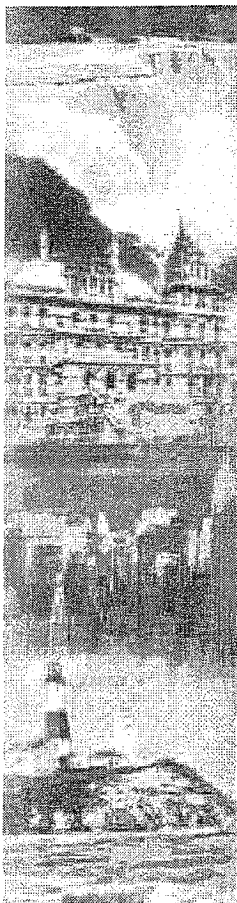


STATE OF NEW YORK

DEPARTMENT OF TAXATION & FINANCE



REQUEST FOR PROPOSAL

#10-22

SECURITY GUARD SERVICES

ISSUED NOVEMBER 9, 2010

New York State Department of Taxation and Finance
Request for Proposal (RFP) #10-22 - Security Guard Services

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Schedule of Events

Issuance of RFP	November 9, 2010
Deadline for filing Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines Form <i>- And -</i> Deadline for Submission of Questions	November 17, 2010 by 2 p.m. EST
Department Response to Bidder Questions	November 23, 2010
Deadline for Submission of Notification of Intent to Bid	December 1, 2010 by 2 p.m. EST
Proposals Due	December 8, 2010 by 2 p.m. EST
Notification of Intent to Award	January 14, 2011
Deadline for Contract Signature	February 14, 2011
Anticipated Start Date	March 28, 2011

Preface

A. Proposal Questions/Inquiries

Prospective Bidders will have one opportunity to submit written questions and requests for clarification regarding this Request for Proposal (RFP). All questions regarding this RFP must be submitted via e-mail (preferred), fax or mail and be received by the date and time specified in the Schedule of Events. Questions must reference the relevant page and section of the RFP and must be directed to one of the designated contacts identified below:

E-mail: bfs_contracts@tax.state.ny.us
Fax: (518) 435-8413
Written Correspondence: New York State Department of Taxation and Finance
Attn: Catherine Golden, Assistant Director
Procurement Services Unit
W A Harriman State Campus
Albany, NY 12227

Prospective Bidders should note that all clarifications and exceptions, including those relating to the terms and conditions of the RFP, are to be resolved prior to the submission of a bid. Bidders entering into a contract with the State are expected to comply with all the terms and conditions contained herein.

All inquiries concerning this solicitation must be addressed to one of the following designated contacts:

Catherine Golden	(518) 457-0954	bfs_contracts@tax.state.ny.us
Dorothy Lechmanski	(518) 457-0954	bfs_contracts@tax.state.ny.us
Cindy Isgro	(518) 457-0954	bfs_contracts@tax.state.ny.us
Christine DiVeglia	(518) 457-0954	bfs_contracts@tax.state.ny.us

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 (DTF or Department) guidelines posted on the Department's procurement website at: <http://www.nystax.gov/procurement>, and additional requirements in Section VI.B.14, Administrative Contract Conditions and Requirements.

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

New York State Finance Law 139-j(6)(b) requires that the 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 website at: <http://www.nystax.gov/procurement>.

Offerer's are requested to sign and submit Attachment A: Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines Form by the date and time specified in the Schedule of Events. This may be submitted in conjunction with Bidder questions.

C. Proposal Amendments/Announcements

All Amendments, clarifications and any announcements related to this bid will be posted on the Department's Procurement website at: <http://www.nystax.gov/procurement>.

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.

D. Response to Bidder Questions and Requests for Clarification

The Department will provide a written response to all substantive questions and requests for clarification. Responses to Bidder questions and requests for clarifications will be posted on the Department's Procurement website at: <http://www.nystax.gov/procurement>.

E. Notification of Intent to Bid

If your firm is submitting a proposal in response to the RFP, a "Notification of Intent to Bid," Attachment B, should be completed and submitted by the date and time specified in the Schedule of Events.

F. Submission of Proposals

The Bidder must submit their proposal by the date and time specified in the Schedule of Events and as instructed in Section VII, Proposal Submission.

RFP Key Points

- 1. Read the RFP in its entirety.** Note key items such as: critical dates, qualifying and mandatory requirements, services required and proposal packaging requirements.
- 2. Note the name, address, phone numbers and e-mail address of the designated contacts.** These are the only individuals that you are allowed to contact regarding this RFP.
- 3. All amendments, clarifications, Bidder questions with the Department responses and any announcements relating to this bid will be posted on the Department's website.** It is the Bidder's responsibility to check the Department's website periodically for any updates. All applicable amendment information must be incorporated into the Bidder's proposal. Failure to include this information in your proposal may result in disqualification or a reduced technical score.
- 4. Take advantage of the question and answer period.** Submit your questions to one of the designated contacts by the date and time listed in the Schedule of Events. Responses and copies of the questions will be posted on the Department's Procurement website at: <http://www.nystax.gov/procurement>.
- 5. File an "Intent to Bid" form by the date listed in the Schedule of Events.**
- 6. Provide complete answers/descriptions. Bidder proposals must completely address all qualifying and mandatory requirements.** To ensure you are not unnecessarily disqualified from bid evaluation, thoroughly read all proposal requirements and provide complete responses. Use all the forms provided to submit your response.
- 7. Review the RFP document and your proposal.** Make sure all requirements are addressed and all copies are identical and complete.
- 8. Package your proposal as required in the RFP.** Make sure your proposal conforms to the packaging requirements. Proposals not packaged accordingly may be deemed non-responsive.
- 9. Submit your proposal on time.** Proposals received after the date and time in the Schedule of Events will not be considered for award and may be returned, unopened, to the sender, except as allowed in Section VI.A.16.h.

I. INTRODUCTION

A. Purpose

The Department of Taxation and Finance (DTF or Department) is soliciting proposals from qualified entities to provide Security Guard Services at the Department's buildings 8 and 9 of the W.A. Harriman State Campus, Albany, NY. Qualified entities are those that meet the requirements identified in Section III, Qualifying Requirements.

The Department reserves the right to add security guard services at additional localities located in District 1 (defined in the Prevailing Wage Schedule for Article 9 Public Work Projects (Exhibit 1, PRC#2010900890) as Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren and Washington counties) at the contract billing rates identified on the Bidder's Attachment J, Financial Proposal, at any time during the Contract term.

B. Background

Recently there has been a shift in employee assignments that has left a need to supplement the Department's ability to secure the entrance and exit points at the Department's Albany facility. There are no security guards employed directly by the Department, however, DTF currently has a short-term security guard contract with a vendor that has been providing services for the past few months. In addition, DTF has peace officers stationed in both buildings 8 and 9. The special duties of the peace officers are as defined under NYS CPL Section 2.10 and do **not** include building security. They are assigned to the Criminal Investigations Division for enforcing the Tax Law, and to the Office of the Deputy Inspector General (ODIG) for investigating criminal wrong-doing involving DTF employees. However, ODIG will assist DTF, upon request, when there are building security breaches.

The Department is a tenant in these NYS Office of General Services owned buildings (buildings 8 and 9 on the W.A. Harriman State Office Campus). The majority of the Staff in the buildings is DTF staff; however, employees from the NYS Office for Technology (OFT), the Office of the State Comptroller (OSC) and OGS also occupy portions of these buildings. Additionally, various vendors occupy or are allowed access to the buildings.

Building 8 consists of a basement, ground, and nine (9) floors, is approximately 424,000 square feet in size and houses approximately 2,500 people. There are two main entrances – one on the Washington Avenue side of the building and one on the Western Avenue side of the building. The Washington Avenue entrance is utilized by approximately 900 staff daily. The Western Avenue entrance is accessed by approximately 1,600 employees daily and various deliveries are also made through this entrance. There is also a dock area for deliveries and a glass "tunnel" that connects buildings 8 and 9.

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Building 9 has four (4) floors, is approximately 150,000 square feet in size and has approximately 1,100 people. There is one main entrance on the Western Avenue side of the building. There is also a back dock area which is locked at all times and is only used for OGS building staff and cleaners.

C. Program Overview

The Department is seeking five (5) Full-time (FT) unarmed, uniformed guards and one (1) Part-time (PT) unarmed, uniformed guard, Monday through Friday, except New York State holidays, to be stationed at the following locations:

- Building 8 Reception booths (various entrances);
- Building 8 loading dock;
- Building 8 Vendor lunch access door; and
- Building 9 Reception booth.

The above listed locations are subject to change at the sole discretion of DTF. The Department reserves the right to increase or decrease the number of guards to serve the best interest of the Department. Any increase in services or material change may require written Amendment with the approval of the Offices of the Attorney General and the State Comptroller.

D. Contract Term

The Department will award one contract to the successful bidder for a five-year period commencing upon approval of the New York State Attorney General and the Office of the State Comptroller. The successful Bidder must sign a contract within thirty (30) days after the Notification of Intent to Award. If the successful Bidder fails to do so, the Department reserves the right to begin negotiations with the second highest rated Bidder.

II. SCOPE OF SERVICES

The Contractor is to provide security guard services that meet all requirements under this RFP.

A. Contractor Requirements

1. All security guards must meet the requirements of the New York State Security Guard Act (hereinafter "Security Guard Act") contained within Articles 7 and 7-A of the General Business Law as well as the requirements of this RFP. The Contractor is required to maintain documented evidence that the guards meet all these qualifications prior to guards starting work and continuing throughout the term of the contract. Upon request, copies of the documents evidencing compliance with the Security Guard Act and the terms and conditions of the awarded contract shall be furnished within forty-eight (48) hours to DTF. Information that is statutorily excluded from disclosure shall not be required to be disclosed. Contractors are required to make readily available for inspection or audit by the State copies of such documentation as required by DTF to ensure compliance with all terms and conditions of the contract.

The Contractor must provide to the DTF Building Facility Manager or designee a Certification of Compliance Statement (Exhibit 2) for each guard prior to the guard commencing work at the building. It is the obligation of the Contractor to also maintain current and updated copies of the Certification of Compliance forms in each guard's file for review by the State.

2. The Contractor must provide a copy of the satisfactory (negative) drug test results prior to guards reporting to work. These drug tests shall be taken either through a urine sample or mouth swab (oral fluid) for, at a minimum, marijuana, cocaine, opiates, amphetamines, and phencyclidine, meeting Substance Abuse and Mental Health Services Administration (SAMHSA) standardized cut-off levels. Tests shall be performed within 60 days of initial assignment of each guard to DTF by the Contractor. The contractor may not perform self-testing for drug usage as it must be administered by a third-party vendor.
3. The Contractor must maintain a copy of each guard's I-9 Employment Eligibility Form in the guard file.
4. The Contractor must have background investigations performed at the Contractor's expense, the results of which demonstrate that the individual is of sound moral character. This background investigation should include a check of:
 - All prior employers,
 - Criminal records through the NYS Division of Criminal Justice Services (DCJS) and the FBI,
 - A minimum of two personal references, and
 - Credit history.

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5. The Contractor shall be completely responsible for the work of its assigned guards, including any damages or breakdowns caused by their failure to take appropriate action.
6. The Contractor shall provide distinctive and appropriate guard uniforms in keeping with weather conditions and seasons and to ensure that the guards are neat and clean in appearance. The company name by which the guard is employed shall be worn and prominently displayed as part of the uniform along with the guard's valid DOS Photo ID Registration.
7. The following equipment may be required for each guard and shall be provided by the Contractor at the Contractor's expense, such as an operable flashlight, pen, pencil, watch, memo book, etc;
8. The Contractor must make a phone number available to DTF where the Contractor's manager of the security guards can be reached on a 24-hour basis, providing open lines of communication between the Contractor and DTF.
9. The Contractor shall ensure one guard is designated as an on-site liaison between DTF, the Contractor and the other guards.
10. The Contractor agrees that the contract may not be assigned, transferred, conveyed by the Contractor, or the work subcontracted.
11. This is a full service contract. For the purposes of this contract, full service shall mean that the Contractor's bid price includes, but is not necessarily limited to: all labor, all material and equipment cost; all emergency work; all administrative, reporting or other requirements, all overhead costs and profit. It shall also include all travel costs, and any other ancillary fees and costs including permits, licenses, insurance, etc.
12. The Contractor agrees to provide, to the best of their ability, consistency of assignment of guards to avoid frequent changes in personnel.

B. Guard Requirements

All guards are required, to the extent possible, to contact the DTF Facility Manager or designee one week prior to their start date to provide administrative information (e.g., social security number), in order to obtain access to DTF systems.

Each Security Guard must:

1. Have been licensed by the State of New York as a security guard for no less than six (6) months and provide a copy of the license to the Department prior to beginning work;
2. Be at least 18 years of age;

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3. Be able to communicate in English clearly and concisely with DTF personnel and visitors; understand both spoken and written English; and prepare incident reports.
4. Be able to use a standard alpha/numeric keyboard (e.g., typing information into a computer);
5. Be able to use a two-way radio for communication.
6. Be in good physical condition to perform the essential duties of the position;
7. Provide a copy of their current DOS Photo ID card to the Building/Facility Manager's Office;
8. Have completed all DOS and Department of Criminal Justice Services (DCJS) security guard training requirements;
9. Complete any additional DTF sponsored training as deemed necessary by the Department;
10. Visibly display the DOS Photo ID on the guard's person at all times while on duty;
11. Provide documentation to the Contractor evidencing completion of high school or General Equivalency Diploma (GED).
12. Provide the Contractor with evidence of a medical exam (performed within one year prior to assignment) attesting to the fitness of the guard to perform the essential duties of the position.

C. Coverage and Shifts

1. Coverage

Coverage and security must be maintained on the site in the event of both anticipated and unanticipated absenteeism and tardiness. Therefore, it is the obligation of the Contractor to maintain sufficient staffing. The Contractor will be expected to have a procedure in place in which the guards can communicate both tardiness and absences in a fashion that allots enough time for a replacement guard acceptable to DTF to be retained for the shift in question without any additional cost to the State. The DTF Facility Manager or designee shall be notified prior to the replacement guard starting any shift or in the event of tardiness. Minor modifications, if any, to the guard hours after the award shall be negotiated between DTF and the Contractor and may be considered outside the scope of the original award. This shall be determined on a case-by-case basis.

The Department may assess a financial penalty equivalent to the billable services of an individual guard for one eight-hour work day when the guard or replacement guard is two hours or more late reporting for duty. 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, expenses, or other remuneration of any kind.

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2. Shifts

Five (5) full-time Security Guards and one (1) part-time security guard must be on site Monday - Friday as indicated below. This is the Department's need at the current time. Schedules, including any overtime, may be modified in the future at the Department's sole discretion.

Three (3) Full-Time Guards from 6:45 am to 2:45 pm

One (1) Full-Time Guard from 6:45 am to 5:00 pm

One (1) Full-time Guard from 9:00 am to 5:00 pm

One (1) Part-Time Guard from 11:00 am to 1:30 pm **between May 1 and October 1 only.**

Please note that guard services will not be required on New York State holidays.

A standard work day will consist of an 8-hour day with a work shift of 7.5 hours inclusive of two 15-minute breaks, and an unpaid meal period of one-half hour. A standard work day for the guard who will be working an additional 2.25 hours per day will consist of a 10.25 hour day with a work shift of 8 hours, 1.75 hours of paid overtime, two 15-minute breaks, and an unpaid meal period of one-half hour. Overtime paid by the Department to the Contractor will be calculated at a rate of 1.5 times the prevailing basic cash hourly rate plus the supplemental benefits plus the Contractor's mark-up.

Overtime is defined as any time worked more than eight (8) hours in any one day or forty (40) hours in any workweek. Guards shall be paid wages for such overtime at a rate not less than one-and-one half (1.5) times their prevailing basic cash hourly rate and supplemental benefits rate, if applicable. Other than the one full-time position identified above with the standard work day of 10.25 hours, DTF does not anticipate paying any additional overtime under this contract. However, in the event DTF approves additional overtime for any guard working in excess of 8 hours in any one day or 40 hours in any workweek, DTF will pay overtime as indicated above. The Contractor will be responsible for scheduling guards so that shifts do not exceed the parameters identified in the prevailing wage schedule for which overtime pay is required. In the event that overtime is necessary to maintain coverage due to scheduling problems on the part of the Contractor, the Contractor shall pay the appropriate overtime rate to the guard. The Contractor shall not bill DTF for such overtime.

If for any reason a guard is required to respond to an emergency at the time of his/her meal period; their meal period will be adjusted for that day. All guards will be required to maintain coverage and may have their schedule adjusted for that day to reflect the emergency. Minor modifications requested by the Contractor, if any, to the designated guard hours after the award shall be negotiated between DTF and the Contractor and may be considered outside the scope of the original award. This shall be determined on a case-by-case basis. Contractors are required to maintain certified payrolls and DTF may, at any time, request certified payroll records to verify guard payment rates.

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The one guard scheduled to work from 9 am to 5 pm will be designated as the Floater to cover the other four full-time guards' breaks and lunch periods and cover the Building 8 and 9 entrances on a rotational basis.

Vacation schedules of the Contractor's staff will be discussed in advance with the DTF Facility Manager, or designee, to ensure uninterrupted coverage. DTF will not reimburse the Contractor for vacation, holiday or sick time for the Contractor's employees.

3. Holidays

The following are the legal holidays to be recognized under this contract:

New Year's Day	Columbus Day
Martin Luther King, Jr.'s Birthday	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	
Labor Day	

D. Mandatory Restrictions for all Guards

1. No smoking allowed by guard in other than designated outdoor smoking areas and only during scheduled breaks and meal period.
2. No personal use by guard of DTF's telephones, computers or telecommunications equipment, without prior permission from the Facility Manager or designee.
3. No guard is to bring any weapon of any type into any building, including but not limited to the following: firearms, knives, billy clubs, nightsticks, blackjacks, gas discharge guns, etc.
4. No guard is to bring into any building or carry on patrol any radio other than the two-way radio provided by DTF, recorder, television, reading material, music maker, game or pictorial material unless approved in writing by the DTF Facility Manager or designee.
5. No guard shall be under the influence or carry the odor of alcoholic beverages while on duty, nor shall any guard carry or consume any alcoholic beverage while on duty.
6. No guard shall be under the influence of, carry or ingest a controlled substance as defined in the Penal Law of the State of New York while on duty, except as prescribed by medical authorities and then only if the guard's performance of duties shall not be impaired in any way.

E. Post Award Requirements

1. Prior to beginning work, DTF reserves the right to approve or disapprove of any guard(s) assigned to the Department. If any of the guards do not meet the mandatory requirements at the time of their assignment to the Department, another candidate will be selected. If the Contractor cannot provide security guards that meet the mandatory requirements, DTF retains the right to cancel the award.

Upon first reporting to the facility for assignment, the guard must:

- Present to the Facility Manager or designee a valid DOS Photo ID Registration which must be visibly displayed on the guard at all times.
- Provide a NOTARIZED CERTIFICATION OF COMPLIANCE (See "Exhibit 2") which must be signed and dated by Contractor and notarized. A copy must be maintained in the Contractor's office within the assigned guard's file and available for audit.
- Complete DTF administrative forms (e.g., photo ID and parking, etc.). Note: The Department will provide on-site parking for each of the security guards hired.

Additionally:

- It is the obligation of the Contractor to maintain current and all prior copies of the Certification of Compliance forms in each guard's file for review by the State.
- Guards shall at all times maintain a neat and professional appearance and conduct themselves with proper decorum.

2. DTF, in its sole judgment, may require the removal of any guard failing to meet contract requirements or for nonperformance of any duty. DTF shall give Contractor as much prior notice as is reasonable for the requested removal and replacement and shall advise the Contractor in writing within twenty-four (24) hours of such request.

3. In the event a Contractor deems an assigned guard no longer meets the terms and conditions of the Contract, Contractor shall immediately notify the DTF Facility Manager, remove and replace the guard from the DTF location, and follow-up by notifying DTF of such removal in writing, within twenty-four hours of such removal/replacement.

F. Guard Duties

Areas of responsibility may include, but are not limited to:

1. Protecting offices, buildings, grounds, appurtenances and occupants against:

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- Fire
 - Vandalism
 - Theft
 - Loitering
 - Trespassing
 - Burglaries/Unlawful Entry
 - Bodily harm
 - Building system malfunctions and deficiencies (i.e., water leaks, open windows, non-working lights, etc.)
2. Reporting any serious incidents promptly to 911 and DTF Operations Support personnel for response. When 911 is dialed, response is by State Police, Albany Fire Department and potentially Mohawk Ambulance, or the local ambulance provider. Examples of these incidents would be fire, violent storm, or a disruptive activity that may constitute a danger to the building or its environs, or to any visitors, employees, or building occupants. Also, every effort should be made to sound any mechanical or electronic alarms in such building, in order to alert responsible parties to such potential danger.
 3. Contacting Office of Deputy Inspector General when State Police enter the building.
 4. Ensuring that each employee entering Department buildings is in possession of his/her photo ID. For those employees not in possession of their photo IDs, issuing temporary badges to employees, visitors and vendors upon arrival utilizing current computer based system (ONSIGHT); preventing employees on the "Do Not Enter" system from obtaining a temporary badge and/or entering facilities; and ensuring all required log sheets used in the issuance of both employee and visitor badges are properly completed and maintained.
 5. Maintaining records on the ONSIGHT computer system of various badges issued and returned. Must be able to utilize a standard alpha/numeric keyboard. Daily changing of temporary badge rolls to various colors in booth printers at the end of the day.
 6. Monitoring and providing assistance with any electronic device or appliance used in the performance of one's duties. (e.g., badge entry system, two-way radios and optical turnstiles should there be future installations along these lines.)
 7. Investigating and responding to alarm(s) activated due to local perimeter door breaches and ensuring door is secured for re-arming as well as daily routine arming and unarming.
 8. Activating panic alarm in booth if necessary and providing assistance if any of the six (6) panic alarms is activated.
 9. Adhering to and assisting with designated break and lunch schedules, providing for rotational breaks and booth changes as needed to maintain guard coverage at all entrances as required.

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10. Assisting with the monitoring and testing of all building alarm systems.
11. Providing quarterly testing of all perimeter doors.
12. Assisting with maintaining exterior building requirements such as enforcing regulations concerning loitering and smoking restrictions and the identification and removal of illegally parked vehicles in fire lanes.
13. Providing assistance with preparing anticipated visitor's list, badges and/or other administrative procedures for admittance to the building(s) on the following work day.
14. Securing building at closing where appropriate, including, but not limited to shutting off lights, arming the alarm systems and locking doors.
15. Receiving visitors and deliveries including, but not limited to personal deliveries, OGS deliveries, vendor water and other document deliveries and providing assistance in contacting appropriate Departmental staff. Security guards will not handle cash of any kind. Any monetary deliveries would be handled by appointment with a DTF employee. Note: The Department will have a Building 9 receptionist available for incoming deliveries made other than to the dock area.
16. Participating in building evacuations, medical emergencies and any other emergency incidents as directed by the Incident Commander or Agency Health and Safety Officer; assisting with re-entry proceedings following emergency evacuations.
17. Notifying Operation Support personnel of any and all facility related concerns reported to the security booth (e.g., elevator malfunction, parking lot problems, cars with lights left on, etc.).
18. Communicating with employees, visitors and vendors through telephone and face-to-face contact.
19. Assisting with and providing requested reports pertaining to facility access.
20. Utilizing Departmental surveillance equipment when necessary by viewing a video display terminal screen that ties into the surveillance cameras as well as utilizing scanners for 911 dispatches to Department locations and to alert Tenant Safety Organization (TSO) staff and assisting with emergency procedures if necessary.
21. Submitting timesheets in the format prescribed by DTF and meeting designated time and attendance requirements.
22. Patrolling building corridors and grounds checking all points of entry and secure areas when not assigned to cover an entrance.
23. Adhering to the Secrecy Provisions of the Tax Law.

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24. Conferring with the DTF representative, if present, or the guard being relieved, to determine if there are any special instructions for the upcoming tour(s) of duty prior to providing relief of the on-site guard.

G. Prevailing Wage Rate Advisory Notice

Work being bid is subject to the prevailing wage rate provisions of Article 9 of the New York State Labor Law and Bidders are advised that overtime must be paid for individuals working more than eight hours in any one calendar day or for more than forty (40) hours in any one week. The current prevailing wage rates are attached as **Exhibit 1, PRC 2010900890**. The **Prevailing Wage Rate as of the issuance of this RFP is \$13.22** and the rate for **Supplemental Benefits is \$1.74** for **District 1: Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren, and Washington counties**.

Note: Contractors are required to post the prevailing wage rates in a prominent and accessible place at their work site and inform employees of the posting. The Department will provide a copy of the prevailing wage rates to the Contractor. In addition, DTF will also post the prevailing wage rates in a prominent and accessible place and inform Contractor's employees of the posting.

Contractors are required to pay the guards no less than the current prevailing wage rates at the time the guard provides the service. Contractors are advised that DTF may make random inquiries of guards employed by the Contractor as to the rate of wages being paid and may request certified copies of one or more weekly payrolls of the Contractor to verify proper payment of wages.

Any discrepancy found in information supplied will be reported to the Department of Labor for investigation and may result in a termination of the contract. Willful violations of the prevailing wage provisions of the Labor Law may result in debarment from the bidding and award of public contracts.

III. QUALIFYING REQUIREMENTS

Only qualified entities may submit a proposal in response to this RFP. A qualified entity is defined as one that meets all of the following qualifying requirements. Entities not meeting these qualifying requirements should not submit a proposal. Qualifications A - D listed below will be evaluated in Phase I of the evaluation process as outlined in Section VIII.

A. Licensing

The Bidder must possess a current license from the New York State Department of State (DOS) as a Watch, Guard or Patrol Agency, or a Private Investigator. This license must authorize the Bidder to operate this business in New York State.

Response Requirement

Each Bidder must complete and submit **Attachment 2, Licensing Response Form**, attaching a copy of the contractor's current license.

B. 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 Section VI.B.9 prior to commencement of work to be performed by the Contractor.

Response Requirement

Each Bidder must complete and submit **Attachment 3, Insurance Response Form** attaching a copy of the contractor's current certificate of insurance.

C. Experience

The Bidder must have been in the business of providing security guard services handling industrial, commercial, institutional or government accounts for at least three years immediately prior to the bid due date.

Response Requirement

The Bidder must provide evidence that they have had security guard contracts for the three-year requirement. The Bidder may provide information for a maximum of two contracts to meet this requirement.

Note: Contract information submitted in response to this requirement will be evaluated as client experience and references as detailed in Section IV.A. Please see this section for additional detail.

Each Bidder must complete and submit **Attachment 4, Qualifying Experience Response Form**.

D. Attestation

The Bidder must attest it has read, understands and agrees to abide by all the terms and conditions outlined in Section II - Scope of Services of this RFP.

Response Requirement

Each Bidder must complete and submit **Attachment 5, Attestation and Designation of Prime Contact.**

IV. TECHNICAL REQUIREMENTS

The purpose of the technical response is to demonstrate the qualifications, competence and capacity of the Bidder to perform services required to meet DTF requirements as outlined in this RFP. Certain requirements are considered critical to successful contract implementation. This section outlines specific requirements the Bidder must address to be evaluated in response to this RFP. The Bidder must provide all information requested and must be as specific as possible to insure DTF can evaluate and score the Bidder's response appropriately. Incomplete or vague responses will negatively impact the technical score. All responses to the RFP will be subject to verification for accuracy.

The Bidder is solely responsible for providing references that are readily available to be contacted by DTF and will respond to reference questions. 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. The Bidder may receive a reduced technical score if DTF is unable to verify required responses.

Please Note: Cost information must not be included in technical response documentation.

A. Experience and References

Bidders who have met the qualifying experience requirements have met the minimum requirements for Bidder Experience. **The contract information that the Bidder is submitting for the qualifying requirements as required in Section III.C must also be included as the contract information in response to the technical requirements required in this section.**

The Department will contact the security guard experience references provided in response to the Qualifying Requirements in Section III.C to evaluate the Bidder's past performance.

1. Experience

It is desirable that the Bidder have prior experience in providing security guard services similar in nature, size and scope to the services stated herein such as:

- State, Federal or local Government
- Multiple building entrances
- High volume traffic flow
- Multiple connected buildings
- Electronic badge system

The Bidder should select contracts that best meet the criteria to be evaluated. The Bidder must have satisfactory references for these contracts.

2. References

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The Department will contact client references to evaluate the Bidder's performance related to providing security guard services.

The Bidder shall be solely responsible for providing information including contact names, e-mail addresses and phone numbers for up to three (3) client references who are readily available to be contacted by the Department and capable of responding to performance questions. If DTF is unable to contact or obtain information from any reference, the Bidder will be provided one opportunity, with a deadline, to assist in obtaining cooperation from those clients who have not responded.

Response Requirement

Each Bidder must complete and submit **Attachment 6, Technical Experience and Reference Response Form** with information for up to three (3) separate contracts in response to this Section IV.A .1 Experience and IV.A.2 References to evaluate past experience.

Please note as indicated in Section III.C, the contract(s) submitted for the qualifying experience must also be submitted in response to this section.

B. Staffing and Recruiting

The Bidder must have sufficient staffing and administrative procedures to provide security guards to the Department as defined in Section II, Scope of Services.

Response Requirement

Each Bidder must complete and submit **Attachment 7, Staffing and Recruiting Response Form** with the following information:

- An established no-show coverage plan, including procedures for communicating both tardiness and absences for timely replacement of guard(s);
- The supervisory structure of guards;
- A description of how background checks are performed by the Bidder (other than DOS requirements);
- What the Bidder's drug testing policy is;
- Bidder's education/experience requirements (other than DOS requirements); and
- What Bidder's customer service policies and techniques are.

C. Resource Retention Policies

Continuity and stability of guards is an important factor to DTF; and thus, retaining resources and increased workforce stability is critical. Many vendors provide health care benefits, retirement benefits, training and other incentives to encourage retention, such as paid vacation/sick time, cash bonuses, training, etc. DTF will evaluate the Bidder's resource retention policies.

Response Requirement

Each Bidder must complete and submit **Attachment 8, Resource Retention Policies Response Form.**

V. FINANCIAL REQUIREMENTS

A. Financial Proposal

The Bidder must provide the percent bid mark-up that will be applied to the Wage Rate. The Wage Rate is defined as the current prevailing wage rate **plus supplemental benefits** as set forth by the New York State Department of Labor (DOL). The current prevailing wage rates are attached to this RFP as Exhibit 1, PRC 2010900890. Bidders may submit percentages that go to the 2nd decimal place (example 15.25%).

All costs associated with the requirements of this RFP including, but not limited to travel, training, licenses, insurance, administrative, profit and other ancillary costs, must be incorporated into the Bidder's pricing proposal. **No other add-on costs will be permitted.** Bidders who fail to complete and submit **Attachment J, Financial Response Form**, will be deemed non-responsive and the Bidder's proposal will be removed from further evaluation.

Financial Response Requirement

The Bidder must complete and submit **Attachment J, Financial Response Form**.

Please Note: The Financial proposal **must** be submitted in a **separate binder or sealed envelope**, not included with the Technical or Administrative Proposals. Failure to comply with the mandatory format may result in disqualification.

B. Contractor Reimbursement

Upon issuance of a contract, the Wage Rate will be the rate in effect on the date work is complete for the purposes of billing the Department. The percent bid over this price will be the Contract Billing Hourly Rate calculated and listed on the invoice. Example:

WAGE RATE** (based on current PRC including supplemental benefits)	"Example" % BID MARK-UP	"Example" CONTRACT BILLING HOURLY RATE
<u>\$ 14.96</u>	<u>15.25 %</u>	<u>\$ 17.24</u>

****Please note:** *The Wage Rate is calculated by adding the current prevailing basic cash hourly rate of \$13.22 plus the current supplemental benefits rate of \$1.74.*

The Contract Billing Hourly Rate is calculated by multiplying the Wage Rate by the % Bid Mark-Up.

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The Contractor will be reimbursed monthly, in arrears, upon receipt of a proper invoice in accordance with Article XI-A of the NYS Finance Law.

Reimbursement to the Contractor from DTF will be calculated as follows:

The Contract Billing Hourly Rate *times* the actual number of hours worked

The Contractor's security guards will be required to submit timesheets in a manner prescribed by DTF. The Contractor's invoice must indicate the security guard name(s), hours worked, invoice period and the Hourly Wage Rate as defined above.

As is noted in the Scope of Services, a minimal amount of overtime will be required. Overtime paid by the Department to the Contractor will be calculated at a rate of 1.5 times the prevailing basic cash hourly rate plus the supplemental benefits plus the Contractor's mark-up.

For purposes of any contract resulting from this RFP, the percent bid mark-up provided in response this RFP will remain unchanged throughout the contract term. However, the percent bid mark-up will always apply to the then current prevailing wage rate, which is updated annually on July 1. Therefore, as the wage rates change, the hourly rates invoiced will change accordingly. The individual guards shall always be paid, at a minimum, the then current prevailing wage and supplemental benefits rates, if applicable.

VI. ADMINISTRATIVE REQUIREMENTS

This section outlines the administrative requirements concerning the Request for Proposal, the Bidder's response and conditions related to any awarded contract.

A. Administrative Proposal Conditions

With the submission of a response to this Request for Proposal, the Bidder agrees to the proposal conditions outlined in this Section VI. A.

1. Issuing Agency

This RFP 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 RFP 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 of the portions of the Bidder's proposal not specifically noted as proprietary.

5. Proposal Security

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

Public inspection of the bids is regulated by the Freedom of Information Law (Article 6 of the Public Officers Law). The bids are presumptively available for public inspection. If this would be unacceptable to Bidder's, they should apply to the Department for trade secret protection for their bid.

In applying for trade secret protection, it would be unacceptable to indiscriminately categorize the entire proposal as such. The Bidder should point out those sections of the proposal that are trade secrets and explain the reasons therefore. The Bidder may wish to review with its legal counsel Restatement of Torts, Section 757, comment b, and the cases under the Federal Freedom of

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Information Act, 5 USC Section 522, as well as the Freedom of Information Act. The Department will review applications and grant trade secret protection, if appropriate.

The public officers' code of ethics (Section 74 of the Public Officers Law) sets the standard that no officer or employee of a State agency shall disclose confidential information that he acquires during the course of his official duties. These standards control the confidentiality of a Bidder's proposal unless the Department grants a petition for records access in accordance with the Freedom of Information Law.

Bidders should be advised that the confidentiality of their proposals is founded upon statute, as described above. A nondisclosure agreement, whether prescribed by the Department or the Bidder, would not alter the rights and responsibilities of either party under the Freedom of Information Law. Bidders should not propose a nondisclosure agreement for Department employees, for that would be legally ineffective to alter any legal responsibility under the Freedom of Information Law or the code of ethics.

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

6. Timely Submission

The 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.

7. Proposal Effective Period

The Bidder's proposal must be firm and binding for a period of at least 180 days following the proposal due date.

8. Bid Opening

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

9. Bidder Proposal Clarification and Revision

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.

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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 RFP.

10. Bid Evaluation and Selection

See **Section VIII: Proposal Evaluation**, regarding bid selection and evaluation methodology. To the extent permitted by law, Bidder proposals shall not be disclosed, except for purposes of evaluation and approval, prior to approval of the 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. Contract Negotiations and Authorized Negotiators

During contract negotiations, the Department must 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.

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 RFP shall be notified of such non-selection.

13. Proposal Review and Contract Approval

Any contract resulting from this RFP will not be effective until approved by the Office of the Attorney General and the Office of the State Comptroller.

14. Debriefing Sessions

Bidders will be notified in writing 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.

15. Bid Protest Policy

The Department's procedures for handling protests of bid awards are set forth in **Appendix B: Bid Protest Policy**.

16. Reserved Rights

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

- a. Change any of the scheduled dates herein.

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- b. Amend RFP 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 RFP, at its sole discretion.
- d. Make an award under the RFP in whole or in part.
- e. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the RFP.
- f. Eliminate a mandatory requirement when all Bidders cannot meet such requirement.
- g. Waive any requirements that are not material.
- h. Evaluate, accept and/or reject any and all proposals, in whole or in part, and to waive technicalities, irregularities, and omissions if, in the Department's considered judgment, the best interests of the Department will be served. In the event compliant bids are not received, the Department reserves the right to consider late or non-conforming bids as offers.
- i. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's proposal and/or to determine a Bidder's compliance with the requirements of the RFP.
- j. Require the Bidder to demonstrate, to the satisfaction of the Department, any information presented as a part of their proposal.
- k. 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 RFP.
- l. Determine a tie breaking mechanism for award of the contract to serve the best interests of the State.
- m. Negotiate with the successful Bidder within the scope of the RFP to serve the best interests of the State.
- n. Conduct contract negotiations with the next ranked responsible Bidder should the Department be unsuccessful in negotiating an agreement with the selected Bidder.
- o. If the Department must terminate the contract for non-performance or is unable to maintain the support required, the Department reserves the right, with the approval of the Attorney

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General and the Office of the State Comptroller, to award a contract to the next highest ranked Bidder of the original bid submission within the first twelve months of the award.

B. Administrative Contract Conditions and Requirements

With the submission of a response to this Request for Proposal, the Bidder agrees to the contract conditions outlined in this Section VI. B unless the Bidder proposes extraneous terms (see Section VI.B.18).

1. Appendix A

Appendix A – Standard Clauses for New York State Contracts will be incorporated, in its entirety, into any contract resulting from this RFP.

2. Payments

All payments will be made in accordance with Article XI-A of the New York State Finance Law.

3. Public Announcements

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

4. Minority and Women-Owned Business Enterprises

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

NYS Department of Economic Development
Division for Small Business
30 South Pearl Street
Albany, New York 12245
Phone: (518) 292-5250 Fax: (518) 486-6416
<http://www.nylovesmwbe.ny.gov>

A. Participation Levels

The Contractor agrees to make good faith efforts to promote and assist the participation of certified minority-business enterprises (MBE) as subcontractors and suppliers on this agreement for the provision of services and materials in the amount of one percent (1%) of the total dollar value of this agreement, and women-owned business enterprises (WBE) as subcontractors and

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suppliers on this agreement for provision of service and materials in the amount of one percent (1%) of the total dollar value of this agreement.

Any percentages established in a State Contract are subject to the requirements of Article 15-A of the Executive Law and the regulations published pursuant to thereto, which from time to time may be amended; and

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

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

Please address your ability to obtain participation levels in response to this RFP.

B. Guidelines for Utilization

M/WBE participation in various types of subcontracts, supply, leasing and other activities may be considered by the Contractor.

C. Reports

The Contractor is required to complete and submit an M/WBE Schedule of Utilization listing participation of any certified M/WBEs on this contract if goals other than zero percent are established.

Any modification in M/WBE utilization should be forwarded on a revised M/WBE Schedule of Utilization. For purposes of this section, modification means those changes which reduce or increase the dollar amount to be actually performed by an M/WBE, a change in the type of work to be performed, or the addition of other M/WBEs.

Any contractor who willfully and intentionally fails to comply with applicable minority and women-owned business enterprises (MWBE) contract participation requirements shall be liable to the Department for liquidated damages as agreed to in the Contract or other appropriate damages, as agreed to by the parties or as determined in an appropriate action.

5. Equal Opportunity Standard Language

a. Contractors and subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group member and women are afforded equal opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, affirmative action shall apply in all areas of recruitment, employment, job assignment promotion, upgrading demotion, transfer, layoff or termination, and rates or other forms of compensation.

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- b. Prior to the award of a State Contract, the Contractor shall submit an Equal Employment Opportunity (EEO) Policy Statement within the time frame established by the Department.
- c. The Contractor's EEO Policy Statement shall contain, but not necessarily be limited to; and the Contractor, as a precondition to entering into a valid and binding State contract, shall, during the performance of the State contract, agree to the following:
- The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status; will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination; and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts.
 - The Contractor shall state in all solicitations or advertisements for employees that, in 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.
 - At the request of the Department, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative, will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- d. Except for construction contracts, prior to an award of a State contract, the Contractor shall submit to the Department a staffing plan of the anticipated work force to be utilized on the State contract or, where required, information on the Contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal Occupational categories or other appropriate categories specified by the Department.
- e. After execution of a State contract, the Contractor shall submit to the Department a work force utilization report (to be updated quarterly during the life of the contract), of the work force actually utilized on the State contract, broken down by specified ethnic background, gender, and Federal Occupational categories or alternatively submit, where the work force on the contract cannot be separated out from the Contractor's work force, semi-annual information on the total work force.

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f. If the Contractor does not submit an EEO Policy Statement and a Staffing Plan of anticipated work force prior to award, the bid will be rejected unless a reasonable justification for such failure is provided in writing or a commitment made to provide said documents by a date specified by the Department.

6. Omnibus Procurement Act of 1982

The Omnibus Procurement Act of 1982 requires that by signing this bid proposal, 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 on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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

c. The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or by 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;

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

7. 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 shall cooperate fully with the Department to the extent permitted by law to investigate and identify the responsible individuals. Contractor shall, to the extent permitted by law, make their employees and all relevant records, including personnel records and employee photographs, available to Department investigators upon request by the Department's Office of Deputy Inspector General. The Department may interview Contractor's employees and/or agents in connection with an investigation during normal business hours.

8. Cover Letter

A transmittal letter must be signed by an official authorized to bind the Bidder to its provisions.

Response Requirement:

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The cover letter must be signed by an official authorized to bind the Bidder to proposal provisions.

The cover letter must include the following:

- The complete name and address of the bidding entity;
- The Federal or Taxpayer Identification Number of the entity; and
- An affirmation that the proposal is binding for the required period indicated in Section VI.A.7.

9. Contractor Insurance Requirements

Prior to the 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 (hereinafter referred to as "DTF"), Certificates of Insurance (hereinafter referred to as "Certificates"), evidencing compliance with all requirements contained in this Contract. Such Certificates shall be of a form and substance acceptable to DTF. Certificate acceptance and/or approval by DTF does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Contract.

All insurance required by the Contract shall be obtained at the sole cost and expense of the Contractor; shall be maintained with insurance carriers licensed to do business in New York State, and acceptable to DTF; shall be primary and non-contributing to any insurance or self insurance maintained by DTF; shall be endorsed to provide written notice be given to DTF, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail; shall be sent to the New York State Department of Taxation and Finance, W. A. Harriman State Office Building Campus, Procurement Services Unit, Albany, New York, 12227, Attention: Ms. Catherine Golden, Assistant Director, and shall name The People of the State of New York, its officers, agents, and employees as additional insureds there under (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 26 11 85 and a copy of the endorsement should accompany the certificate). The additional insured requirement does not apply to Workers Compensation, Disability or Employee Dishonesty Coverage.

The Contractor shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by DTF. Such approval shall not be unreasonably withheld.

Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to DTF and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.

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The Contractor shall cause all insurance to be in full force and effect as of the commencement date of this Contract and to remain in full force and effect throughout the term of this Contract and as further required by this Contract. The Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect. Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply to DTF updated replacement Certificates of Insurance, and amendatory endorsements.

The Contractor, throughout the term of this Contract, or as otherwise required by this Contract, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by the terms of this Contract, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

a) Commercial General Liability Insurance with a limit of not less than \$5,000,000 each occurrence. Such liability shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, and liability assumed in a contract (including the tort liability of another assumed in a contract).

If such insurance contains an aggregate limit, it shall apply separately on a per job or per project basis.

Coverage for the use of reasonable force to protect persons and property must be included.

b) Employee dishonesty coverage on money, securities, or property other than money and securities, including property in your care, custody or control with a limit of not less than \$1,000,000. The coverage shall include all employees including contract and temporary, whether identified or not, acting alone or in collusion with others. A joint loss payable endorsement shall be attached naming DTF as loss payee to any loss arising out of this contract.

c) Commercial Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non owned automobiles.

d) The Contractor shall maintain errors and omissions liability insurance with a limit of not less than \$5,000,000 per loss. Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services covered by this Contract.

If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the effective date of this Contract; and that continuous coverage will be

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maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this Contract is completed.

e) WORKERS' COMPENSATION / DISABILITY INSURANCE:

Workers' Compensation, Employer's Liability, and Disability Benefits meeting all New York State statutory requirements are required. If coverage is obtained from an insurance company through an insurance policy, the policy shall provide coverage for all states of operation that apply to the performance of the contract. In addition, if employees will be working on, near or over navigable waters, coverage provided under the US Longshore and Harbor Workers' Compensation Act must be included. Also, if the contract is for temporary services, or involves renting equipment with operators, the Alternate Employer Endorsement, WC 00 03 01A, must be included on the policy naming the People of the State of New York as the alternate employer.

PROOF of COMPLIANCE WITH WORKERS' COMPENSATION COVERAGE REQUIREMENTS:

ACORD forms are NOT acceptable proof of workers' compensation coverage.

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, Contractors shall:

A) Be legally exempt from obtaining workers' compensation insurance coverage;

or

B) Obtain such coverage from insurance carriers;

or

C) Be a Board-approved self-insured employer or participate in an authorized self-insurance plan.

Contractors seeking to enter into contracts with the State of New York shall provide one of the following forms to DTF at the time of bid submission or shortly after the opening of bids:

A) Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required which is available on the Workers' Compensation Board's website (www.wcb.state.ny.us);

or

B) Certificate of Workers' Compensation Insurance:

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1) Form C-105.2 (9/07) if coverage is provided by the Contractor's insurance carrier, Contractor must request its carrier to send this form to the New York State Office of General Services;

or

2) Form U-26.3 if coverage is provided by the State Insurance Fund, Contractor must request that the State Insurance Fund send this form to the New York State Office of General Services;

or

C) Certificate of Workers' Compensation Self-Insurance - Form SI-12, available from the New York State Workers' Compensation Board's Self-Insurance Office;

or

D) Certificate of Participation in Workers' Compensation Group Self-Insurance Form GSI-105.2, available from the Contractor's Group Self-Insurance Administrator.

PROOF of COMPLIANCE WITH DISABILITY BENEFITS COVERAGE REQUIREMENTS:

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, Contractors shall:

A) Be legally exempt from obtaining disability benefits coverage;

or

B) Obtain such coverage from insurance carriers;

or

C) Be a Board-approved self-insured employer.

Contractors seeking to enter into contracts with the State of New York shall provide one of the following forms to the Office of General Services at the time of bid submission or shortly after the opening of bids:

A) Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required which is available on the Workers' Compensation Board's website (www.wcb.state.ny.us);

or

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B) Form DB-120.1, Certificate of Disability Benefits Insurance. Contractor must request its business insurance carrier to send this form to the New York State Office of General Services;

or

C) Form DB-155, Certificate of Disability Benefits Self-Insurance. The Contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

All forms must name the Department of Taxation and Finance – WA Harriman State Office Campus, Albany, NY 12227, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

Waiver of Subrogation. Contractor shall cause to be included in each of its policies a waiver of the insurer's right of subrogation against DTF, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Contractor waives or has waived before the casualty, the right of recovery against DTF or (ii) any other form of permission for the release of DTF.

Contractor acknowledges that failure to obtain any or all required insurance on behalf of DTF constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to DTF.

10. Vendor Responsibility Questionnaire

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

Upon identification of the Bidder with the highest score, the Bidders' Responsibility Questionnaire will be analyzed to ensure that the Bidder is responsible.

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

Response Requirement

Bidders must complete a Vendor Responsibility Questionnaire. Bidders are invited to file the required Vendor Responsibility Questionnaire online via the OSC New York State VendRep system or may choose to complete and submit a paper questionnaire. To enroll and use the New York State VendRep system, see the VendRep system instructions available at: www.osc.state.ny.us/vendrep 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 e-mail at helpdesk@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.

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Bidders that have filed a Vendor Responsibility Questionnaire online that has been certified/updated within the last six months or Bidders opting to file online must complete Attachment C, **Vendor Responsibility Form**. 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.

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

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

11. MacBride Fair Employment Principles Form

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.

Response Requirement

Each Bidder must complete and submit **Attachment D, MacBride Fair Employment Principles form**.

12. Designation of Prime Contact

This designation will last for the entire evaluation process and contract negotiations, and the Bidder must certify that this individual is authorized to respond on the behalf of the Bidder. Any change in this designation must be submitted in writing to the Department and include a revised form.

Response Requirement

Each Bidder must **submit their designation of Prime Contact on Attachment 5, Attestation and Designation of Prime Contact**.

13. Non-Collusive Bidding Practices Certification

A bid shall not be considered for award nor shall any award be made where the conditions of the Non-Collusive Bidding Certification have not been complied with; provided, however, that if in any

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

Response Requirement

The Bidder is responsible for reading, signing and submitting **Attachment E, Non-Collusive Bidding Certification**.

14. Procurement Lobbying

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 contract 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 Request for Proposal. 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.nystax.gov/procurement>.

Contacting individuals other than the designated contacts listed in the Preface Section of this document during the restricted period may result in disqualification of the Bidder's proposal – please refer to the Procurement Lobbying Law and the Department's guidelines posted on the Department's website at: <http://www.nystax.gov/procurement>.

a. 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: (1) a violation of State Finance Law §139-

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j to (2) 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 or 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

Each Bidder must complete and submit the **Attachment F, Offerer Disclosure of Prior Non-Responsibility Determinations**.

b. 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 Governmental Entity with respect to State Finance Law 139-k is complete, true and accurate.

The Department reserves the right to terminate any Contract award as a result of this RFP 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.

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Response Requirement

Each Bidder must complete and submit **Attachment G, Offerer Certification of Compliance with State Finance Law 139-k(5)**.

15. Secrecy Provisions (DTF-202)

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

Response Requirement

Each Bidder must complete and submit **Attachment H, DTF-202, New York State Department of Taxation and Finance - Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code**.

16. Ethics Compliance

All Bidders/contractors and their employees must comply with Public Officers Law §§73 and 74, Chapter 1 of the Laws of 2005, the Procurement Lobbying Reform Act of 2005, and other State statutes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the bid, the Bidder 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 disqualification from the bidding process, termination of Contracts, and/or other civil or criminal proceedings as required by law.

Response Requirement

Each Bidder must complete and submit the **Attachment I, Public Officers Law Form**, which addresses business or professional activities by state officers and employees and party officers. This form shall be made part of the resultant contract.

17. Sales and Compensating Use Tax Documentation

Pursuant to Tax Law Section 5-a, Bidders will be required to complete and sign, under penalty of perjury, **Exhibit A, the Contractor Certification Form ST-220**. Bidders must also submit a copy of the Certificate of Authority, if available, for itself, any affiliates, and any subcontractors required to register to collect state sales and compensating use tax. If Certificates of Authority are unavailable, the Contractor, affiliate, subcontractor or affiliate of subcontractor must represent that it is registered and that it has conferred such status with the Department.

Exhibit A provides the Contractor Certification Forms and Instructions for completing the forms. ST-220-TD must be filed with and returned directly to the Department address provided on the form.

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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 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 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 1-800-698-2931 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 Department's website: <http://www.nystax.gov>.

18. Proposed Extraneous Terms

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

Response Requirement

The Bidder must attach any objections to the terms and conditions outlined in Section VI.B. or **Exhibit C**.

Only those extraneous terms that meet all 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.

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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 which do not meet the above requirements will not be considered part of the bid or resulting contract, but rather will be deemed to have been included for informational or promotional purposes only.

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

19. Request for Exemption from Disclosure

As outlined in Section VI.A.5, public inspection of bid proposals is regulated by the Freedom of Information Law (Article 6 of the New York State Public Officers Law). The bids are presumptively available for public inspection. If this would be unacceptable to Bidders, they should apply to the Department for trade secret protection of their bid.

In applying for trade secret protection, it would be unacceptable to indiscriminately categorize the entire proposal as such.

Response Requirement

To obtain trade secret protections, the Bidder must submit with its response, a letter specifically identifying the page number, line or other appropriate designation of the information that is trade secret and explain in detail why such information is a trade secret and would be exempt from disclosure.

VII. PROPOSAL SUBMISSION

The Bidder must provide a response that clearly and precisely provides all required information. Emphasis should be placed on conformance with the RFP instructions, responsiveness to the RFP requirements and clarity of the intent.

Proposals that do not comply with these instructions or do not meet the full intent of all of the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsive.

The Department does not require, nor desire, any excessive promotional material which does not specifically address the response requirements of this RFP.

A. Proposal Content and Organization

To facilitate in the evaluation process, the Bidder must organize the proposal into three distinct volumes as follows:

- Volume One: Qualifying and Technical Requirements
- Volume Two: Administrative Requirements
- Volume Three: Financial Requirements

1. Volume One format

Volume One should contain a table of contents with page numbers and each section should be tabbed as follows:

- a. Tab 1 – Qualifying Requirements
- b. Tab 2 – Technical Requirements

2. Volume Two Format

This volume must contain the Administrative Response Requirements.

3. Volume Three Format

This volume must contain the Financial Proposal.

B. Submission of Proposals

The Bidder must submit two (2) originals and four (4) copies of Volume One: Qualifying and Technical Requirements; two (2) originals of Volume Two: Administrative Requirements; and two (2) originals of Volume Three: Financial Requirements. All volumes must be bound separately, be clearly identified and should contain page numbers.

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To facilitate requests for information under the Freedom of Information Law, Contractors are requested to provide an electronic copy on CD-ROM or DVD of their complete proposal in a non-pdf format (e.g., MS Word, Excel, etc.) to allow for redaction of trade secret/proprietary information.

Proposals must be received by the date and time specified in the Schedule of Events.

To facilitate the evaluation process, the proposal must be packaged and submitted as outlined in this section. Faxed or electronically transmitted proposals **will not** be accepted.

Bidder proposals must be enclosed in sealed containers with the following visibly inscribed on the outside of all containers:

New York State Department of Taxation and Finance
Attn: Catherine Golden, Assistant Director
Procurement Services Unit
W. A. Harriman State Office Building Campus
Albany, NY 12227

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

"BID ENCLOSED"
RFP 10-22
Security Guard Services
Bid Submission Date and Time

Please note: Deliveries by delivery services (e.g., UPS, FedEx, etc.) and/or requiring a signature of receipt should be addressed to the Department's Campus address, however, the delivery service must be instructed to deliver the bid documents to the following address:

90 Cohoes Avenue
Green Island, NY 12183

Only under circumstances identified in Section VI.A.16, will the Department consider any proposals received after the time and date specified in the Schedule of Events. In the event a package is not labeled properly as described in this Section, the Department reserves the right to inspect the contents of the package(s) to determine 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.

VIII. PROPOSAL EVALUATION

Pursuant to Article XI of the State Finance Law, the basis for contract award under this RFP will be “best value” optimizing quality, cost and efficiency among responsive and responsible Bidders.

A. Proposal Clarification and Revision

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 RFP.

B. Evaluation Process Overview

There will be two phases to the evaluation process. Proposals which pass Phase One of the evaluation will be further evaluated in Phase Two.

1. Phase One Evaluation

All timely submitted proposals will be evaluated in Phase One. Proposals will be evaluated in the following areas:

a. Proposal Screening (Pass/Fail)

Each proposal will be screened for completeness and conformance to with the Department requirements for proposal submission as specified in this RFP. Proposals which do not meet the requirements may be labeled as non-responsive and may not be given further consideration.

b. Qualifying Requirements (Pass/Fail)

All proposals that pass the Proposal Screening will be evaluated to determine the Bidder meets the Qualifying Requirements specified in Section III: Qualifying Requirements. If all Qualifying Requirements are not met, the Bidder’s proposal will be labeled non-responsive and will not be given further consideration.

2. Phase Two Evaluation

Bidders who pass Phase One of the evaluation will be further evaluated as follows:

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a. Technical Evaluation – 60 points

Information provided on Attachments 6-8 will be evaluated for the extent to which they meet and exceed the requirements as specified in Section IV. The areas being evaluated are weighted as follows:

- Experience and References – 30%
- Resource Retention Policies – 25%
- Staffing and Recruiting – 5%

b. Financial Evaluation – 40 points

Financial proposals will be scored based on the Bidder's response to the Financial Requirements.

C. Final Ranking/Contract Award

After completion of Phase Two, the scores will be combined to determine the final Bidder ranking. The contract will be awarded to the Bidder whose proposal obtains the highest aggregate score.

The table below summarizes the evaluation point distribution:

Evaluation Component	Points
Technical Evaluation	60
Financial Evaluation	40
TOTAL	100

In the event that Bidders receive the same final score, the Department will use the following scores, in the order listed, to determine final ranking:

- The Bidder's Financial Score
- The Bidder's Technical Score
- The Bidder's prior experience with the Department
- Determination by the Commissioner or designee

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Exhibit 1 – PRC 2010900890



David A. Paterson, Governor

Colleen C. Gantner, Commissioner

Dept. of Taxation and Finance
BFS Contracts, Mailbox
Dept. of Taxation and Finance
State Campus
Bldg. 9, Room 234
Albany NY 12227

Schedule Year 2010 through 2011
Date Requested 10/06/2010
PRC# 2010900890

Location Albany
Project ID# RFP 10-22
Occupation Type(s) Guards, Watchmen

PREVAILING WAGE SCHEDULE FOR ARTICLE 9 PUBLIC WORK PROJECT

Attached is the current schedule(s) of the prevailing wage rates and prevailing hourly supplements for the project referenced above. A unique Prevailing Wage Case Number (PRC#) has been assigned to the schedule(s) for your project.

If work on the contract continues beyond the expiration date set forth in the Wage Schedule, new rates and expiration dates will be made available online as part of the original PRC Prevailing Wage Schedule determination automatically, without further filings or requests from the Public Agency.

It is the responsibility of the contracting agency or its agent to annex and make part, the attached schedule, to the specifications for this project, when it is advertised for bids and /or to forward said schedules to the successful bidder(s), immediately upon receipt, in order to insure the proper payment of wages.

Please refer to the "General Provisions of Laws Covering Workers on Article 9 Public Work Building Service Contracts" provided with this schedule, for the specific details relating to other responsibilities of the Department of Jurisdiction.

Upon completion or cancellation of this project, enter the required information and mail OR fax this form to the office shown at the bottom of this notice, OR fill out the electronic version via the NYSDOL website.

NOTICE OF COMPLETION / CANCELLATION OF PROJECT

Date Completed: _____ Date Cancelled: _____
Name & Title of Representative: _____

Phone: (518) 467-5589 Fax: (518) 485-1870
W. Averell Harriman State Office Campus, Bldg. 12, Room 130, Albany, NY 12240

www.labor.state.ny.us

FW 200.9

PWask@labor.state.ny.us

New York State Department of Taxation and Finance
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General Provisions of Laws Covering Workers on Article 9 Public Work Building Service Contracts

Introduction

The Labor Law requires public work contractors and subcontractors to pay a service employee under a contract for building service work for a public agency, a wage of not less than the prevailing wage and supplements (fringe benefits) in the locality for the craft, trade, or occupation of the service employee. Such a public work building service contract must be in excess of one thousand five hundred dollars (\$1,500.00).

Building service employee includes, but is not limited, to, watchman, guard, doorman, building cleaner, porter, handyman, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, window cleaner, and occupations relating to the collection of garbage or refuse, and to the transportation of office furniture and equipment, and to the transportation and delivery of fossil fuel but does not include clerical, sales, professional, technician and related occupations.

Building service employee also does not include any employee to whom the provisions of Article 8 are applicable.

Responsibilities of the Public Agency

A Public Agency means the state, any of its political subdivisions, a public benefit corporation, a public authority or commission or special purpose district board appointed pursuant to law, and a board of education.

The Public Agency responsible for preparing the specifications for a building service contract must file a statement identifying the types of employees and work to be performed with the New York State Commissioner of Labor, or other fiscal officer*. A separate filing is required for every building service contract. Only one filing is required for each contract, regardless of the duration of the contract. To file with the Commissioner of Labor, the Public Agency MUST submit a Request for Wage and Supplement Information" form (PW 39) to the Bureau of Public Work, either online, by fax, or by mail.

In response to each filing, the Bureau of Public Work will assign a Prevailing Rate Case (PRC) number to each building service contract, and will issue a Prevailing Wage Schedule setting forth the wage rates required to be paid for work performed and the expiration date of those rates. If work on the contract continues beyond the expiration date set forth in the Wage Schedule, new rates and expiration dates will be made available online as part of the original PRC Prevailing Wage Schedule determination automatically, without further filings or requests from the Public Agency.

The Commissioner of Labor makes an annual determination of the prevailing rates. This determination is in effect from July 1st through June 30th of the following year.

The Public Agency must include in the specifications for each building service contract the PRC number assigned to such contract and stipulation obligating the contractor to pay not less than the wage rates set forth in the Prevailing Wage Schedule issued under that PRC number.

Upon the awarding of the contract, the law requires that the Public Agency furnish the following information to the Bureau of Public Work: the name and address of the contractor, the date the contract was let and the approximate dollar value of the contract. To facilitate compliance with this provision of the Labor Law, a copy of the Bureau's "Notice of Contract Award" form (PW 18.9) is provided with the original Prevailing Rate Schedule. The Public Agency is required to notify the Bureau of the completion or cancellation of any public work building service contract. The Bureau's PW 200.9 form is provided for this purpose.

Hours

A building service employee, employed by a contractor, shall work up to eight (8) hours in any one day and up to forty (40) hours in any workweek for the appropriate posted prevailing wage rate. A building service employee who works more than eight (8) hours in any one day or more than forty (40) hours in any workweek shall be paid wages for such overtime at a rate not less than one-and-one-half (1.5) times his prevailing basic cash hourly rate.

Wages and Supplements

The wages and supplements to be paid and/or provided to a building service employee, employed on a public work contract shall be not less than those listed in the Prevailing Rate Schedule provided with the awarded contract. In no event shall the basic hourly cash rate of pay be less than the statutory minimum wage or in a city with a local law requiring a higher minimum wage on city contract work, less than the minimum wage specified in such local law.

If a prime contractor on a public work contract has not been provided with a Prevailing Rate Schedule, the contractor must notify the Public Agency who in turn must request an original Prevailing Rate Schedule form the Bureau of Public Work.

* The New York State Commissioner of Labor is the fiscal officer on all building service contracts except for those performed by or on behalf of a city, in which case the fiscal officer is the comptroller or other analogous officer of the city.

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Requests may be submitted by: mail to NYSDOL, Bureau of Public Work, State Office Bldg. Campus, Bldg. 12, Rm. 130, Albany, NY 12240; Fax to Bureau of Public Work (518) 485-1870; or electronically at the NYSDOL website www.labor.state.ny.us.

Upon receiving the original schedule, the Public Agency is REQUIRED to provide complete copies to all prime contractors who in turn MUST, by law, provide copies of all applicable county schedules to each subcontractor and obtain from each subcontractor, an affidavit certifying such schedules were received.

Payrolls and Payroll Records

Every contractor and subcontractor MUST keep original payrolls or transcripts subscribed and affirmed as true under penalty of perjury. Payrolls must be maintained for at least three (3) years from the project's date of completion. At a minimum, payrolls must show the following information for each person employed on a public work project: Name; Social Security number; the craft, trade or occupation in which the worker was employed; Hourly wage rate(s) paid; Supplements paid or provided; and Daily and weekly number of hours worked in each craft, trade or occupation.

In addition, the Commissioner of Labor may require contractors to furnish, with ten (10) days of a request, payroll records sworn to as their validity and accuracy for public work and private work. Payroll records include, by are not limited to time cards, work description sheets, proof that supplements were provided, cancelled payroll checks and payrolls. Failure to provide the requested information within the allotted ten (10) days will result in the withholding of up to 25% of the contract, not to exceed \$100,000.00. The records required to be maintained shall be kept on the site of the work during all of the time that work under the contract is being performed.

All contractors or their subcontractors shall provide to their subcontractors a copy of the Prevailing Rate Schedule specified in the public work contract as well as any subsequently issued schedules. A failure to provide these schedules by a contractor or subcontractor is a violation of Article 9, Section 237 of the Labor Law. The prime contractor is responsible for any underpayments of prevailing wages or supplements by any subcontractor.

All subcontractors engaged by a public work project contractor or its subcontractor, upon receipt of the original schedule and any subsequently issued schedules shall provide to such contractor a verified statement attesting that the subcontractor has received the Prevailing Rate Schedule and will pay or provide the applicable rates of wages and supplements specified therein. (See NYS Labor Law, Article 9, Section 237).

Withholding of Payments

When a complaint is filed with the Commissioner of Labor alleging the failure of a contractor or subcontractor to pay or provide the prevailing wages or supplements, or when the Commissioner of Labor believes that unpaid wages or supplements may be due, payments on the public work contract shall be withheld from the prime contractor in a sufficient amount to satisfy the alleged unpaid wages and supplements, including interest and civil penalty, pending a final determination.

When the Bureau of Public Work finds that a contractor or subcontractor on a public work contract failed to pay or provide the requisite prevailing wages or supplements, the Bureau is authorized by Sections 235.2 of the Labor Law to so notify the financial officer of the Public Agency that awarded the public work contract. Such officer MUST then withhold or cause to be withheld from any payment due the prime contractor on account of such contract the amount indicated by the Bureau as sufficient to satisfy the unpaid wages and supplements, including interest and any civil penalty that may be assessed by the Commissioner of Labor. The withholding continues until there is a final determination of the underpayment by the Commissioner of Labor or by the court in the event a legal proceeding is instituted for review of the determination of the Commissioner of Labor.

The Public Agency shall comply with this order of the Commissioner of Labor or of the court with respect to the release of the funds so withheld.

Summary of Notice Posting Requirements

The current Prevailing Rate Schedule must be posted in a prominent and accessible place on the site of the public work contract.

Apprentices

Employees cannot be paid apprentice rates unless they are individually registered in a program registered with the NYS Commissioner of Labor. The allowable ratio of apprentices to journeymen in any craft classification can be no greater than the statewide building trade ratios promulgated by the Department of Labor and included with the Prevailing Rate Schedule. An employee listed on a payroll as an apprentice who is not registered as above or is performing work outside the classification of work for which the apprentice is indentured, must be paid the prevailing journeyworker's wage rate for the classification of work the employee is actually performing.

NYSDOL Labor Law, Article 9, Section 231-7a, require that only apprentices individually registered with the NYS Department of Labor may be paid apprenticeship rates on a public work project. No other Federal or State Agency of office registers apprentices in New York State.

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Persons wishing to verify the apprentice registration of any person must do so in writing by mail, to the NYS DOL Office of Employability Development / Apprenticeship Training, State Office Bldg., Campus, Bldg. 12, Albany, NY 12240 or by Fax to NYS DOL Apprenticeship Training (518) 457-7154. All requests for verification must include the name and social security number of the person for whom the information is requested.

The only conclusive proof of individual apprentice registration is written verification from the NYS DOL Apprenticeship Training Albany Central office. Neither Federal nor State Apprenticeship Training offices outside of Albany can provide conclusive registration information.

It should be noted that the existence of a registered apprenticeship program is not conclusive proof that any person is registered in that program. Furthermore, the existence or possession of wallet cards, identification cards, or copies of state forms is not conclusive proof of the registration of any person as an apprentice.

Interest and Penalties

In the event that an underpayment of wages and/or supplements is found:

- Interest shall be assessed at the rate then in effect as prescribed by the Superintendent of Banks pursuant to section 14-a of the Banking Law, per annum from the date of underpayment to the date restitution is made.
- A Civil Penalty may also be assessed, not to exceed 25% of the total of wages, supplements, and interest due.

Debarment

Any contractor or subcontractor and/or its successor shall be ineligible to submit a bid on or be awarded any public work contract or subcontract with any state, municipal corporation or public body for a period of five (5) years when:

- Two (2) willful determinations have been rendered against that contractor or subcontractor and/or its successor within any consecutive six (6) year period.
- There is any willful determination that involves the falsification of payroll records or the kickback of wages or supplements.

Criminal Sanctions

Willful violations of the Prevailing Wage Law (Article 9 of the Labor Law) constitute a misdemeanor punishable by fine or imprisonment, or both.

Discrimination

No employee or applicant for employment may be discriminated against on account of age, race, creed, color, national origin, sex, disability or marital status.

No contractor, subcontractor nor any person acting on its behalf, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates (NYS Labor Law, Article 9, Section 239-1).

No contractor, subcontractor, nor any person acting on its behalf, shall in any manner, discriminate against or intimidate any employee on account of race, creed, color, disability, sex, or national origin (NYS Labor Law, Article 9, Section 239-2).

The Human Rights Law also prohibits discrimination in employment because of age, marital status, or religion.

There may be deducted from the amount payable to the contractor under the contract a penalty of \$50.00 for each calendar day during which such person was discriminated against or intimidated in violation of the provision of the contract (NYS Labor Law, Article 9, Section 239-3).

The contract may be cancelled or terminated by the State or municipality. All monies due or to become due thereunder may be forfeited for a second or any subsequent violation of the terms or conditions of the anti-discrimination sections of the contract (NYS Labor Law, Article 9, Section 239-4).

Every employer subject to the New York State Human Rights Law must conspicuously post at its offices, places of employment, or employment training centers notices furnished by the State Division of Human Rights.

Workers' Compensation

In accordance with Section 142 of the State Finance Law, the contractor shall maintain coverage during the life of the contract for the benefit of such employees as required by the provisions of the New York State Workers' Compensation Law.

A contractor who is awarded a public work contract must provide proof of workers' compensation coverage prior to being allowed to begin work.

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The insurance policy must be issued by a company authorized to provide workers' compensation coverage in New York State. Proof of coverage must be on form C-105.2 (Certificate of Workers' Compensation Insurance) and must name this agency as a certificate holder.

If New York State coverage is added to an existing out-of-state policy, it can only be added to a policy from a company authorized to write workers' compensation coverage in this state. The coverage must be listed under item 3A of the information page.

The contractor must maintain proof that subcontractors doing work covered under this contract secured and maintained a workers' compensation policy for all employees working in New York State.

Every employer providing worker's compensation insurance and disability benefits must post notices of such coverage in the format prescribed by the Workers' Compensation Board in a conspicuous place on the jobsite.

Unemployment Insurance

Employers liable for contributions under the Unemployment Insurance Law must conspicuously post on the jobsite notices furnished by the New York State Department of Labor.

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New York State Department of Labor
Bureau of Public Work
SOBC - Bldg. 12 - Rm. 130
Albany, NY 12240
www.labor.ny.gov

IMPORTANT NOTICE

Regarding Article 9 Building Service Contract Schedules

(For all Article 9 Building Service Contracts associated with Prevailing Wage Schedules assigned on or after 8/1/2010)

- Building Service rates (Article 9) will be determined annually on July 1 of each year. They are in effect through June 30 of the following year. Similar to Article 8, vendors must pay the newly determined rates each year. The DOL web site has a page where vendors can enter their specific PRC number to find the correct wage rates for their contracts.
- This change does NOT affect current projects and projects that have previously requested PRC numbers. The rates in those contracts will remain effective.
- All extensions to current contracts will require a new schedule and this change will apply to those extensions and subsequent contracts
- A generic Article 9 wage schedule is now available online.

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Last Published on Aug 19 2010

Published by the New York State Department of Labor
PRC Number 2010900890

Introduction to the Prevailing Rate Schedule

Introduction

The Labor Law requires public work contractors and subcontractors to pay a service employee under a contract for building service work for a public agency, a wage of not less than the prevailing wage and supplements (fringe benefits) in the locality for the craft, trade, or occupation of the service employee. Such a public work building service contract must be in excess of one thousand five hundred dollars (\$1,500).

Requesting a Wage Schedule

For every building service contract, the public agency must file a statement identifying the types of employees and work to be performed by submitting a Request for Wage and Supplement Information form (FW 3B) to the Bureau of Public Work, either online, by fax, or by mail. The Commissioner of Labor makes an annual determination of the prevailing rates. This determination is in effect from July 1st through June 30th of the following year. The Public Agency must include the specifications for each building service contract the PRC number assigned to such contract and stipulation obligating the contractor to pay not less than the wage rates set forth in the Prevailing Wage Schedule issued under that PRC number.

Hours

A building service employee, employed by a contractor, shall work up to eight (8) hours in any one day and up to forty (40) hours in any workweek for the appropriate posted prevailing wage rates. A building service employee who works more than eight (8) hours in any one day or more than forty (40) hours in any workweek, shall be paid wages for such overtime at a rate not less than one-and-one-half (1.5) times the prevailing basic cash hourly rate.

Wages and Supplements

The wages and supplements to be paid and/or provided to a building service employee, employed on a public work contract shall be not less than those listed in the Prevailing Rate Schedule.

Payrolls and Payroll Records

Every contractor and subcontractor MUST keep original payrolls or transcripts subscribed and affirmed as true under penalty of perjury. Payrolls must be maintained for at least three (3) years from the projects date of completion.

At a minimum, payrolls must show the following information for each person employed on a public work project: name; social security number; the craft, trade or occupation in which the worker was employed; hourly wage rate(s) paid; supplements paid or provided; and daily and weekly number or hours worked in each craft, trade or occupation.

NOTE: For more detailed information regarding Article 9 prevailing wage contracts, please refer to "General Provisions of Laws Covering Workers on Article 9 Public Work Building Service Contracts".

If you have any questions concerning the attached schedule or would like additional information, please write to:

New York State Department of Labor
Bureau of Public Work
State Office Campus, Bldg. 12
Albany, NY 12240

OR

Contact the nearest BUREAU of PUBLIC WORK District Office

District Office Locations:	Telephone #	FAX #
Bureau of Public Work - Albany	518-457-2744	518-485-0240
Bureau of Public Work - Binghamton	607-721-8005	607-721-8004
Bureau of Public Work - Buffalo	716-847-7159	716-847-7650
Bureau of Public Work - Garden City	516-228-3915	516-794-3518
Bureau of Public Work - Newburgh	845-568-5267	845-568-5332
Bureau of Public Work - New York City	212-352-8088	212-352-8580

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Bureau of Public Work - Patchogue	631-687-4883	631-687-4804
Bureau of Public Work - Rochester	585-258-4505	585-258-4708
Bureau of Public Work - Syracuse	315-428-4056	315-428-4871
Bureau of Public Work - Utica	315-793-2314	315-793-2514
Bureau of Public Work - White Plains	914-997-9507	914-997-9523
Bureau of Public Work - Central Office	518-457-5588	518-485-1870

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Published by the New York State Department of Labor
PRC Number 2010900890 Albany County

Albany County Article 9

Guards, Watchmen **08/19/2010**

JOB DESCRIPTION Guards, Watchmen

DISTRICT 1

ENTIRE COUNTIES

Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren, Washington

WAGES

Per hour: 08/01/10
\$13.22

IMPORTANT INFORMATION:

Article 9 §230.B. "Prevailing wage" means the wage determined by the fiscal officer to be prevailing for the various classes of building service employees in the locality. In no event shall the basic hourly cash rate of pay be less than the statutory minimum wage established by article nineteen of this chapter, or, in a city with a local law requiring a higher minimum wage on city contract work, less than the minimum wage specified in such local law.

SUPPLEMENTAL BENEFITS

Per hour worked: \$1.74

OVERTIME PAY

See (B, B2) on OVERTIME PAGE

HOLIDAY

Paid: See (1) on HOLIDAY PAGE

1-NYSIR&S

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Overtime Codes

Following is an explanation of the code(s) listed in the OVERTIME section of each classification contained in the attached schedule. Additional requirements may also be listed in the HOLIDAY section.

- (A) Time and one half of the hourly rate after 7 hours per day
- (AA) Time and one half of the hourly rate after 7 and one half hours per day
- (B) Time and one half of the hourly rate after 8 hours per day
- (B1) Time and one half of the hourly rate for the 9th & 10th hours week days and the 1st 8 hours on Saturday. Double the hourly rate for all additional hours
- (B2) Time and one half of the hourly rate after 40 hours per week
- (C) Double the hourly rate after 7 hours per day
- (C1) Double the hourly rate after 7 and one half hours per day
- (D) Double the hourly rate after 8 hours per day
- (D1) Double the hourly rate after 9 hours per day
- (E) Time and one half of the hourly rate on Saturday
- (E1) Time and one half 1st 4 hours on Saturday. Double the hourly rate all additional Saturday hours
- (E3) Between November 1st and March 3rd Saturday may be used as a make-up day at straight time when a day is lost during that week due to inclement weather, provided a given employee has worked between 16 and 32 hours that week
- (E2) Saturday may be used as a make-up day at straight time when a day is lost during that week due to inclement weather
- (E4) Saturday and Sunday may be used as a make-up day at straight time when a day is lost during that week due to inclement weather
- (F) Time and one half of the hourly rate on Saturday and Sunday
- (G) Time and one half of the hourly rate on Saturday and Holidays
- (H) Time and one half of the hourly rate on Saturday, Sunday, and Holidays
- (I) Time and one half of the hourly rate on Sunday
- (J) Time and one half of the hourly rate on Sunday and Holidays
- (K) Time and one half of the hourly rate on Holidays
- (L) Double the hourly rate on Saturday
- (M) Double the hourly rate on Saturday and Sunday
- (N) Double the hourly rate on Saturday and Holidays
- (O) Double the hourly rate on Saturday, Sunday, and Holidays
- (P) Double the hourly rate on Sunday
- (Q) Double the hourly rate on Sunday and Holidays
- (R) Double the hourly rate on Holidays
- (S) Two and one half times the hourly rate for Holidays, if worked
- (S1) Two and one half times the hourly rate the first 8 hours on Sunday or Holidays. One and one half times the hourly rate all additional hours.
- (T) Triple the hourly rate for Holidays, if worked

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- (U) Four times the hourly rate for Holidays, if worked
- (V) Including benefits at SAME PREMIUM as shown for overtime
- (W) Time and one half for benefits on all overtime hours.

NOTE: BENEFITS are PER HOUR WORKED, for each hour worked, unless otherwise noted

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Holiday Codes

PAID Holidays:

Paid Holidays are days for which an eligible employee receives a regular day's pay, but is not required to perform work. If an employee works on a day listed as a paid holiday, this remuneration is in addition to payment of the required prevailing rate for the work actually performed.

OVERTIME Holiday Pay:

Overtime holiday pay is the premium pay that is required for work performed on specified holidays. It is only required where the employee actually performs work on such holidays. The applicable holidays are listed under HOLIDAYS: OVERTIME. The required rate of pay for these covered holidays can be found in the OVERTIME PAY section listings for each classification.

Following is an explanation of the code(s) listed in the HOLIDAY section of each classification contained in the attached schedule. The Holidays as listed below are to be paid at the wage rates at which the employee is normally classified.

- (1) None
- (2) Labor Day
- (3) Memorial Day and Labor Day
- (4) Memorial Day and July 4th
- (5) Memorial Day, July 4th, and Labor Day
- (6) New Year's, Thanksgiving, and Christmas
- (7) Lincoln's Birthday, Washington's Birthday, and Veterans Day
- (8) Good Friday
- (9) Lincoln's Birthday
- (10) Washington's Birthday
- (11) Columbus Day
- (12) Election Day
- (13) Presidential Election Day
- (14) 1/2 Day on Presidential Election Day
- (15) Veterans Day
- (16) Day after Thanksgiving
- (17) July 4th
- (18) 1/2 Day before Christmas
- (19) 1/2 Day before New Years
- (20) Thanksgiving
- (21) New Year's Day
- (22) Christmas
- (23) Day before Christmas
- (24) Day before New Year's
- (25) Presidents' Day
- (26) Martin Luther King, Jr. Day
- (27) Memorial Day

New York State Department of Taxation and Finance
Request for Proposal (RFP) #10-22 - Security Guard Services

Exhibit 2 – Certification of Compliance

New York State Department of Taxation and Finance
Request for Proposal (RFP) #10-22 - Security Guard Services

CERTIFICATION OF COMPLIANCE

(To be filed with NYS Department of Taxation & Finance and a copy maintained by Contractor)

I, _____, have reviewed all of the terms and conditions of the New York State Department of Taxation and Finance (DTF) Request for Proposal (RFP) #10-22 prior to assigning and/or directing a Security Guard(s) to provide Guard Services at the specified Level by DTF.

I certify, under penalty of perjury, that Security Guard _____, NYS Department of State Registration No. _____ Issue date _____, meets all of the qualifications required for the position of Security Guard as requested by DTF for assignment at W.A. Harriman State Campus Bldg. 8 and 9 as set forth in RFP #10-22.

Dated: _____
Printed Name _____
Signature _____
Contractor _____

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.

Signed this _____ day of _____, 20_____

Notary Public

State: _____

New York State Notary Number: _____

New York State Department of Taxation and Finance
Request for Proposal (RFP) #10-22 - Security Guard Services

Exhibit A – Contractor Sales Tax Certification Forms



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)

ST-220-CA
(6/06)

For information, consult Publication 223, *Questions 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)					
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)			Estimated contract value over the full term of contract (but not including renewals) \$
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 ST-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).

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Request for Proposal (RFP) #10-22 - Security Guard Services



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)

ST-220-TD

(6/06)

For information, consult Publication 223, *Questions 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 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.

To order forms and publications: 1 800 462-8100
Sales Tax Information Center: 1 800 698-2909
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
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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
Request for Proposal (RFP) #10-22 - Security Guard Services

Exhibit B – Equal Opportunity Forms

**EQUAL EMPLOYMENT OPPORTUNITY
STAFFING PLAN**
Submit with Bid or Proposal – Instructions on page 2

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

EEO 100-G (Rev 6-08)

New York State Department of Taxation and Finance
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General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (EEO 100-G) 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 or subcontractor's total work force, the Offeror 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 or subcontractor's total work force, the Offeror shall complete this form for the contractor's 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 if the work force being reported is just for the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and enter under the heading "Work force by Gender"
6. Break down the total work force by race/ethnic background and enter under the heading "Work force by Race/Ethnic Identification". Contact the Designated Contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the 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 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.
- **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**

EEO 100-G (Rev 6-08)

New York State Department of Taxation and Finance
Request for Proposal (RFP) #10-22 - Security Guard Services

**EQUAL EMPLOYMENT OPPORTUNITY
WORK FORCE EMPLOYMENT UTILIZATION/COMPLIANCE REPORT**

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__	
Offeror's Name:				Report includes: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total work force	
Offeror'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								Disabled		Veteran			
		Male (M)	Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		(M)	(F)	(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 form to:	

EEO 101-G (Revised 6-06)

New York State Department of Taxation and Finance
Request for Proposal (RFP) #10-22 - Security Guard Services

General Instructions: The work force utilization/compliance report (EEO 101-G) 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 or subcontractor's total work force, the contractor 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 or subcontractor's total work force, information on the contractor's 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 DTF 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 written statement of no change or submit a copy of the previously submitted report with the date and reporting period updated.

Instructions for completing:

1. Enter the number of the contract that this report applies to along with the name and address of the Contractor preparing the report.
2. Check off the appropriate box to indicate if the entity completing the report is the contractor or a subcontractor.
3. Check off the box that corresponds to the reporting period for this report.
4. 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.
5. Enter the total work force by EEO job category.
6. Break down the total work force by gender and enter under the heading "Work force by Gender"
7. Break down the total work force by race/ethnic background and enter under the heading "Work force by Race/Ethnic Identification".
8. Enter information on any disabled or veteran employees included in the work force under the appropriate heading.
9. 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.
- **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**

EEO 101-G (Revised 6-08)

Exhibit C – Preliminary Contract

THIS AGREEMENT made this __ day of _____, 2010 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” or “DTF”) and CONTRACTOR NAME, with principal place of business located at CONTRACTOR’S ADDRESS (hereinafter referred to as the “Contractor”).

WHEREAS, the Department issued Request for Proposal (RFP) 10-22 on November 8, 2010, for Security Guard Services; and

WHEREAS, the Contractor timely submitted a bid proposal to provide the services set forth in RFP 10-22; and

WHEREAS, pursuant to Section VIII of said RFP, the Contractor was determined to have the highest ranking proposal and has been determined capable of providing the required services, and

WHEREAS, the Contractor is prepared to provide security guard 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:

Article I. Entirety of Agreement

This Contract ~~C#####~~ 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 Contract, such conflict shall be resolved by reference to the documents in the order listed with Appendix A having precedence:

- Appendix A of the RFP, “Standard Clauses for New York State Contracts”;
- Attachment H of the RFP – Secrecy Provisions Agreement (DTF-202);
- Appendix C of the RFP – Participation by Minority Group Members and Women with Respect to State Contracts;
- This Base Contract Agreement;
- Contractor Proposal Clarifications and/or Revisions
- Amendments and Clarifications to the RFP, including Questions and Answers;
- Department’s RFP, excluding Appendix A, Attachment H and Appendix C;
- Contractor Proposal, excluding Clarifications and/or Revisions.

Article II. Contractor Responsibilities

The Contractor hereby agrees to provide all services as set forth herein and in RFP 10-22 and the Contractor’s bid proposal in response to said RFP.

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The Contractor will comply with the Secrecy requirements set forth in Section VI.B.15 of the RFP 10-22, and as set forth herein in Article VI. The Contractor must not disclose any data provided by the Department to any other individual or entity except as expressly provided by law.

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 contract.

Article III. Department Responsibilities

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 security guard services based on the terms set forth herein under Article V, Fees and Payment.

The Department hereby agrees to provide all other Department-related responsibilities or requirements to the Contractor as set forth herein and in RFP 10-22.

Article IV. Contract Term

The Contract term will be for a five-year period. The term of the Contract shall commence upon approval of OSC.

Article V. Fees and Payment

The Contractor will be reimbursed monthly, in arrears, upon receipt of a proper invoice in accordance with Article XI-A of the NYS Finance Law.

Reimbursement to the Contractor from DTF will be calculated as follows:

The Contract Billing Hourly Rate *times* the actual number of hours worked

The Contractor's security guards will be required to submit timesheets in a manner prescribed by DTF. The Contractor's invoice must indicate the security guard name(s), hours worked, invoice period and the Hourly Wage Rate as defined above.

As is noted in the Scope of Services, a minimal amount of overtime will be required. Overtime paid by the Department to the Contractor will be calculated at a rate of 1.5 times the prevailing basic cash hourly rate plus the supplemental benefits plus the Contractor's mark-up.

For purposes of any contract resulting from this RFP, the percent bid mark-up provided in response this RFP will remain unchanged throughout the contract term. However, the percent bid mark-up will always apply to the then current prevailing wage rate, which is updated annually on July 1. Therefore,

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as the wage rates change, the hourly rates invoiced will change accordingly. The individual guards shall always be paid, at a minimum, the then current prevailing wage and supplemental benefits rates, if applicable.

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 e-mail 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 this 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. Bidder representatives must comply with the administrative procedures enforcing these rules.

The Contractor and all staff members 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 each employee assigned to this Agreement to sign form **DTF-202 Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code** as set forth in **Attachment H** of the RFP. The DTF-202 forms and will be retained by the Contractor and provided to the Department upon request.

Article VII. Reserved Rights

In addition to such other rights as allowed under this Agreement, the Department reserves the following rights:

- Prior to the bid opening, direct Bidders to submit proposal modifications addressing subsequent RFP amendments.

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- To increase or decrease the number of security guards as necessary to perform services to the Department. Any increase in material services shall be accomplished through contract amendment and may require approval of the Offices of the Attorney General and State Comptroller to increase the contract value.
- To require the removal of any Contractor staff assigned to this project for work related cause upon written notification to the Contractor. Such notification shall set forth the reasons for the request for removal. In such event, Contractor shall promptly provide a substitution.
- To request a copy of Federal Form I-9, Employment Eligibility Verification, for each individual assigned to work at the Department under this contract, if the Contractor is so legally obligated to obtain and retain such Form I-9. The social security number of the employee, if listed on Form I-9, shall be redacted from the form.
- To disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the RFP.

Article VIII. Performance Standards and Remedies

If it is determined that the Contractor is in violation of any terms or conditions set forth in this contract, the Department reserves the right to take any one or more of the following actions it deems appropriate, at its sole discretion: 1) contract termination, 2) non-renewal of the Contract, 3) removal of the specific Contractor employees.

Additionally the Department may assess a financial penalty equivalent to the billable services of an individual guard for one eight-hour work day when the guard or replacement guard is two hours or more late reporting for duty. 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, expenses, or other remuneration of any kind.

Article IX. Dispute Resolution

The first step of dispute resolution will be through conference between the Department and the Contractor. The party initiating the process shall notify the other party in writing and set forth the issues for resolution and provide all necessary documentation. Unresolved disputes will be arbitrated by the Commissioner of Taxation, or designee, whose decision is final and binding. During this period all work required hereunder shall be performed. 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

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be laid in Albany County, New York.

Article X. Continuing Administrative Requirements

A. 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. Contractor further agrees to notify DTF promptly of any material change in vendor responsibility or of a change in ownership. Additionally, Contractor acknowledges that a review of vendor responsibility shall be undertaken prior to any renewal hereunder and that the Department reserves the right to undertake such a review annually upon the anniversary date of this Agreement.

B. Sales and Compensating Use Tax

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 the Department of Taxation and Finance (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, and with respect to any affiliates and Subcontractors whose sales delivered into New York State exceeded \$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 subcontractors are required to register to collect state sales and compensating use taxes and 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 registered in accordance with the law.

C. Procurement Lobbying

Pursuant to State Finance Law §§139-j and 139-k, there are certain restrictions on communications between a Governmental Entity and an Offerer/Bidder during the procurement process. An Offerer/Bidder is restricted from making contacts during the 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).

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If this Agreement is renewed or amended, Contractor shall be subject to the Procurement Lobbying requirements set forth herein and shall submit such updated Procurement Lobbying forms as are required by the Department.

D. Equal Employment/Business Participation Opportunities for Minority Group Members and New York State Certified Minority/Women-Owned Businesses

In accordance with Article 15-A of the New York State Executive Law (Participation by Minority Group Members and Women with Respect to State Contracts) and in conformance with the Regulations promulgated by the Minority and Women's Business Development Division of the New York State Department of Economic Development set forth at 5 NYCRR Parts 140-144, the Contractor agrees to be bound by the following to promote equality of economic opportunities for minority group members and women, and the facilitation of minority and women-owned business enterprise participation on all covered DTF Contracts.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Offerer agrees with all of the terms and conditions of Appendix A, including Clause 12 - Equal Employment Opportunities for Minorities and Women.

Participation Opportunities for New York State Certified Minorities and Women-Owned Businesses

Authorized Users are encouraged to make every good faith effort to promote and assist the participation of New York State Certified Minority and Women-owned Business Enterprises (M/WBE) as Subcontractors and suppliers on this Contract for the provision of services and materials. To locate New York State Certified M/WBE, the directory of Certified Businesses can be viewed at: <http://www.nylovesmwbe.ny.gov>.

Any contractor who willfully and intentionally fails to comply with applicable minority and women-owned business enterprises (MWBE) contract participation requirements shall be liable to the Department for liquidated damages as agreed to in the Contract or other appropriate damages, as agreed to by the parties or as determined in an appropriate action.

Article XI. Termination

A. Termination for Cause

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

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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 contract 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 XII (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 information filed by the Contractor in accordance with the requirements for Vendor Responsibility is incomplete, untrue or inaccurate.
6. Failure of Contractor to maintain vendor responsibility substantially similar to, or superior to, its status as of the execution of this Agreement.
7. 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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In the event of termination by DTF for default by Contractor pursuant to this Article, Contractor shall be liable for DTF's direct damages resulting from such material breach, subject to the limitations and exclusions contained in Article XII (Indemnification and Limitation of Liability).

B. Termination for Convenience

The Department may terminate this contract in whole or in part at any time for convenience upon thirty (30) days written notice to the Contractor without penalty or other early termination charges due.

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 Contract.

D. Payment upon Termination

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

Article XII. Indemnification and Limitation of Liability

A. General Indemnity

The Contractor hereby warrants and guarantees to fully indemnify and save harmless the Department and its respective officers, employees, and agents or subcontractors without limitation from suits, actions, damages and costs of every name and description arising out of the acts or omissions of Contractor, its officers, employees, subcontractors, partners, or agents, in any performance under this Agreement including: i) personal injury, damage to real or personal tangible or intangible property, or ii) negligence, either active or passive.

B. 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

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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.

C. 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 (including any damages construed as incidental, consequential or indirect damages).

D. Limitation of Liability

For all other claims against the Contractor hereunder where liability is not otherwise set forth in the Contract as being "without limitation," and regardless of the basis on which the claim is made, Contractor shall be fully liable for the actions of its agents, employees, and partners and such liability for direct damages hereunder shall not exceed the greater of the dollar amount of the Contract or two (2) times the charges rendered by the Contractor.

Notwithstanding the above, neither the Contractor nor the Department shall be liable for consequential, indirect, special damages of any kind which result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Department, the Contractor, or by others.

The Department may, in addition to other remedies available to it at law or equity and upon notice to Contractor, retain such monies from amounts due Contractor, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted against them.

Article XIII: General Terms and Conditions

Invariable Terms and Conditions

Appendix A:

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

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Tax Liabilities:

All outstanding Tax Liabilities, due to the State of New York from the Contractor, or Contractor's partners, and agents 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.

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.

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.

Required Approval:

This Agreement and any amendments will not be effective until approval by the Office of the Attorney General and the Office of the State Comptroller.

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

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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. The Department agrees to provide the Contractor 30 days prior written notice of any such assignment.

The terms and conditions of this Agreement may be extended to any other New York State agency through the use of a formally executed agreement between the Contractor and the State agency subject to review and approval of the Office of the Attorney General, and the Office of the State Comptroller.

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 XII (Indemnification and Limitation of Liability) shall survive the term of this Contract.

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.

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.

Conflict of Interest:

Contractors must be aware that a potential conflict of interest may be identified at any point. The Contractors will be responsible for establishing procedures to identify potential conflicts of interest. The Contractor must immediately notify the Department in writing and disclose the

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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.

Authorized Representatives:

Notice of Termination

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

- Chief Financial Officer
- Assistant Director of Procurement Bureau

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

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 or designee
- Executive Deputy Commissioner
- Chief Financial Officer
- Assistant Director, Procurement Bureau

On behalf of the Contractor are:

-To be Provided

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;
- b. by facsimile transmission;
- c. by personal delivery;
- d. by expedited delivery service; or
- e. by e-mail.

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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, Assistant Director
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 e-mail, 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.

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

XXXXXXXXXXXXXXXXXXXX

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

Signature

Signature

Print Name

Print Name

New York State Department of Taxation and Finance
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Title

Title

Date

Date

Attorney General

Office of the State Comptroller

CORPORATION

STATE OF _____)

COUNTY OF _____)

On this _____ day of _____, 2010, 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

Appendix A – Standard Clauses for NYS Contracts

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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, licensor, licensee, lessor, lessee or any other party):

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$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,

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Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor 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) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

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(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

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

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

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

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

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884

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

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

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

Appendix B – 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 Procurement 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.

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- 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

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 RFP.

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 Procurement 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.

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

Reservation of Rights and Responsibilities of DTF

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

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

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

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

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

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

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

Appendix C - Participation by Minority Group Members and Women with Respect to State Contracts

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

1. Definitions

- a) "Certified business" shall mean a business verified as a minority- or women-owned business enterprise pursuant to Section 314 of the Executive Law.
- b) "Director" shall mean the Director of the Division of Minority and Women's Business Development established by Section 117 of Article 4A of the Economic Development Law.
- c) "Goal" shall mean a percentage of the value of the contract, which is not set aside or quota, that represents a target toward which the Contractor must aim in expending good faith efforts to ensure the participation of minority group members and women on the contract.
- d) "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
 - i) Black persons having origins in any of the Black African racial groups;
 - ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
 - iii) Native American or Alaskan native persons having origins in any of the original peoples of North America;
 - iv) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.
- e) "Minority-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:
 - i) at least fifty-one percent owned by one or more minority group members;
 - ii) an enterprise in which such minority ownership is real, substantial and continuing;
 - iii) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
 - iv) an enterprise authorized to do business in this state and independently owned and operated.
- f) "Subcontract" shall mean an agreement providing for a total expenditure in excess of \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contract and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a Contractor's obligation under a state contract is undertaken or assumed, but shall not include work undertaken for the beneficial use of the Contractor.

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- g) "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:
- i) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;
 - ii) an enterprise in which the ownership interest of such women is real, substantial and continuing;
 - iii) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
 - iv) an enterprise authorized to do business in this state and independently owned and operated.

2. Directory of Certified Businesses

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

3. Equal Employment Opportunities

- a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- b) At the request of Tax and Finance the Contractor shall requests each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of this contract to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the Contractor's obligation hereunder.
- c) The Contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor in the performance of this contract, that all qualified applicants will afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex age, disability or marital status.
- d) The Contractor will include the provisions of clauses (a), (b) and (c) above in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with this contract.
- e) The provisions of these equal employment clauses shall not be binding upon Contractors or subcontractors in the performance of work or the provision of services or another activity that are unrelated, separate or distinct from the State contract as expressed by its terms.
- f) The requirements of these equal employment clauses shall not apply to any employment outside this State or application for employment outside this State or solicitations or advertisements therefore, or any existing

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programs or affirmative action regarding employment outside this State and the effect of contract provisions required by clauses (a), (b) and (c) above shall be so limited.

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

- a) If goals have been established by Tax and Finance for this agreement, no later than seven business days after receiving notice that the bidder has submitted the lowest responsible bid, the bidder shall submit to Tax and Finance a Minority- and Women-Owned Business Enterprise (M/WBE) utilization plan on forms to be provided by Tax and Finance. The M/WBE utilization plan shall list those M/WBEs, which will be used by the Contractor to meet the contracts M/WBE goals.
- b) Tax and Finance will review the M/WBE utilization plan and will issue to the Contractor a written notice of acceptance or deficiency within twenty calendar days of receipt. An M/WBE notice of deficiency shall include (i) the name of any M/WBE which is not acceptable for the purpose of complying with the goal requirements' (ii) elements of the contract scope of the work which Tax and Finance has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the contract by M/WBEs; and (iii) other information which Tax and Finance determines to be relevant to the utilization plan.
- c) The Contractor shall respond to the notice of deficiency within seven business days of receipt by submitting to Tax and Finance a written statement, which remedies the deficiencies in the original plan. If the written remedy which the Contractor submits is not timely or is found by Tax and Finance to be inadequate, Tax and Finance shall so notify the Contractor within five business days and direct the Contractor to submit a request for a partial or total waiver of goal requirements on forms to be provided by Tax and Finance. The request for waiver must be submitted within five business days of receipt from Tax and Finance of a notice that the Contractor's statement of remedy was untimely or inadequate.
- d) A Contractor who has made good faith efforts to obtain commitments from M/WBE sub-contractors and suppliers prior to submitting its M/WBE utilization plan may submit a request for waiver at the same time it submits its utilization plan. If a request for waiver is submitted with the utilization plan, and is not accepted by Tax and Finance at that time, the provisions of clauses (b) and (c), regarding the notice of deficiency and written remedy, will apply. In this case, the Contractor may submit a second request for waiver as directed by Tax and Finance.
- e) If the Contractor does not submit a request for waiver, or if Tax and Finance determines that the good faith efforts of the Contractor have been inadequate to justify the granting of the request for waiver, where applicable, shall be delivered to the Contractor no later than twenty calendar days after Tax and Finance receives the request for waiver.
- f) If Tax and Finance disqualifies the bidder as non-responsible for failure to remedy deficiencies in its M/WBE utilization plan and to document good faith efforts, Tax and Finance may award the contract to the next-lower responsible or otherwise acceptable bidder, whether or not the disqualified bidder pursues any remedies established pursuant to Article 15A of the Executive Law.
- g) The Contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its M/WBE utilization plan, at least to the extent indicated in the plan.

5. Administrative Hearing on Disqualification

- a) If Tax and Finance disqualifies the bid on the grounds that the contract has failed to remedy the deficiencies in its M/WBE utilization plan or to document good faith efforts to remedy such deficiencies and is, therefore, determined to be non-responsible, the Contractor shall be entitled to an administrative hearing, on the

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record, before a hearing officer appointed by Tax and Finance, to review the determination of disqualification of the bid and determination of non-responsibility. The Contractor shall request such hearing in writing no less than seven business days of receipt of notice of disqualification. The determination of the hearing officer shall not interfere with Tax and Finance disposition of the contract. The hearing shall be conducted pursuant to Article 3 of the State Administrative Procedures Act, as it applies to these circumstances. The rules and regulations of Article 15-A override any inconsistencies with Article 3

- b) The hearing officer's determination shall be a final administrative determination of Tax and Finance and shall be reviewable by the proceeding brought pursuant to the Civil Practice Law and Rules, provided such proceeding is commenced within thirty days of notice given by Certified Mail, return receipt requested, rendering such final administrative determination in accordance with the provisions of Section 313 of the Executive Law.
- c) Such review shall be commenced in the Supreme Court, Appellate Division, Third Department, and shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the Court of Appeals of the State of New York shall be subject to the same preference.

6. Good-Faith Efforts

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

- a) Was a completed, acceptable utilization plan submitted in accordance with applicable requirements to meet goals for participation of certified minority and women-owned business enterprises established in the State contract?
- b) Were advertisements placed in appropriate general circulation, trade and minority- and women-oriented publications in a timely fashion?
- c) Were written solicitations made in a timely fashion of certified minority- and women-owned business enterprises listed in the directory of certified businesses?
- d) Were timely responses to any such advertisements and solicitations provided by certified minority- and women-owned business enterprises?
- e) Did the Contractor attend pre-bid, pre-award, or other meetings, if any, scheduled by the state agency awarding the state contract, with certified minority- or women-owned business enterprises which the state agency determined were capable of performing the state contract scope of work, for purposes of complying with goal requirements?
- f) What efforts were undertaken by the Contractor to reasonably structure the contract scope of work for purposes of subcontracting with certified minority- and women-owned business enterprises?
- g) How many minority- and women-owned business enterprises in the directory of certified businesses could perform work required by the State contract scope of work in the region as defined in paragraphs (1) and (2) of subdivision (a) of Section 543.2 of this part?

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- h) What actions were taken to contact and assess the financial ability of certified minority- and women-owned business enterprises to participate on the State contract, which enterprises are located outside of the region in which the State contract scope of work was or will be performed?
- i) Were relevant plans, specifications or terms and conditions of the state contract, necessary to prepare an informed response to a Contractor solicitation, provided in a timely fashion to certified minority- or women-owned business enterprises?
- j) What subcontract terms and conditions were offered to certified minority- and women-owned business enterprises, and how do those subcontract terms and conditions compare to those offered in the ordinary course of the Contractor's business and to other subcontractors of the Contractor?
- k) Has the Contractor made payments for work performed by certified minority- and women-owned business enterprises in a timely fashion so as to facilitate continued performance by certified minority- or women-owned business enterprises? and,
- l) Has the Contractor offered to make up any inability to comply with the minority- and women-owned business enterprise goals established in a State contract, in other State contracts being performed or to be awarded to the Contractor?

7. Compliance Reports

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

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

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

9. Contractor and Agency Complaints; Arbitration

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

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- c) A complaint should set forth the facts and circumstances giving rise to the complaint together with a demand for relief.
- d) The party filing a complaint, whether the Contractor or Tax and Finance, shall deliver a copy to the other party. Both the complaint and the copy shall be delivered by either personal service or by Certified Mail, return receipt requested.
- e) Upon receipt of a complaint, the Director shall provide the party against whom the complaint has been filed with an opportunity to respond to the complaint. If within thirty days of receipt of the complaint, the Director is unable to resolve the complaint to the satisfaction of Tax and Finance and the Contractor, the complaint shall be referred to the American Arbitration Association for resolution pursuant to Section 316 of Article 15-a of the Executive Law.
- f) Upon conclusion of the arbitration proceedings, the arbitrator will submit to the Director his/her award regarding the alleged violation of the contract or the refusal of Tax and Finance to grant a waiver request by the Contractor. The award of the arbitrator with respect to an alleged violation of the contract or the refusal of the State agency to a waiver shall be final and may be vacated or modified only as provided by Article 75 of the Civil Practice Law and Rules.
- g) Upon conclusion of the arbitration proceedings and the rendition of an award, the arbitrator will also recommend to the Director a remedy, including, if appropriate, the imposition of the sanctions, fines or penalties, provided however, that no fines or penalties shall be recommended with respect to the refusal of Tax and Finance to grant a waiver requested by a Contractor. The Director will either (i) adopt the recommendation of the arbitrator; (ii) determine that no sanctions, fines or penalties should be imposed; or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or imposed; or (iv) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or imposed any new sanction, or increase the amount of any recommended fine or penalty
- h) The Director, within ten days of receipt of the arbitrator's award and recommendations, will file a determination of such matter and shall cause a copy of such determination to be served upon the parties by personal service or by Certified Mail, return receipt requested. The determination of the Director as to the imposition of any fines, sanctions, or penalties shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.

Attachment 1 – Bidder’s Checklist

Volume 1 - Qualifying and Technical Requirements

- Attachment 2 – Licensing Response Form
- Attachment 3 – Insurance Response Form
- Attachment 4 – Qualifying Experience Response Form
- Attachment 5 – Attestation and Designation of Prime Contact
- Attachment 6 – Technical Experience and Reference Response Form
- Attachment 7 – Staffing and Recruiting Response Form
- Attachment 8 – Resource Retention Policies Response Form

Volume 2 - Administrative Requirements

- Cover Letter
 - Proposed Extraneous Terms
 - Request for Exemption from Disclosure
- Attachment C – Vendor Responsibility Form
- Attachment D – MacBride Fair Employment Principles
- Attachment E – Non-Collusive Bidding Certification
- Attachment F – Offerer Disclosure of Prior Non-Responsibility Determination
- Attachment G – Offerer Certification of Compliance with State Finance Law 139-k(5)
- Attachment H – DTF-202 Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code
- Attachment I – Public Officers Law

Volume 3 - Financial Requirement

- Attachment J – Financial Response Form

Attachment 2 – Licensing Response Form

This form is for the licensing requirement as specified in **Section III. A.**

The Bidder must attach a copy of their current NYS Department of State (DOS) license as a Watch, Guard or Patrol Agency, or Private Investigator. This license must authorize the Bidder to operate in New York State.

Bidder's Name: _____

Attachment 3 – Insurance Response Form

This form is for the insurance requirement as specified in Section III. B.

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 current 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.

BIDDER AFFIRMATION

Prior to the commencement of the work to be performed by the contractor hereunder, the contractor shall file with The People of the State of New York, the Department of Taxation and Finance, Certificates of Insurance evidencing compliance with all requirements contained in the contract. Such Certificates shall be of form and substance acceptable to the Department.

The Bidder agrees it will obtain insurance coverage as defined in Section VI.B.9:

Yes

No

Bidder Name: _____

Attachment 4 – Qualifying Experience Response Form

Bidder Name: _____

This form is for the Qualifying Experience requirements as specified in Section III.C. **All contract information submitted in response to this section will also be evaluated by the Department as Technical references. This information must also be submitted on Attachment 6.**

DUPLICATE THIS FORM TO PROVIDE ADDITIONAL CONTRACTS AND CLIENT INFORMATION, IF NECESSARY, TO MEET THIS QUALIFYING REQUIREMENT.

The Bidder must demonstrate that they have been in the business of providing security guard services handling industrial, commercial, institutional or government accounts for at least three years immediately prior to the bid due date.

The Bidder must provide evidence that they have had security guard contracts for the three-year requirement. Information for a maximum of two contracts information may be submitted for this requirement.

Client Name: _____

Client Address: _____

Client Contact Name: _____

Client Phone Number: _____ **Client Fax Number:** _____

Client e-mail address: _____

Contract Start date: _____ **Contract End date:** _____

Attachment 5 – Attestation and Designation of Prime Contact Form

This form is for the Attestation requirement as specified in **Section III. D** and Designation of Prime Contact as specified in **Section VI.B.12.**

BIDDER INFORMATION

Firm Name: _____

Address: _____

Phone #: _____ **Fax #:** _____

Federal ID number _____

PRIME CONTACT INFORMATION

The contact person provided is expected to have responsibility for communications with the State regarding the information provided in the bid. Any change in this designation must be submitted in writing to the State.

By signing this letter, I certify that I am authorized to bind the firm contractually and that the firm is able to comply with and will abide by the delivery or performance for Security Guard Services AND fully understands and accepts all of the Terms and Conditions outlined in this Request for Proposal #10-22; Appendix A, Standard Clauses for New York State Contracts; and that all information provided is complete, true and accurate.

Name of Authorized Representative of the Firm: _____

Title/Position of Authorized Representative of the Firm: _____

Phone #: _____ **Fax #:** _____

E-Mail Address: _____

Signature: _____

Date: _____

Attachment 6 –Technical Experience and Reference Response Form

BIDDER'S NAME: _____

The Bidder must complete one (1) form for each contract/reference provided in response to **Section IV, Experience and References**. Bidders must provide information for up to three (3) separate contracts that meet the requirements outlined in Section IV.

Note: The contract information that the Bidder is submitting for the qualifying requirements as required in Section III. C must also be submitted below as contract information in response to the technical requirements required in Section IV.

Please provide information for up to three (3) separate contracts that meet the requirements outlined in Section IV.

***DUPLICATE THIS FORM AS NECESSARY FOR EACH CONTRACT SUBMITTED FOR TECHNICAL REQUIREMENTS.**

1. Client Name _____
Client Address _____

Contact Name _____
Phone Number _____
Fax Number _____
Email Address _____

2. Contract Start Date _____ Contract End Date _____

3. Type of Entity: State Federal Local Gov't Other _____

4. Please provide the following information for the contract referenced above:

- multiple building entrances Yes___ No___ multiple buildings connected together Yes___ No___
 high volume traffic flow Yes___ No___ use of an electronic badge entry system Yes___ No___
 Approximate square footage of building _____ Number of floors _____
 Number of positions placed annually (For example, this RFP is to fill 6 positions annually): _____
 Please briefly describe the contract services as it relates to the above.

Attachment 7 – Staffing and Recruiting Response Form

BIDDER'S NAME: _____

The Bidder must complete and submit this form in response to the requirements outlined in **Section IV. B.**

Bidders must have sufficient staffing to provide security guards as defined in Section II, Scope of Services of the RFP and must provide a written narrative which encompasses and expands on all of the following:

1. The Bidder's established no-show coverage plan, including procedures for communicating both tardiness and absences for timely replacement of guard(s).
2. The Bidder's supervisory structure of guards.
3. How background checks are performed by the Bidder (other than DOS requirements).
4. The Bidder's policy for drug testing.
5. The education/experience requirements required from Bidder (other than DOS requirements).
6. The Bidder's policies and/or techniques to ensure a high level of customer service.

Attachment 8 – Resource Retention Policies Response Form

BIDDER'S NAME _____

Complete this form in response to the requirements outlined in **Section IV.C**. DTF will evaluate the policies currently used by the Bidder to assist in resource retention.

1. Does your organization provide any of the following benefits:

- Paid vacation Yes No
- Sick leave Yes No
- Retirement/401K Yes No
 - o Does Contractor contribute to retirement/401K Yes No
- Other _____ Yes No

If Yes briefly describe each of the above:

2. Does your organization provide any of the following benefits:

- Health Care Yes No
- Prescription Yes No
- Vision Yes No
- Dental Yes No

3. Does your organization provide awards or other incentives to employees (e.g., cash bonuses, achievement)? Yes No

If Yes briefly describe:

Attachment 8 – Resource Retention Policies Response Form (cont'd)

BIDDER'S NAME: _____

4. Does your organization provide programs for resources development such as:

- Direct training and skills improvement Yes No
- Reimbursement for training Yes No

5. Does your organization offer assistance for employee questions and/or personal issues (e.g., Employee Assistance Program)? Yes No

6. Does your organization offer a client-specific orientation program? Yes No

7. Does your organization provide on-going contact and communications with staff (e.g., routine staff meetings, performance reviews)? Yes No

**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: _____

Attachment B – Notification of Intent to Bid

Please indicate your interest in submitting a proposal for this acquisition by completing and returning this form to the Department by the date indicated on the Schedule of Events for this Request for Proposal.

Bidder's Legal Business Name: _____

Bidder's Doing Business as Name: _____

Bidder's Federal or Taxpayer Identification Number: _____

Business Address: _____

Name of Authorized Representative: _____

Title: _____

Telephone Number: _____

Fax Number: _____

E-mail Address: _____

Authorized Signature: _____

Printed Name: _____ Title: _____

Date: _____

Please check the appropriate box(es):

- We **are** interested in submitting a proposal.
- We **are** a certified minority or women-owned business.
- We **are not** interested in submitting a proposal for this for this solicitation for the following reason(s):

Attachment C – Vendor Responsibility Form

Bidder's Name: _____

Bidders must complete a Vendor Responsibility Questionnaire in response to this RFP. 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 e-mail at helpdesk@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.

Attachment D – MacBride Fair Employment Principles

BIDDER'S NAME: _____

**NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:
MACBRIDE FAIR EMPLOYMENT PRINCIPLES**

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

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

1. Have no business operations in Northern Ireland: _____ **Yes**

or

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

_____ **Yes**

Attachment E – Non-Collusive Bidding Certification

In accordance with Section 130-d of the State Finance Law 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 a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - 1. The prices in this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
 - 2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
 - 3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not 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), (1), (2), and (3) 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), (1), (2), and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the State, public department or agency to which the bid was made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

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

The Bidder certifies adherence to all conditions in the Bidding Practices subsection of this RFP.

Bidder's Name: _____

Bidder's Address: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Attachment F – 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

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

Government Entity: _____

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

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: _____

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

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

Offerer Certification

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

By: *(signature)* _____

Date: _____

Procurement Description, Contract or Bid Number: _____

Name *(Please print)*: _____

Title: _____

Offerer Name: _____

Offerer Address: _____

Telephone Number: _____

e-Mail Address: _____

New York State Department of Taxation and Finance
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Attachment H – DTF-202

DTF-202 (8/08)

New York State Department of Taxation and Finance

**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 7219 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 \$1,000 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 (please print) _____

Address - Street: _____

City: _____ State _____ ZIP code _____

Attachment I – Public Officers Law

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

Attachment J – Financial Response Form

This form is for the financial proposal requirement as requested in **Section V** of RFP 10-22. All fields on the Financial Response Form must be filled in for the bid to be accepted as complete. This proposal **must** be submitted in a separate binder or sealed envelope, not included with the Technical or Administrative Proposals. Failure to comply with the mandatory format may result in disqualification.

The Department is requesting the percent bid mark-up that will be applied to current prevailing wage rates plus supplemental benefits as set forth by the New York State Department of Labor (DOL). The current prevailing wage rates are attached to this RFP as Exhibit 1. Bidders may submit percentages that go to the 2nd decimal place (example 5.25%).

REQUIREMENT	WAGE RATE ** (based on current PRC including supplemental benefits)	% BID MARK-UP	CONTRACT BILLING RATE (Wage rate plus mark-up. For evaluation purposes.)	*ESTIMATED ANNUAL HOURS	TOTAL COST
Five (5) Full-Time Security Guards	<u>\$ 14.96</u>	_____ %	\$ _____	10,400	\$ _____
One (1) Part-Time Security Guard <i>two and one-half hours a day</i>	<u>\$ 14.96</u>	_____ %	\$ _____	267.50	\$ _____

***Note:** *Estimated annual hours are for bid evaluation purposes only. Contractor will be paid for actual number of hours worked.*

****Please note:** *The Wage Rate is calculated by adding the prevailing basic cash hourly rate of \$13.22 plus the current supplemental benefits rate of \$1.74.*

Firm Name: _____

Name of Authorized Representative of the Firm:

Phone #: _____

New York State Department of Taxation and Finance
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Fax #: _____

E-Mail Address: _____

Signature: _____

Date: _____