation and Contract negotiation, the Department requires direct access to bidder personnel who have full authority to make commitments on behalf of the bidder. The bidder must identify and certify a prime contact authorized to respond on behalf of the bidder. The prime contact is responsible for responding to any evaluation clarification and for disseminating information to appropriate bidder personnel.

Bidders must also identify individual(s) who will serve as authorized Contract negotiators and any restrictions under which their primary negotiators will operate.

Any change in designation must be submitted in writing to the Department and include a revised form.

Response Requirement

Bidder must complete and submit **Attachment B, Designation of Prime Contact** form.

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3. Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A, the Department recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of Department contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that the Department establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, DTF hereby establishes an overall goal of 0% for MWBE participation; 0% for Minority-Owned Business Enterprises ("MBE") participation and 0% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that DTF may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html> .

For guidance on how DTF will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and DTF may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

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By submitting a bid or proposal, if goals other than zero percent (0%) are established, a bidder on the Contract ("Bidder") agrees to submit the following documents and information as evidence of compliance with the foregoing, if applicable:

- A. Bidders are required to submit an MWBE Utilization Plan, with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to DTF.
- B. DTF will review the submitted MWBE Utilization Plan and advise the Bidder of DTF's acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the New York State Department of Taxation and Finance, Office of Budget and Management Analysis, State Office Campus, Building 9, Albany, NY 12227, ATTN: Ms. Catherine Golden, Director, Procurement Services, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by DTF to be inadequate, DTF shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on a *Request for Waiver Form*. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. DTF may disqualify a Bidder as being non-responsive under the following circumstances:
 - a) If a Bidder fails to submit an MWBE Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If DTF determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to DTF, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a *Contractor's Quarterly M/WBE Contractor Compliance & Payment Report* to the New York State Department of Taxation and Finance, Office of Budget and Management Analysis, State Office Campus, Building 9, Albany, NY 12227, ATTN: Ms. Catherine Golden, Director, Procurement Services, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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, shall undertake or continue 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, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion,

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upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid **Attachment I, Staffing Plan**, identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to DTF, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will 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.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

4. Procurement Lobbying Guidelines

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between 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 DTF and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated staff, as of the date hereof, is identified in the Preface section of the Invitation for Bid. 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 Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.

Contacting individuals other than the designated contacts listed in the Preface section of this document during the restricted period may result in the disqualification of the bidder’s proposal - please refer to the procurement lobbying law and the Department guidelines posted on the Department’s procurement website at: <http://www.tax.ny.gov/about/procure>.

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

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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. 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.

Response Requirement

The bidder must complete and submit **Attachment C, Offerer Disclosure of Prior Non-Responsibility Determinations**.

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.

The Department reserves the right to terminate any Contract awarded as a result of this IFB 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.

Response Requirement

The bidder must complete and submit **Attachment D, Offerer Certification of Compliance with State Finance Law 139-k(5)**.

5. MacBride Fair Employment Principals

Required as part of the proposal submission in accordance with Chapter 807 of the Laws of 1992 and in accordance with Section 165 of the State Finance Law, the bidder, by submission of this bid, certifies that it or any individual or legal entity that the bidder holds a 10% or greater ownership interest in the bidder, either have business operations in Northern Ireland and, if yes, shall take lawful steps in good

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faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to non-discrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring if compliance with such Principles.

Response Requirement

The bidder is required to complete and submit **Attachment E, MacBride Fair Employment Principals Form**, as part of their bid proposal.

6. Vendor Responsibility

Bidders must complete a Vendor Responsibility Questionnaire. Bidders are invited to file the required Vendor Responsibility Questionnaire on-line 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 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 or may contact one of the Department's designated contacts.

Response Requirement

The bidder is required to complete and submit **Attachment F, 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.

Bidders filing paper questionnaires must submit a copy of the completed questionnaire with its bid proposal.

Upon notification of award, the Contractor will be required to update/recertify the on-line questionnaire.

7. Secrecy Provisions

Bidders are required to adhere to secrecy provisions as outlined in *Article VI of the Preliminary Contract, Exhibit C*.

Required Form

Contractor represents and warrants that each employee assigned to perform services for the Department will sign *Attachment G, DTF-202, Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code*.

Response Requirement

The bidder must complete and submit **Attachment G, DTF-202, Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code**.

8. Ethics Compliance

Contractor and their employees must comply with the requirements of Sections 73 and 74 of the Public

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Officers Law and other State codes, rules and regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Contract, the Contractor certifies full compliance with those provisions for any present or future dealings, transactions, sales, Contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in termination of the Contract(s), and/or other civil or criminal proceedings as required by law.

Response Requirement

The bidder must complete and submit **Attachment H, Public Officer's Law**.

9. Contractor Certification - Tax Law 5-a Amended April 26, 2006

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain Contractors awarded state Contracts for commodities, services and technology valued at more than \$100,000 to certify, to DTF, that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law also imposes upon certain Contractors the obligation to certify whether or not the Contractor, its affiliates, and its Sub-contractors are required to register to collect state sales and compensating use taxes. Contractors must certify to DTF that each affiliate and Subcontractor exceeding the \$300,000 sales threshold referenced above is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a Contract awarded to a Contractor meeting the registration requirements but who has not complied with the law.

Response Requirement

Exhibits B(1) and B(2) provide Contractor certification forms and instructions for completing the forms. Form ST-220-TD must be filed with and returned directly to the DTF 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 DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s), a new Form No. ST-220-TD must be filed with DTF. Completion of the form at the time of bid submission is not required; however, Form ST-220-TD must be filed and returned to DTF upon notification of Contract award.

Form ST-220-CA must be provided to the DTF 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 forms *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 DTF at 518-485-9863 for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF web site: <http://www.tax.ny.gov/>.

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10. Proposed Extraneous Terms

Proposals must conform to the terms and conditions set forth in *Section VI* of this IFB, and *Exhibit C, Preliminary Contract*. Any objections to terms and conditions set forth in this section of the IFB must be provided to the Department in the bidder's Proposal. Material deviations to the terms and conditions set forth in this IFB (including additional, inconsistent, conflicting or alternative terms) may render the bid non-responsive and may result in rejection.

Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents), whether or not deemed "material", which are attached or referenced with submissions and 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.

Response Requirement

The bidder must attach any objections to the terms and conditions outlined in **Section IX** of this IFB, and **Exhibit C, Preliminary Contract**.

Only those extraneous terms that meet *all* of the following requirements will be considered as having been submitted as part of the proposal:

- each proposed extraneous term (addition, counter-offer, deviation or modification) must be specifically enumerated in writing which is not part of a pre-printed form;
- the writing must identify the particular term to which the bidder objects or proposes to modify by inclusion of the extraneous term; and
- the bidder shall enumerate the proposed addition, counter-offer, modification or deviation from the bid proposal, and the reasons therefore.

Acceptance and/or processing of the bid proposal shall not constitute such written acceptance of Extraneous Term(s) or a waiver of the Department's rights set forth above. Failure to object to any terms set forth in **Section IX** of this IFB, or **Exhibit C, Preliminary Contract** shall be deemed to constitute acceptance thereof by the bidder.

****Note: The bidder must agree to sign a contract within thirty (30) days of Notification of Award. If the bidder fails to do so, the Department reserves the right to begin negotiations with the next highest ranked bidder.** The Preliminary Contract is attached as Exhibit C. Any exceptions or additions to the terms and conditions of the Preliminary Contract must be identified in the bidder's proposal. The Department will not sign any vendor supplied contract documents. As such, if there are specific terms to be included in the final contract, they must be submitted in response to Section IX.B.10.

11. Proposal Security/Freedom of Information Law

During the evaluation process, the content of each bid/proposal will be held in confidence and details of any bid/proposal will not be revealed (except as may be required for bid evaluation, contract approval or under the Freedom of Information Law (FOIL) or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. The bidder recognizes that the Department is an agency of the State of New York and is subject to said State's Freedom of Information Law (FOIL). The Department shall have no liability to the bidder, nor to anyone else, for its good faith compliance with New York State Law, including FOIL. SHOULD YOU FEEL YOUR FIRM'S BID/PROPOSAL

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CONTAINS ANY SUCH TRADE SECRETS OR OTHER CONFIDENTIAL OR PROPRIETARY INFORMATION, YOU MUST SUBMIT A REQUEST TO EXEMPT SUCH INFORMATION FROM DISCLOSURE. SUCH REQUEST MUST BE IN WRITING, MUST STATE THE REASONS WHY THE INFORMATION SHOULD BE EXEMPTED FROM DISCLOSURE AND MUST BE PROVIDED AT THE TIME OF SUBMISSION OF THE SUBJECT INFORMATION. **REQUESTS FOR EXEMPTION OF THE ENTIRE CONTENTS OF A BID/PROPOSAL FROM DISCLOSURE HAVE GENERALLY NOT BEEN FOUND TO BE MERITORIOUS AND ARE DISCOURAGED. KINDLY LIMIT ANY REQUESTS FOR EXEMPTION OF INFORMATION FROM DISCLOSURE TO BONA FIDE TRADE SECRETS OR SPECIFIC INFORMATION, THE DISCLOSURE OF WHICH WOULD CAUSE A SUBSTANTIAL INJURY TO THE COMPETITIVE POSITION OF YOUR FIRM.**

12. Appendix A

The Contractor has read and agrees to Appendix A (Standard Clauses for New York State Contracts, dated December 2011), which is incorporated as part of the Agreement without revision.

13. Subcontracting

The Contractor may subcontract for services performed in connection with a resulting contract, subject to the Department's prior written approval.

14. Iran Divestment Act

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should DTF receive information that a person is in violation of the above-referenced certification, DTF will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then DTF shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

DTF reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award 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.

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X. SUBMISSION OF BID PROPOSAL

IMPORTANT NOTICE TO POTENTIAL BIDDERS: Receipt of these bid documents does not indicate the Department 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 specifications and mandatory requirements contained in this bid document.

The bidder must submit two (2) **originals** and (4) **copies** of their bid proposal. All bid proposals must be bound separately and clearly identified.

Bids must be received no later than the **date and time listed on the Schedule of Events**. All bids are to be packaged, sealed and submitted to the following:

**New York State Department of Taxation and Finance
Office of Budget and Management Analysis
Ms. Catherine Golden
Director, Procurement Services
W A Harriman State Office Building Campus
Albany, NY 12227**

All bids must have a label on the outside of the package or shipping container with the following information:

BID ENCLOSED
Secured Delivery, Storage and Pick-up Services, IFB #12-03
Bid Submission Date and Time
Telephone: (518) 457-0954

PLEASE NOTE: If you are using a delivery service, the bid response should be addressed to the Department's campus address, but the delivery service should be instructed to deliver the bid documents to the following address:

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

The Department will not consider any proposal received after the time and date specified in the IFB except as provided for in Section IX. In the event that a package is not labeled properly as described in this section, the Department reserves the right to open the package and inspect the contents. The bidder shall have no claim against the Department arising from such inspection and such inspection shall not affect the validity of the procurement. Notwithstanding, the Department's right to inspect the contents of the package(s), the bidder assumes all risk of late delivery associated with the bid not being identified, packaged or labeled in accordance with the foregoing requirements.

Faxed or electronically transmitted proposals will not be accepted.

XI. BID EVALUATION

The Department reviews bidder proposals for goods and services in an objective, comprehensive manner to ensure proposals are reviewed uniformly and consistently. Bids shall be reviewed based on the requirements described in this IFB.

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The Department will review all proposals to ensure the bidder meets the Mandatory Requirements specified in *Section V*. If all Mandatory Requirements are not met, the bidder's proposal will be labeled non-responsive and will not be given further consideration.

Proposals meeting the Mandatory Requirements will proceed to the Financial evaluation. Costs will be calculated to determine the total anticipated expenses for the contract term.

Method of Award

One award shall be made based on the lowest cost for services to the Department by a responsive and responsible bidder whose proposal meets all specifications and Mandatory Requirements as outlined in this IFB. The successful bidder will be advised of selection by the Department through the issuance of a "Notification of Intent to Award" letter.

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APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**New York State Department of Taxation and Finance
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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 \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

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

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and

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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 (2NYCRR 105.4).

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

10. RECORDS . The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized 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.

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12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 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 section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the 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.

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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
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

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

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

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

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

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 Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 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 Section 5-a, if the contractor fails to make the certification required by Tax Law Section 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.

December 2011

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Exhibit A - Bid Protest Policy

It is the policy of the Department of Taxation and Finance contracting program (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 the program. All such matters will be accorded impartial and timely consideration.

Informal Complaints/Protests

It is strongly recommended that staff encourage, be receptive to and resolve issues, inquiries, questions and complaints on an informal basis, whenever possible. Information provided informally by any interested party should be fully reviewed by Program Team Leaders, the contract administrator of the Contract Management Unit and/or the Assistant Director, Procurement of the Office of Budget and Management Analysis. In addition, matters that are perceived to contain, or are potentially confidential or trade secret information should be shared with the Chief Financial Officer of the Office of Budget and Management Analysis for possible direction. Staff should document the subject matter and results of informal inquiries. As appropriate, DTF responses to the inquirer should indicate the existence of a formal protest policy available to them should the informal process fail to resolve the matter.

In addition to informal inquiries, bidders may also file formal written protests according to the procedures specified below. Final agency determinations or recommendations for award generally may only be reconsidered in the context of a formal written protest.

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

- a) 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.
- b) 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

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A formal protest must be submitted in writing to DTF, by ground mail, or, where permitted in the solicitation, facsimile or e-mail 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:

- (a) a statement of all legal and/or factual grounds for disagreement with a specification or a procurement determination;
- (b) a description of all remedies or relief requested; and
- (c) 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 Assistant Director, Procurement of the Office of Budget and Management Analysis and appropriate program staff.

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 Assistant Director, Procurement of the 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 Contract Management Unit staff will conduct a review of the records involved in the protest, consult with the Assistant Director, Procurement of the 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.

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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.

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Exhibit B (1) - (ST-220-TD)

(6/06)



New York State Department of Taxation and Finance

Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, *Question and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

Contractor name

Contractor's principal place of business

City

State

ZIP code

Contractor's mailing address (if different than above)

Contractor's federal employer identification number (EIN)

Contractor's sales tax ID number (if different from contractor's EIN)

Contractor's telephone number

()

Covered agency name

Contract number or description

Estimated contract value over the full term of the contract (but not including renewals) \$

Covered agency address

Covered agency telephone number

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a*, (as amended, effective April 26, 2006), available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
 DATA ENTRY SECTION
 W A HARRIMAN CAMPUS
 ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need Help?



Internet access: www.nystax.gov
 (for information, forms, and publications)



Fax-on-demand forms: 1 800 748-3676



Telephone assistance is available from
 8:00 A.M. to 5:00 P.M. (eastern time),
 Monday through Friday. 1 800 698-2931

To order forms and publications: 1 800 462-8100

Sales Tax Information Center: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

New York State Department of Taxation and Finance
Invitation For Bids #12-03
Secured Delivery, Storage and Pick-up Services

Exhibit B (1) cont'd

Page 2 of 4 ST-220-TD (6/06)

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

Make only one entry in each section below.

Section 1 - Contractor registration status

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 - Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 - Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this _____ day of _____, 20 ____

(sign before a notary public)

(title)

**New York State Department of Taxation and Finance
 Invitation For Bids #12-03
 Secured Delivery, Storage and Pick-up Services**

Exhibit B (1) cont'd

ST-220-TD (6/06) Page 3 of 4

Schedule A - Listing of each person (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such person exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

<i>A</i> Relationship to Contractor	<i>B</i> Name	<i>C</i> Address	<i>D</i> Federal ID Number	<i>E</i> Sales Tax ID Number	<i>F</i> Registration In Progress

- Column A - Enter **C** in column A if the contractor; **A** if an affiliate of the contractor; or **S** if a subcontractor.
- Column B - Name - If person is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If person is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If person has a different DBA (doing business as) name, enter that name as well.
- Column C - Address - Enter the street address of person's principal place of business. Do not enter a PO box.
- Column D - ID number - Enter the federal employer identification number (EIN) assigned to the person or person's business, as applicable. If the person is an individual, enter the social security number of that person.
- Column E - Sales tax ID number - Enter only if different from federal EIN in column D.
- Column F - If applicable, enter an X if the person has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

**New York State Department of Taxation and Finance
 Invitation For Bids #12-03
 Secured Delivery, Storage and Pick-up Services**

Exhibit B (1) cont'd

Page 4 of 4 ST-220-TD (6/06)

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF _____ }
 : SS.:
 COUNTY OF _____ }

On the _____ day of _____ in the year 20____, before me personally appeared _____
 known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_____ he resides at _____,
 Town of _____,
 County of _____,
 State of _____; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): he executed the foregoing instrument in his/her name and on his/her own behalf.
- (If a corporation): he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- (If a partnership): he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- (If a limited liability company): he is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

 Notary Public

Registration No. _____

**New York State Department of Taxation and Finance
 Invitation For Bids #12-03
 Secured Delivery, Storage and Pick-up Services**

Exhibit B (2) - (ST-220-CA)



(6/06)
 New York State Department of Taxation and Finance
Contractor Certification to Covered Agency
 (Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, *Question and Answers Concerning Tax Law Section 5-a (see Need Help? on back)*.

Contractor name		For covered agency use only Contract number or description
Contractor's principal place of business	City State ZIP code	
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)	
Contractor's telephone number ()	Covered agency name	\$
Covered agency address		Covered agency telephone number

I, _____, hereby affirm, under penalty of perjury, that I am _____
 (name) (title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:
 (Mark an X in only one box)

- The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.
- The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
 (insert contract number or description)
 and, to the best of the contractor's knowledge, the information provided on that previously filed Form T-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this _____ day of _____, 20 ____

 (sign before a notary public)

 (title)

Instructions

General Information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

**New York State Department of Taxation and Finance
Invitation For Bids #12-03
Secured Delivery, Storage and Pick-up Services**

Exhibit B (2) cont'd

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF _____ }
: SS.:
COUNTY OF _____ }

On the day _____ of _____ in the year 20____, before me personally appeared ____ known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_____he resides at _____,

Town of _____,

County of _____,

State of _____; and further that:

[Mark an **X** in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
- (If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- (If a partnership): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- (If a limited liability company): _he is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No. _____

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

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**New York State Department of Taxation and Finance
Invitation For Bids #12-03
Secured Delivery, Storage and Pick-up Services**

Exhibit C – Preliminary Contract

THIS AGREEMENT made this xx day of XXXX 2012, by and between the New York State Department of Taxation and Finance, located at Building 9, W.A. Harriman State Office Campus, Albany, New York 12227 (hereinafter referred to as the “Department”, “DTF”, or “Agency”) and *Contractor Name inserted here*, with principal place of business located at *Contractor address inserted here* (hereinafter referred to as the “Contractor”).

WHEREAS, the Department issued Invitation for Bids (IFB) #12-03 on May 4, 2012, for the acquisition of secured receipt of, storage, delivery, and/or pick-up of sealed cases of Cigarette Tax Stamps; and

WHEREAS, the Contractor timely submitted a bid proposal to provide the services set forth in IFB #12-03; and

WHEREAS, pursuant to Section XI of said IFB, the Contractor was determined to have the lowest cost for services to the Department and has been determined to be capable of providing the required services; and

WHEREAS, the Contractor is prepared to provide the secured storage and delivery services according to the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth, the parties hereto agree as follows:

DEFINITIONS

The following terms when used shall have the specified meanings:

“Agreement” – means this Contract C400xxx, which includes all documents identified in Article II, Entirety of Agreement.

“Attorney General” – means the Attorney General of the State of New York, or designee.

“Base Contract” – means that portion of the Agreement preceding the signatures of the parties in execution.

“Contractor” – means <*Successful bidder’s name to be inserted here*>.

“Department” – means the New York State Department of Taxation and Finance.

“Dispute Resolution” – means the process set forth in Article VIII for resolving disputes arising under this Agreement.

“IFB” – means the Secured Delivery, Storage and Pick-up Services Invitation for Bids (#12-03) issued by the Department on May 4, 2012, including all appendices and exhibits contained herein, and any written clarifications or amendments thereto made by DTF. The IFB is attached as Appendix 2.

“OSC” – means the New York State Office of the State Comptroller, or designee.

New York State Department of Taxation and Finance
Invitation For Bids #12-03
Secured Delivery, Storage and Pick-up Services

“Proposal” – means the Contractor’s response to IFB #12-03 dated May 4, 2012, including any written clarifications thereto made by the Contractor. The Proposal is attached hereto as Appendix 1.

Article I. ENTIRETY OF AGREEMENT

This Agreement shall consist of the documents listed below, which are fully incorporated by reference. In the event of a conflict between or among the provisions of the Agreement, such conflict shall be resolved by reference to the documents in the order listed, with Appendix A having precedence:

Appendix A - “Standard Clauses for New York State Contracts,” dated December 2011;

Attachment G – Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code (DTF-202);

This Base Contract Agreement;

Amendments and Clarifications to the IFB, including Questions and Answers;

Department’s IFB #12-03, excluding Appendix A, Attachment G, Amendments, Clarifications, and Questions and Answers;

Contractor Proposal Clarifications and/or Revisions; and

Contractor Proposal, excluding Clarifications and/or Revisions.

Article II. CONTRACTOR RESPONSIBILITIES AND SERVICES

1. The Contractor hereby agrees to provide all services as set forth herein and as stipulated in IFB #12-03.
2. The Contractor is a licensed armored car carrier and has at least one branch or office with a physical location in New York State from which secured storage, secured delivery and/or secured pick-up services can be provided.
3. The Contractor will comply with the Secrecy requirements set forth herein in **Article VI**. The Contractor must not disclose any data or other information/materials provided by the Department to any other individual or entity except as expressly provided by law.
4. The Contractor shall pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees and give all notices and comply with all federal, State, and local, laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Agreement.
5. The Contractor must remain a licensed armored car carrier entity for the life of this Agreement.
6. All armored car guards employed by the Contractor must hold a conditional letter of authority or a valid registration card issued by the New York State Department of State (NYS DOS). In addition to the minimum firearms training required by the NYS DOS Division of Licensing Services, each armored car

New York State Department of Taxation and Finance
Invitation For Bids #12-03
Secured Delivery, Storage and Pick-up Services

guard shall satisfactorily complete any additional annual training required by NYS DOS to maintain his/her registration card.

7. The Contractor agrees to securely receive and provide secured storage of sealed cases of Cigarette Tax Stamps (pallets of shrink-wrapped stamps) from NYS DTF designated agent or Manufacturer procured by the Department. Deliveries are estimated to be made four (4) to five (5) times per year containing approximately 160 cases per delivery. This is in addition to the Department's existing stock of Cigarette Tax Stamps (estimated at 750 cases) that will need to be transported and securely stored. The sealed cases contain NYS and/or NYC Cigarette Tax Stamps. Each case of stamps is approximately 13 inches square and generally contains 25 rolls of stamps. The Contractor shall keep sealed cases of stamps at the Contractor's secured storage facility until directions have been received from the Department for delivery and/or pick-up of sealed cases of stamps. The maximum number of cases of stamps to be stored at any one time is estimated to be 900 cases.

Such storage area must be adequately protected and equipped against damage or loss. The Department shall have access to the storage area for purposes of an inspection and examination without advance notice.

The Contractor shall endeavor to meet the following storage conditions:

- A. Temperature – 60 to 80 Degrees Fahrenheit.
- B. Humidity – 10% to 90%.

8. The Contractor agrees to provide the Department's designated Auditors with a signed receipt document verifying delivery and storage of shrink-wrapped pallets of stamps from the Manufacturer. In addition, Contractor will forward a cover letter and Bill of Lading, including the total number of cases on pallets; seal number; signature of shipper and Manufacturer's truck driver, to the Department's designated contact.
9. The Contractor shall provide delivery and/or pick-up services of sealed cases of Cigarette Tax Stamps to/from the Department's designated, mutually agreed upon location(s) and provide written log entries and/or signed receipts to the Department and/or designee as necessary.
10. The Contractor shall make delivery of sealed cases of stamps to the designated Albany, NY location(s) within 3 business days upon receipt of request by the Department. Secured deliveries are anticipated to be made twice per month, with an average delivery of 20-30 cases per trip. The Contractor's armored guard will transport the sealed cases of stamps by accompanying designated Department staff on the Service Elevator to the Department's secured storage area. A delivery receipt shall be signed by the armored guard and provided to Department staff upon acceptance of the delivery of stamps.
11. The Contractor shall provide secured transportation, protection and safeguarding of sealed cases of Cigarette Tax stamps from one point to another by means of bullet-resistant armored vehicles and armored car guards as stated herein at such times as may be specified by the Department.
12. The Contractor must maintain maximum liability coverage of Two Million Dollars (\$2M) for secured storage and receipt of Cigarette Tax Stamps from Manufacturer; and \$50,000 per shipment/delivery of the sealed cases of Cigarette Tax Stamps and prior to commencement of the work to be performed by the Contractor hereunder, the Contractor shall file with The People of the State of New York, Department of Taxation and Finance Certificates of Insurance. Such certificates shall be of a form and substance acceptable to the Department. Certificate acceptance and/or approval by DTF does not and shall not be construed to relieve the Contractor of any obligations, responsibilities or liabilities under the Agreement.

New York State Department of Taxation and Finance
Invitation For Bids #12-03
Secured Delivery, Storage and Pick-up Services

13. The Contractor will bill the Department by monthly invoice for services provided.

Article III. DEPARTMENT RESPONSIBILITIES

The Department will notify the Contractor when Contractor can expect shipments of sealed cases of Cigarette Tax Stamps to be delivered by the Manufacturer for secured storage, and when the Department expects Contractor to deliver cases of Cigarette Tax Stamps to designated locations(s)..

The Department will assign and dispatch designated auditors to Contractor's storage location to be present upon delivery of shipment of stamp stock from Manufacturer. Upon arrival of Manufacturer's sealed truck, and prior to unloading inventory, Department auditors will verify the outdoor seal on the Manufacturer's truck has not been broken and ensure seal number matches the loading report document obtained from the Manufacturer.

The Department will designate auditors to witness removal of shrink-wrapped pallets of sealed stamps from Manufacturer's truck by the Contractor's personnel at the Contractor's receiving/loading dock.

The Department will designate auditors to inspect pallets of shrink-wrapped stamps upon unloading from Manufacturer's truck to ensure to the best of their ability seals are intact and have not been broken or tampered with on the pallets of stamps.

The Department will designate auditors to verify pertinent information contained on Manufacturer's loading report for the shipment of stamps and accompany Contractor personnel to secured storage are to witness placement of shrink-wrapped pallets of stamps in the Department's designated secured area.

The Department will contact the Contractor in advance to schedule deliveries and/or pick-ups of sealed cases of Cigarette Tax Stamps to designated locations(s).

The Department will assign and dispatch designated auditors every 45 days to Contractor's storage facility to inspect storage area; count cases/pallets of stamps; and verify seals are still intact.

The Department will immediately notify the Contractor of any discrepancies in the number of sealed cases/pallets of stamps, and will work together with Contractor to determine the extent of the loss, and if possible, the cause of the loss.

The Department will use its best efforts to ensure that any reasonable deficiencies identified by the Contractor are corrected expeditiously.

The Department will compensate the Contractor for said secured storage and delivery of sealed cases of stamps based on the terms set forth herein under **Article V, Fees and Payment**.

Article IV. CONTRACT TERM

The initial contract term will commence upon approval by the Office of the State Comptroller and continue through September 2, 2013. Subsequent terms will be from September 3 – September 2 of successive years, with a contract termination date of September 2, 2017.

New York State Department of Taxation and Finance
Invitation For Bids #12-03
Secured Delivery, Storage and Pick-up Services

Contractors must guarantee stated rates for the initial contract term. Any proposed cost increase after the initial contract term shall be limited to the lower of the percentage change in the Consumer Price Index for All Urban Customers (CPI-U) for All Items, Table A, as reported by the U.S. Department of Labor, Bureau of Statistics for the CPI-U for the preceding twelve (12) month period, or five percent (5%). Any request for an increase in cost must be submitted to the Department sixty (60) days prior to the beginning of the renewal period and will be subject to negotiation between the Contractor and the Department, and shall require approval by the Office of the State Comptroller.

Article V. FEES AND PAYMENT

The Contractor will be reimbursed monthly, in advance, for *secured storage services*, upon receipt of a proper invoice in accordance with Article XI-A of the New York State Finance Law. Reimbursement for *secured delivery and/or secured pick-up services* will be made monthly, in arrears, upon receipt of a proper invoice in accordance with Article XI-A of the New York State Finance Law.

Reimbursement for secured storage and delivery and/or pick-up services of sealed cases of stamps will be based on the rates as identified on Attachment 1, Pricing Proposal.

Contractors must guarantee stated rates for the initial contract term. Any proposed cost increase after the initial contract term shall be limited to the lower of the percentage change in the Consumer Price Index for All Urban Customers (CPI-U) for All Items, Table A, as reported by the U.S. Department of Labor, Bureau of Statistics for the CPI-U for the preceding twelve (12) month period, or five percent (5%). Any request for an increase in cost must be submitted to the Department sixty (60) days prior to the beginning of the renewal period and will be subject to negotiation between the Contractor and the Department, and shall require approval by the Office of the State Comptroller.

Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm by email at epunit@osc.state.ny.us or by telephone at 518-474-4032. *Contractor acknowledges that it will not receive payment on any invoices submitted under the Contract if it does not comply with the State Comptroller's electronic procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.*

Article VI. NYS DEPARTMENT OF TAXATION AND FINANCE SECRECY PROVISIONS

The various secrecy provisions of the Tax Law (i.e., 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.

New York State Department of Taxation and Finance
Invitation For Bids #12-03
Secured Delivery, Storage and Pick-up Services

The Contractor, all staff members and subcontractors shall agree not to divulge or use, for their own benefit or the benefit of others, confidential tax administration information; and to subscribe to § 73 and 74 the Public Officers Law. The Contractor will require a company designee to sign Form DTF 202, the Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code (Attachment G).

Article VII. PERFORMANCE STANDARDS AND REMEDIES

If it is determined that the Contractor is in violation of any terms or conditions set forth in this Agreement, the Department reserves the right to terminate the Agreement at its sole discretion. The taking of any such action shall not give rise to any cause of action against the Department for any kind of damages, loss of profits, or other remuneration of any kind.

Article VIII. DISPUTE RESOLUTION

If the Contractor pursues any legal or equitable remedy outside the Department, the Contractor will continue to perform work in accordance with the direction of the Department until such proceedings may be concluded and will continue to be paid, less an amount attributable to the disputed work. Disputes that go to litigation must be pursued in a court of competent jurisdiction of the State of New York. New York law will govern the dispute and venue must be laid in Albany County, New York.

Article IX. ADMINISTRATIVE REQUIREMENTS

A. Participation By Minority Group Members and Women With Respect To State Contracts: Requirements and Procedures

1. General Provisions

- A. The New York State Department of Taxation and Finance (DTF) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) 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.
- B. 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 DTF, to fully comply and cooperate with the DTF in the implementation of New York State Executive Law Article 15-A, where applicable. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). 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”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

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2. Contract Goals

- A. For purposes of this procurement, the DTF hereby establishes an overall goal of 0% for Minority and Women-Owned Business Enterprises (“MWBE”) participation for subcontractors and suppliers; 0% for Minority-Owned Business Enterprises (“MBE”) participation and 0% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html> .

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the DTF for liquidated or other appropriate damages, as set forth herein.

3. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
 - 1. Contractor and Subcontractors 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 DTF within seventy two (72) hours after the date of the notice by DTF to award the Contract to the Contractor.
 - 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the DTF may provide the Contractor or Subcontractor a model statement (**see Attachment J of IFB**).
 - 4. The Contractor’s EEO policy statement shall include the following language:

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- a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing 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.
- b. 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.
- c. 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.
- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section 3, 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.

C. Attachment I - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Attachment K - Workforce Employment Utilization Report ("Workforce Report")

1. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the DTF of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information

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provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

- E. 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, 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.

4. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of the contract, if applicable.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section 2-A of this section, if applicable.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan, if applicable, shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DTF shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

5. Waivers

- A. For Waiver Requests Contractor should use M/WBE 104, Request for Waiver Form.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the DTF shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the DTF, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the DTF may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

6. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report, if applicable, to the DTF by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

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7. Liquidated Damages - MWBE Participation

- A. Where DTF determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the DTF liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the DTF, Contractor shall pay such liquidated damages to the DTF within sixty (60) days after they are assessed by the DTF unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the DTF.

B. Procurement Lobbying

1. Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines

New York State Finance Law 139-j(6)(b) requires the Department of Taxation and Finance (DTF or Department) 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: <http://www.tax.ny.gov/about/procure> .

Attachment A, Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines, is hereby incorporated as referenced.

2. 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

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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. 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.

Attachment B, Offerer Disclosure of Prior Non-Responsibility Determinations, is hereby incorporated as referenced.

3. 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.

The Department reserves the right to terminate any Contract awarded in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law 139-k was intentionally false or intentionally incomplete.

Attachment C, Offerer's Certification of Compliance with State Finance Law 139-k(5) is hereby incorporated as referenced.

D. MacBride Fair Employment Principals

Required as part of the proposal submission in accordance with Chapter 807 of the Laws of 1992 and in accordance with Section 165 of the State Finance Law, the bidder, by submission of this bid, certifies that it or any individual or legal entity that the bidder holds a 10% or greater ownership interest in the bidder, either have business operations in Northern Ireland and, if yes, shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to non-discrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring if compliance with such Principles.

Attachment D, MacBride Fair Employment Principals Form, is hereby incorporated as referenced.

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E. Ethics Compliance

Contractor and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law and other State codes, rules and regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Contract, the Contractor certifies full compliance with those provisions for any present or future dealings, transactions, sales, Contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in termination of the Contract(s), and/or other civil or criminal proceedings as required by law.

Attachment F, Public Officer's Law, is hereby incorporated as referenced.

F. 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, Contractor and its subcontractors shall cooperate fully with the Department to the extent permitted by law to investigate and identify the responsible individuals. Contractor and its subcontractors 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 Deputy Inspector General. The Department may interview Contractor's employees and/or agents in connection with an investigation during normal business hours.

G. Vendor Responsibility

During the contract term, Contractor agrees to evidence vendor responsibility substantially similar to, or superior to, its status as of the execution of this Agreement as a material condition of the same.

H. Insurance

Prior to the start of work the Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, policies of insurance as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York with an A.M. Best Company rating of A- or better or as acceptable to the Department. The Department may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require the Agency to accept insurance placed with a non-authorized carrier under any circumstances.

The Contractor shall deliver to the Department evidence of such policies in the form of certificates of insurance. These policies must be written in accordance with the requirements of the paragraphs below, as applicable.

General Conditions

A. Conditions Applicable to Insurance. All policies of insurance required by this Agreement must meet the following requirements:

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1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the Contractor are specified in Paragraph B *Insurance Requirements* below.

2. Policy Forms. Except as may be otherwise specifically provided herein or agreed in writing by the Department, policies must be written on an occurrence basis. Under certain circumstances, the Department may elect to accept policies written on a claims-made basis provided that, at a minimum, the policy remains in force throughout the performance of the services and for 3 years after completion of the Contract. If the policy is cancelled or not renewed during that time, either party may cancel the agreement with 30 days notice.

3. Certificates of Insurance/Notices. The Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Department, before commencing any work under this Contract. Certificates shall reference the Contract number. Certificates shall be mailed to the:

Ms. Catherine Golden
Director, Procurement Services
Office of Budget and Management Analysis
NYS Department of Taxation and Finance
W A Harriman Campus
Albany, NY 12227

Certificates of Insurance shall:

- a. Be in the form approved by the Department.
- b. Specify the Additional Insureds as required herein.
- c. Refer to this Contract by number, the Supplemental Certificate, and any other attachments on the face of the certificate.
- d. When coverage is provided by a non-admitted carrier, be accompanied by a completed ELANY Affidavit, and
- e. Be signed by an authorized representative of the insurance carrier or producer.

Only original documents (Certificates of Insurance, Supplemental Insurance Certificates, and other Attachments) will be accepted.

4. Primary Coverage. All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to the Department for any claim arising from CONTRACTOR'S work under this Contract, or as a result of the CONTRACTOR'S activities. Any other insurance maintained by the Department shall be excess of and shall not contribute with CONTRACTOR'S insurance regardless of the other insurance clause contained in the Department's own policy of insurance.

5. Policy Renewal/Expiration. Prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms shall be delivered to the Department in the manner required for the service of notice in paragraph A. 3. Certificates of Insurance/Notices above. If, at

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any time during the term of this Contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the Contract, CONTRACTOR shall immediately cease work on the project, either party may cancel the agreement with 30 days notice. If the certificates of insurance are not provided to the Department, the Department shall notify CONTRACTOR and CONTRACTOR shall be given 7 business days to provide the Department with the certificates of insurance.

6. Self-Insured Retention/Deductibles. CONTRACTOR shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.

7. Subcontractors. Should CONTRACTOR engage a Subcontractor, CONTRACTOR shall endeavor to impose the insurance requirements of this document on the Subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the Subcontractor. Proof thereof shall be supplied to the Department.

B. Specific Coverages and Limits

The types of insurance and the minimum policy limits shall be as follows:

1. General Liability

Commercial General Liability Insurance, (CGL) covering the liability of CONTRACTOR for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this contract. The limits under such policy shall not be less than the following, which may be satisfied through any combination of CGL and Excess/Umbrella policies:

- Each Occurrence limit \$2,000,000.00
- General Aggregate \$2,000,000.00
- Products/Completed Operations \$2,000,000.00
- Personal Advertising Injury – \$1,000,000
- Damage to Rented Premises - \$50,000
- Medical Expense – \$5,000

Coverage shall include, but not be limited to, the following:

- premises liability,
- independent contractors,
- blanket contractual liability, including tort liability of another assumed in a contract,
- defense and/or indemnification obligations
- cross liability for additional insured's
- products/completed operations

CONTRACTOR will list the Department as an additional insured on its CGL policy.

Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.

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2. Workers Compensation

For work to be performed in NYS, CONTRACTOR shall provide and maintain coverage during the life of this Contract for the benefit of such employees of CONTRACTOR that are required to be covered by the NYS Workers Compensation Law.

3. Disability Benefits

For work to be performed in NYS, CONTRACTOR shall provide and maintain coverage during the life of this Contract for the benefit of such employees of CONTRACTOR that are required to be covered by the NYS Disability Benefits Law. Any waiver of this requirement must be approved by the Department and will only be granted in unique or unusual circumstances.

4. Business Automobile Liability

Commercial Auto Liability insurance covering liability arising out of the use of any motor vehicle in connection with the work, including owned, leased, hired and non owned vehicles bearing or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least one million dollars and shall list NYS Tax and Finance as additional insured. The limits may be provided through a combination of primary and umbrella/excess liability policies. If the contract involves the removal of hazardous waste from the project site or otherwise transporting hazardous materials, pollution coverage for covered autos shall be provided by form CA 99 48 03 06 or CA 00 12 03 06 and the Motor Carrier Act Endorsement (MCS90) shall be attached.

5. Crime

CONTRACTOR agrees to list the NYS Tax and Finance as a loss payee in an amount not less than Two Million Dollars (\$2M) on its Cargo policy. This policy includes coverage for the following:

- Employee Theft
- Forgery or Alteration
- Inside the premises – Theft of Money and Securities
- Inside the premises – Robbery or Safe Burglary of Other Property
- Outside the Premises
- Money Orders and Counterfeit Paper Currency

Policy must allow for reporting circumstances or incidents that might give rise to future claims. The policy must include an extended reporting period of no less than three years with respect to events which occurred but were not reported during the term of the policy.

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Article X. TERMINATION

A. Termination for Cause

In addition to the termination rights set forth in this Agreement, the Department reserves the right to terminate the Agreement immediately upon written notice as follows:

If the Contractor fails to perform its obligations as set forth in **Article VI (Secrecy)**, this Agreement may be cancelled immediately upon written notice. At its sole discretion, the Department may elect not to allow a cure period for such failure.

Otherwise, if the Contractor fails to perform its material obligations under this Agreement and does not, within ten calendar days after receiving written notice from the Department describing the alleged material failure, either,

1. Cure the material failure; or
2. If the material failure is one that cannot be reasonably cured within 10 calendar days after receiving written notice from the Department then the Department may either terminate this Agreement, in whole or in part, and pursue available remedies, subject to the limitations contained in **Article XI (Indemnification and Limitation of Liability)** or extend the time of the cure period.

For purposes of this Article, material failure to perform by the Contractor is a failure to perform an obligation that the Contractor is bound to perform under this Agreement which is so fundamental to the Agreement that the failure to perform the obligation defeats the purpose of the Agreement. Material failure to perform by Contractor shall include, but not be limited to:

1. Failure to meet the obligations and responsibilities imposed on the Contractor by Article II.
2. Contractor is or becomes insolvent or a party to any bankruptcy or receivership proceeding, or any similar action affecting the affairs or property of Contractor.
3. Failure of the Contractor to remain a responsible Contractor consistent with applicable New York State law, regulations and/or policy.
4. A finding that the certification filed by the Contractor in accordance with Procurement Lobbying was intentionally false or intentionally incomplete.
5. A finding that the certification filed by the Contractor in accordance with Section 5-a of the Tax Law was not timely filed during the term of the Contract or the Certification filed was intentionally false or intentionally incomplete.

If it is subsequently determined for any reason that the Contractor was not in material default or that the Contractor's failure to perform or make progress in performance was due to causes beyond the control and without the fault or negligence of the Contractor, the Department shall have the option, at its sole discretion, to either deem the Notice of Termination to have been issued hereunder as a termination for convenience of the Department or allow the Contractor to resume performance under the Agreement without an increase in cost.

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B. Termination for Convenience

This Agreement may be terminated in whole or in part at any time for convenience upon thirty (30) days written notice to the other party or other specified period without penalty or other early termination charges due. If the Agreement is terminated pursuant to this subdivision, the Department shall remain liable for all accrued but unpaid charges incurred through the date of termination. The Contractor shall use due diligence and provide any outstanding deliverables.

C. Procedure for Termination

In the event of termination for cause or convenience, the parties agree to cooperate in a manner to effect an orderly termination of the Agreement.

D. Payment upon Termination

If this Agreement is terminated for any reason, the Contractor shall be paid for all services performed up to the date of termination.

Article XI. INDEMNIFICATION AND LIMITATION OF LIABILITY

A. Indemnification

Contractor shall be fully liable for the actions of its employees, partners or subcontractors and shall fully indemnify and save harmless the Department from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or subcontractors, without limitation, provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the Department.

B. Intellectual Property Rights Indemnity

The Contractor shall fully indemnify, defend and save harmless the Department, its officers, employees, and agents, without monetary limitation, from and against any and all losses, liabilities, judgments, damages, awards and costs (including legal fees and expenses), arising out of or related to any claim of, or action for, infringement of a patent, or of any copyright, trademark, trade secret or other third party intellectual property right, to the extent caused by intellectual property, if any, provided by the Contractor and used to perform the Services. The foregoing provisions of this paragraph shall not apply to the Department's corrections or enhancements made available by the Contractor, or the Department's use of the intellectual property in combination with any product or information not provided by the Contractor, where such misuse, modification or combination gives rise to the infringement. The State shall give the Contractor:

1. Prompt written notice of any action, claim or threat of infringement suit, or other suit.
2. The opportunity to take over, settle or defend such action, claim, or suit at the Contractor's sole expense.

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3. Assistance in the defense of any such action at the expense of the Contractor (unless the State elects to participate in such defense in which case the State will bear its own expenses).

In the event that an action at law or in equity is commenced against the Department arising out of the performance of this Agreement by the Contractor, its officers, partners, employees, subcontractors, or agents and if the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the indemnification and defense provisions set forth herein, the Contractor, after receiving notice of such action, shall promptly notify the Department, in writing, specifying to what extent the Contractor believes it is obligated to defend and indemnify under the terms and conditions of this Agreement.

C. Limitation of Liability

Contractor will be liable to DTF for all actual damages incurred as a direct result of Contractor's failure to exercise reasonable care in providing the Services and performing its obligations under this Agreement, provided, Contractor's liability will not exceed Two Million Dollars (\$2,000,000) per year and provided, however, that such dollar cap shall not apply to damages resulting from Contractor's (i) willful, malicious, intentional misconduct, (ii) intentional tortuous conduct, or (iii) gross negligence.

NOTWITHSTANDING THE FOREGOING, CONTRACTOR REMAINS LIABLE, WITHOUT MONETARY LIMITATION, FOR DIRECT DAMAGES FOR PERSONAL INJURY, DEATH OR DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY OR INTELLECTUAL PROPERTY ATTRIBUTABLE TO THE NEGLIGENCE OR OTHER TORT OF CONTRACTOR, ITS OFFICERS, EMPLOYEES OR AGENTS.

D. Breach of Confidentiality

The 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.

E. Force Majeure

The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor negligence of the Contractor, its officers, employees or agents contributed to such delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fire or floods, or other similar causes beyond the control of the Contractor, or for any of the foregoing which affects subcontractors or suppliers and no alternate source of supply is available to the Contractor. In such event, Contractor shall notify the Department, by certified or registered mail, of the delay or potential delay and the cause(s) thereof either (a) within ten calendar days after the cause which creates or will create the delay first arose if the Contractor could reasonably foresee that a delay could occur by reason thereof, or (b) if the delay is not reasonably foreseeable, within five calendar days after the date the Contractor first had reason to believe that a delay could result. The foregoing shall constitute the Contractor's sole remedy or excuse with respect to such delay. In the event performance is suspended or delayed in whole or in part, by reason of any of the aforesaid causes or occurrences and proper notification is given to the Department, any performance so suspended or delayed shall be performed by the Contractor at no increased cost, promptly after such disabilities have ceased to exist unless it is determined in the sole discretion of the Department that the delay will significantly impair the value of the Contract to the Department. In the event of such determination, the Department may immediately terminate the contract with written notice.

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Article XII. GENERAL TERMS AND CONDITIONS

A. Appendix A

The Contractor has read and agrees to Appendix A (Standard Clauses for New York State Contracts), which is incorporated as part of the Agreement without revision.

B. Tax Liabilities

All outstanding Tax Liabilities, due to the State of New York from the Contractor, or Contractor's partners, agents and subcontractors engaged in providing services under this Agreement, other than tax liabilities being contested by any such party, must be satisfied prior to the execution of this Agreement, or a payment schedule arranged for their speedy satisfaction.

C. Payment Records

The Contractor must maintain adequate records as prescribed by the Department to substantiate all claims for payment and must make those records available in New York State for examination and copying.

D. Governing Law

The laws of the State of New York shall be the law that shall govern the interpretation or application of any of the terms or conditions of this Agreement.

E. Required Approval

This Agreement and any amendments will not be effective until signed by both parties and approved by the New York State Attorney General and the Office of the State Comptroller.

F. Funding

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 Agreement.

Accordingly, this Agreement will be performed only as long as the legislature appropriates funds and the Governor allocates such funds to the Department. Failure of New York State to execute a Budget timely may result in the Department being unable to reimburse the Contractor for services provided in the new fiscal year. All work approved and accepted by the Department will subsequently be reimbursed when the Budget has been executed.

G. Assignment of Rights and Duties

The Contractor shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or its right, title or interest therein, or its power to execute such Agreement to any other person, company, firm or corporation in performance of the Agreement, other than the assignment of the right to receive monies

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due hereunder, without the prior written consent of the Department. Prompt notice must be afforded the Department to effect the change of assignment.

The Department reserves the right to assign this Agreement to any New York State Agency provided that the assignee agrees in writing to be bound by the terms and conditions of this Agreement, provided the Contractor approves; such approval shall not be unreasonably withheld. The Department agrees to provide the Contractor 30 day prior written notice of any such assignment.

H. Continuity of the Agreement

The terms and conditions of this Agreement shall remain in full force and effect for the term of this Agreement and the Contractor agrees to provide all services for such term, regardless of any reorganizations, consolidations or mergers to which the Contractor is, or may become, a party.

Notwithstanding the foregoing, Appendix A, Article VI (Secrecy) and Article XI (Indemnification and Limitation of Liability) shall survive the term of this Agreement.

I. Cooperation with Third Parties

The Contractor shall cooperate with all persons engaged in performing services for the Department, whether or not related to this Agreement, including, without limitation, Department officers and employees and third-party vendors engaged by the Department.

J. Severability

If any term or provision of this Agreement shall be found to be illegal or unenforceable, then, notwithstanding such provision, the remainder of this Agreement shall remain in full force and effect, and such term or provision shall be deemed null and void. In addition, if any provision of the Agreement, for any reason, is declared to be unenforceable, the parties shall make a reasonable effort to substitute an enforceable provision that, to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

K. Conflict of Interest

The Contractor must immediately notify the Department in writing and disclose the nature of the potential conflict of interest in the manner prescribed by the Department. The Department will have sole discretion in evaluating the nature of the identified conflict of interest and will make the final decision regarding its resolution.

L. Publicity

To the extent allowable by law, neither party shall, at any time, during or after termination of this Agreement, make any statement to the press or issue any material for publication through any media of communication bearing on the work performed or data collected under this Agreement without the prior written approval of the other party.

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Neither party grants the other the right to use any of its trademarks, trade names, logos, seals, or other designations, whether in any promotion, publication, or otherwise, without the other party's prior written consent.

M. Independent Contractor

It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under this Contract is that of an independent Contractor and in no manner shall they be deemed employees of the Department, and therefore are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of the Agreement, to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by law. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA contributions.

N. Authorized Representatives

1. Notice of Termination

Where Notice of Termination is to be provided by the Department to the Contractor, the Department shall deliver such notice to each of the following individuals:

To be Provided

2. Execution of Contract Documents

Where a Provision of this Agreement calls for execution of a contract document, the individuals authorized to execute documents:

On behalf of the Department are:

- Commissioner
- Executive Deputy Commissioner
- Chief Financial Officer
- Director, Procurement Services

On behalf of the Contractor are:

-To be Provided

3. Notices

All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- a. via certified or registered United States mail, return receipt requested; by facsimile transmission;
- b. by personal delivery;

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- c. by expedited delivery service; or
- d. by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

Notices to the Department from the Contractor:

Ms. Catherine Golden
Director, Procurement Services
New York State Department of Taxation & Finance
Office of Budget and Management Analysis
W A Harriman Campus
Albany, NY 12227

Notices to the Contractor from the Department:

To be Provided

Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CONTRACTOR NAME HERE

**NEW YORK STATE DEPARTMENT
OF TAXATION AND FINANCE**

Signature

Signature

Print Name

Print Name

Title

Title

Date

Date

Attorney General

Office of the State Comptroller

ACKNOWLEDGEMENT

CORPORATION

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 2012, before me personally appeared _____, to me known, who being duly sworn, did depose and state that he/she resides in _____; that he/she is the _____ of the _____, the Corporation described in and which executed the foregoing instrument; that he/she knows the seal of said Corporation; that the seal affixed to said instrument is such corporate seal, that it was so affixed by the order of the Board of Directors of said Corporation, and that he/she signed his/her name thereto by like order.

NOTARY PUBLIC

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Attachment A - 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: _____

Telephone Number: _____

e-Mail 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: _____

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Attachment B – Designation of Prime Contact

The bidder designates the following individual as the prime contact for this proposal and acknowledges that this individual is authorized to respond on behalf of the bidder. This designation will last for the entire evaluation process and contract negotiations. Any request for change in the designated contact must be submitted in writing to the issuing officer designation on the cover of this IFB and must be accompanied by an updated form.

Firm Name: _____

Address: _____

Federal ID#: _____

Prime Contact Name: _____ Title: _____

E-mail Address: _____

Telephone Number: _____ Fax: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

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Attachment C – 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 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.

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Offerer Disclosure of Prior Non-Responsibility Determinations (cont'd)

Procurement Description, Contract or Bid Number:

Offerer Name: _____

Offerer Address: _____

Telephone Number: _____

E-Mail 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 years? (Please circle):
- No Yes

If yes, please answer the following questions:

2. 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
3. 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

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Offerer Disclosure of Prior Non-Responsibility Determinations (cont'd)

4. 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)

5. 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 the above question, 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.

By: *(Signature)*: _____

Name: *(Please print)* _____

Date: _____

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Attachment D – Offerer Certification of Compliance with State 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.

By: *(signature)* _____

Date: _____

Procurement Description, Contract or Bid Number:

Name *(Please print)*: _____

Title: _____

Offerer Name: _____

Offerer Address: _____

Telephone Number: _____

e-Mail Address: _____

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Attachment E – MacBride Fair Employment Principles Form

“NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:

MacBRIDE FAIR EMPLOYMENT PRINCIPLES”

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

(answer Yes to one of the following as applicable),

1. Have no business operations in Northern Ireland: _____Yes

or

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

_____Yes

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Attachment F – Vendor Responsibility Response Form

Bidder 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 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 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.

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Attachment G - DTF-202 – Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code

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

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

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

Any unlawful disclosure of information is punishable by a fine not exceeding \$10,000, imprisonment not exceeding one year, or both. State officers and employees making unlawful disclosures are subject to dismissal from public office for a period of five years.

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

The Internal Revenue Code contains secrecy provisions which apply to federal tax reports and returns. Pursuant to sections 6103 and 7213 of the Internal Revenue Code, penalties similar to those in the New York State law are imposed on any person making an unauthorized disclosure of federal tax information. In addition, section 7213A of the Internal Revenue Code was enacted to prohibit the unauthorized inspection of returns or return information (also known as “browsing”). The unauthorized inspection of returns or return information by state employees is punishable by a fine not exceeding \$1000 for each access, or by imprisonment of not more than one (1) year, or both, together with the cost of prosecution.

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

Organization: _____
Signature: _____ Date: _____
Name: _____
Address/Street: _____
City: _____ State: _____ ZIP code: _____

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Attachment H – Public Officer’s Law

§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.

(b) No political party chairman of a county wholly included in a city with a population of more than one million, 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 city 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 city 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.

(c) For purposes of this subdivision, the term "services" shall not include employment as an employee.

I have read and agree to comply with the requirements of Public Officer’s Law Section 73 (4) a.i. I further acknowledge that failure to comply shall justify contract termination by the Department and may result in the rejection of bids or proposals for future work with the Department.

By _____
(Signature) (Title)

Firm’s Legal Name _____
(Date)

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Attachment I - Staffing Plan#

Submit with Bid or Proposal – Instructions on page 2

Solicitation No.:	Reporting Entity:	Report includes Contractor's/Subcontractor's: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
Offeror's Name:		<input type="checkbox"/> Offeror <input type="checkbox"/> Subcontractor Subcontractor's name _____
Offeror's Address:		

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification														
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)		
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

PREPARED BY (Signature):	TELEPHONE NO.:	DATE:
	EMAIL ADDRESS:	
NAME AND TITLE OF PREPARER (Print or Type):		Submit completed with bid or proposal M/WBE 101 (Rev 11/08)

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (M/WBE 101) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror

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shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the OM/WBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

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**Attachment J – MWBE EEO Policy Statement
Minority and Women-Owned Business Enterprises – Equal Employment
Opportunity Policy Statement**

M/WBE AND EEO 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

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.

EEO

(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 organization's obligations herein.

(d) 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, 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.

(e) 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: _____

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_____ 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

_____20% Minority and Women’s Business Enterprise Participation

_____ % Minority Business Enterprise Participation

_____ % Women’s Business Enterprise Participation

EEO Contract Goals

_____ % Minority Labor Force Participation

_____ % Female Labor Force Participation

(Authorized Representative)

Title: _____

Date: _____

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Attachment K – Work Force Employment Utilization Form

Contract No.:	Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	Reporting Period: <input type="checkbox"/> January 1, 20__ - March 31, 20__ <input type="checkbox"/> April 1, 20__ - June 30, 20__ <input type="checkbox"/> July 1, 20__ - September 30, 20__ <input type="checkbox"/> October 1, 20__ - December 31, 20__
Contractor's Name:		Report includes: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total work force
Contractor's Address:		

Enter the total number of employees in each classification in each of the EEO-Job Categories identified.

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification														
		Male (M)	Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)		
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

PREPARED BY (Signature):	TELEPHONE NO.:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):	EMAIL ADDRESS:	
Submit completed form to: NYS (add Agency name) M/WBE 102 (Revised 11/08)		

General Instructions: The work force utilization (M/WBE 102) is to be submitted on a quarterly basis during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's and/or

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subcontractor's total work force, the contractor and/or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's and/or subcontractor's total work force, information on the total work force shall be included in the Utilization Report. Utilization reports are to be completed for the quarters ended 3/31, 6/30, 9/30 and 12/31 and submitted to the M/WBE Program Management Unit within 15 days of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a copy of the previously submitted report indicating no change with the date and reporting period updated.

Instructions for completing:

9. Enter the number of the contract that this report applies to along with the name and address of the Contractor preparing the report.
10. Check off the appropriate box to indicate if the entity completing the report is the contractor or a subcontractor.
11. Check off the box that corresponds to the reporting period for this report.
12. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Contractor's total work force.
13. Enter the total work force by EEO job category.
14. Break down the total work force by gender and enter under the heading 'Work force by Gender'
15. Break down the total work force by race/ethnic background and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the M/WBE Program Management Unit at (518) 474-5513 if you have any questions.
16. Enter information on any disabled or veteran employees included in the work force under the appropriate heading.
17. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

ISLANDER

- **NATIVE INDIAN (NATIVE AMERICAN/ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** **Male** or **Female**

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Attachment 1 – Pricing Proposal

Bidder's Name: _____

The Bidder must provide the rates they will charge for receipt, storage and pickup/delivery of cases of Cigarette Tax stamps in the tables provided on Attachment 1. Responses must be inclusive of all costs associated with the requirements of the IFB. **No other add on costs will be allowed.**

Bidders' who fail to complete and submit *Attachment 1, Pricing Proposal*, will be deemed non-responsive and removed from further consideration.

Each case of stamps is approximately 13 inches square and generally contains 25 rolls of stamps. The Contractor shall keep sealed cases of stamps at Contractor's secured storage facility until directions have been received from the Department for delivery and/or pick-up of sealed cases of stamps. The maximum number of cases of stamps to be stored at any one time is estimated to be 900 cases.

Secured deliveries to the Department's designated location(s) are anticipated to be made twice per month, with an average delivery of 20-30 cases per trip.

Item	Description	Cost
Receipt	Receive sealed shipments of cases of Tax Stamps from the Manufacturer on an as needed basis. Deliveries are estimated to be made four (4) or five (5) times per year containing approximately 160 cases per delivery. The Department requires a maximum liability coverage amount of Two Million Dollars (\$2M) per shipment.	\$ _____ per shipment received
Storage	Secured Storage of cases of Cigarette Tax Stamps per the requirements of the IFB. The maximum number of cases of stamps to be stored at any one time is estimated to be 900 cases. The Department requires a maximum liability coverage amount of Two Million Dollars (\$2M) for storage.	1-249 cases \$ _____ per month 250-499 Cases \$ _____ per month 500-749 cases \$ _____ per month 750 -999 cases \$ _____ per month
Secured pick-up/delivery	Secured pick-up or secured delivery of sealed cases of tax stamps to/from Department specified location(s). This service is to be provided as an On-call service (anticipated to be twice per month throughout the contract term, with an average delivery of 20-30 cases). The Department requires a maximum liability coverage of \$50,000.00 per pick-up/delivery.	\$ _____ per pick-up/delivery

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Attachment 2 – Licensing Response Form

This form is for the insurance requirement as specified in **Section V.A.1.**

a. The bidder must possess a current license issued by the New York State Department of State (NYS DOS) to operate as an armored car carrier and bidder must have at least one branch or office with a physical location in New York State from which secured storage, secured delivery and/or secured pick-up services will be provided.

A copy of the bidder’s current license is attached.

b. All armored car guards employed by the bidder must hold a conditional letter of authority or a valid registration card issued by the NYS DOS. In addition to the minimum firearms training required by the NYS DOS Division of Licensing Services, each armored car guard shall satisfactorily complete any additional annual training required to maintain his/her registration card.

By signing this form the bidder attests they have a current license issued by the State of New York to operate as an armored car carrier and bidder has at least one branch or office with a physical location in New York State from which secured storage, secured delivery and/or secured pick-up services can be provided. **A copy of the bidder’s current license is attached.**

The bidder also attests that all armored car guards employed by the bidder hold a conditional letter of authority or a valid registration card issued by the NYS DOS. In addition to the minimum firearms training required by the NYS DOS Division of Licensing Services, each armored car guard shall satisfactorily complete any additional annual training required to maintain his/her registration card.

Firm Name: _____

Authorized Representative: _____

Representative’s Signature: _____

Date: _____

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Attachment 3 – Mandatory Experience and Reference Form

The bidder must complete one (1) form for each contract/reference provided in response to **Section V.A.2.**

DUPLICATE THIS FORM TO PROVIDE ADDITIONAL CONTRACT AND CLIENT INFORMATION TO MEET THIS MANDATORY REQUIREMENT.

Armored Car Service and Secured Storage, Delivery and/or Pick-up Services Experience

The bidder must have been in the business of providing armored car services including secured storage, delivery and/or pick-up services (Handling industrial, commercial, institutional or government accounts) for at least three (3) years immediately prior to bid due date. The bidder may provide information for up to two (2) contracts to meet this three-year requirement.

If information for only one contract is submitted to meet the three-year experience requirement, information for an additional contract must be submitted for DTF review of the bidder's past performance relating to secured storage and secured delivery and/or pick-up services.

The bidder shall be solely responsible for providing information including contact names, e-mail addresses and phone numbers for two (2) client references who are readily available to be contacted by the Department and capable of responding to performance questions. The Department will contact client references provided to determine, on a Pass/Fail basis, the bidder's performance related to providing armored car services including secured storage, delivery and/or pick-up services. If DTF is unable to contact any reference, the bidder will be provided one opportunity, with a deadline, to assist in obtaining cooperation from those clients who have not responded. If DTF is unable to verify required responses, the bidder's proposal will not be considered for further evaluation.

1. Client/Firm Name: _____

Client Address: _____

Client Contact Name: _____

Client Phone Number: _____

Client Fax: _____

Client E-mail Address: _____

2. Contract Start Date: _____ **Contract End Date:** _____

3. Please identify the type of service(s) provided for the contract referenced above:

Secured storage _____ Secured Delivery Services _____ Secured Pick-up Services _____

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Attachment 4 – Insurance Response Form

This form is for the insurance requirements as specified in Section V.A.3 of the IFB.

Bidder Name: _____

Insurance Information

The bidder must provide the following information regarding their insurance coverage:

Insurance Company Name: _____

Contact Name: _____

Address: _____

Phone Number: _____

The bidder must also attach a certificate of insurance demonstrating that the bidder's company and all staff are insured against financial losses resulting from bidder's employees' actions or other documentation to support this requirement. This certificate should include:

- **A description of each type of coverage; and**
- **The amount of coverage for each type listed.**

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Attachment 5 – Bidder Attestation Form

The Attestation Form certifies the bidder meets all of the Mandatory Requirements as outlined in **Section V** of the IFB. If all Mandatory Requirements are not met, the bidder's proposal will be labeled non-responsive and will not be given further consideration.

By signing the Attestation Form you certify your express authority to sign on behalf of yourself, your company, or other entity and your full knowledge and acceptance of all of the Terms and Conditions outlined in this Invitation for Bids and Appendix A (Standard Clauses for New York State Contracts), and that all information provided is complete, true and accurate.

BIDDER INFORMATION

Firm Name: _____

Street Address: _____

City: _____

State: _____ Zip: _____

E-Mail Address: _____

Telephone Number: _____

Authorized Signature: _____

Printed Name/Title: _____

Date: _____

Please provide the branch location of the storage facility that will be utilized for this procurement:

