



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
Office of Budget & Management Analysis  
Bureau of Fiscal Services  
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October 28, 2013

**THIS IS NOT A SOLICITATION FOR BIDS**

**Request for Comments 13-24 Electronic Check Processing – Check 21 Services**

The Department of Taxation and Finance (DTF) is in the process of drafting requirements for Electronic Check Processing – Check 21 Services. These may include Qualifying, Functional, Program Development and Support, Performance Standards, Insurance and Financial Requirements. In order to gauge the responsiveness from the potential bidders relative to whether certain requirements can be met, DTF has issued this Request for Comments (RFC 13-24) to solicit input.

Potential bidders are asked to review the proposed requirements. If there is any reason that you cannot meet a requirement, please identify the specific reasons.

**Note: The RFC is an information gathering tool and DTF is not gathering pricing at this time.** However, input is requested for the Financial Requirements section (e.g., how it is presented, is it complete, etc.).

Potential bidders are requested to respond to all requirements that they would be unable to meet. A response does not bind or obligate the responder or DTF to any agreement of provision of services referenced. No contract will be awarded based on submissions.

Since this RFC is designed as a tool to collect information and shall not result in a procurement contract, it does not fall under the requirements of State Finance Law §§139-j and 139-k (the Procurement Lobbying Law) and there is no restricted period. However, we ask that you direct any questions and your responses to the email address listed below.

If any of the information in the vendor response is considered confidential, proprietary or a trade secret, it must be clearly indicated. Release of such materials is governed by the NYS Freedom of Information Law, which in pertinent part requires the requester to provide specific justification as to why disclosure of particular information in the response would cause substantial injury to the competitive position of the vendor.

A copy of the RFC will also be posted on the Department's website **by 2 PM Eastern Time on Monday, October 28, 2013** to [http://www.tax.ny.gov/about/procure/current\\_bid\\_opportunities.htm](http://www.tax.ny.gov/about/procure/current_bid_opportunities.htm).

Responses to this RFC are due by **3 PM Eastern Time, on Monday, November 18, 2013**.

Please submit your responses to Catherine Golden at [bfs.contracts@tax.ny.gov](mailto:bfs.contracts@tax.ny.gov).

DTF thanks you for your assistance in this information collection process.

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DEPARTMENT OF TAXATION & FINANCE



Request for  
Comments 13-24

Electronic Check  
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## Request for Comments Glossary

<b>Adjustment Date</b>	The date the Adjustment of a previously processed deposited item posts to the bank account.
<b>AFP Code</b>	The Association for Financial Professionals (AFP) introduced an accredited AFP Service Code Provider Program, designed to increase standardization in reporting bank compensation by recognizing banks that are in accordance with the AFP Service Codes. The AFP Service Codes, formally the TMA Service Codes are the industry standard for identifying the balances and service charges that appear on bank account analysis statements.
<b>Agreement</b>	The contract which results from the award of a procurement issuance.
<b>Attorney General</b>	The New York State Attorney General or his/her designee.
<b>Authorized Representative or 'Designee'</b>	The agency representative(s) of DTF.
<b>Automated Clearing House Network (ACH)</b>	A nationwide electronic funds transfer system governed by the ACH Operating Rules and Guidelines, which processes electronically originated credit and debit transfers for participating financial institutions.
<b>Bank Adjustment 'Adjustment'</b>	Any change to the original amount of the posted transactions, <b>or</b> including Dishonorments; debit memos and credit memos (may also include a foreign fund adjustment). Does not include ICL rejects/NCIs.
<b>Bank Statements</b>	A summary of financial transactions which have occurred over a given period of time.
<b>Banking Day</b>	Any day which the ACH and the main office of the Bank are both open for business, but shall not include any Saturday, Sunday or holiday.
<b>Bidder</b>	Any qualifying entity submitting a proposal for this procurement.
<b>Business Day</b>	Monday through Saturday, with the exception of legal bank holidays.
<b>Certification</b>	The Department's validation that the Implementation Plan, in its entirety, is satisfactorily completed and performs in accordance with the Specifications.
<b>Check 21</b>	The Check Clearing for the 21 <sup>st</sup> Century Act (P.L. 108-100), regulations

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promulgated thereunder, or any successor legislation.

<b>Contractor</b>	The selected Bidder resulting from the competitive bid process.
<b>Contractor's Help Desk</b>	The Contractor's telephone line operated to provide assistance with payment processing.
<b>Daily Transaction Report</b>	A report showing yesterday's balance, plus new payments, minus rejected payments.
<b>Data Output File</b>	A file that transmits completed and reconciled payment transactions to update back end processing systems.
<b>Deposit Date</b>	The date on which funds are deposited in the New York State bank account(s).
<b>Depository Bank</b>	A bank, organized in the United States, which provides agency services in connection with a depository receipt program.
<b>DTF or Department</b>	The New York State Department of Taxation and Finance.
<b>Dishonorments</b>	Returned deposited items, for example, payments returned for insufficient funds, account closed and refer to maker.
<b>Effective Date</b>	The date on which payment funds must be credited to New York State Bank accounts.
<b>Exception</b>	Any payment transaction that does not post to a taxpayer account and requires DTF correction.
<b>Enhancement or Enhancement Services</b>	All activities necessary to incorporate new business functionality, unless such activities fall within the definition of Maintenance below; and changes necessary to implement a new or modified Performance Standard which is initiated by the Department.
<b>FDIC</b>	The Federal Deposit Insurance Corporation.
<b>Final Implementation Deliverable</b>	The last component of the Implementation Plan, prior to Certification, by the Department.
<b>Image Cash Letter (ICL)</b>	The electronic image file presented to the Federal Reserve Bank (FRB), clearinghouse or a corresponding financial institution for payment; the electronic transmission includes, but is not limited to, the MICR information from the checks, the check images and total information for reconciling in standard format.

<b>Image Replacement Document (IRD)</b>	A digital reproduction of an original paper check used as a negotiable instrument, in lieu of the original check as authorized under the Check Clearing for the 21 <sup>st</sup> Century Act (P.L. 108-100) and conforms to the industry standards.
<b>Implementation Deliverable</b>	A component of the Implementation Plan as identified by the Department, and/or the entire Implementation Plan.
<b>Implementation Plan</b>	A plan which includes: a project charter, project plan documentation, and a project timeline which will support the required development activities within the specified timeframe.
<b>Item</b>	The front and back of a Physical Check and/or electronic image.
<b>Liquidated Damages (LD)</b>	A contractual provision that determines in advance the measure of damages if a party breaches the agreement.
<b>Maintenance</b>	Maintenance shall include the following: <ol style="list-style-type: none"><li>1. All modifications to Licensed Software, Licensed Documentation and Operating Procedures necessary to ensure satisfactory system performance, which is measured based upon the system's ability to support the achievement of the Services of the Performance Standards;</li><li>2. All changes necessary to implement and achieve any new or modified Performance Standards where the change is initiated by the Contractor and approved by the Department; and</li><li>3. The development and implementation of new or modified reports and inquiries created from existing data elements, which include additional elements added as a result of prior Maintenance and Enhancement activities.</li></ol>
<b>Manual Deposit</b>	The processing of Physical Checks which cannot be processed through Check 21.
<b>NACHA</b>	National Automated Clearing House Association.
<b>NACHA Rules</b>	A set of rules that financial institutions must follow in order to process ACH payments within the ACH network.
<b>Non-Conforming Image or 'NCI'</b>	Any IRD that does not conform to the Check 21 standards and therefore cannot be processed using Check 21. NCI is also known as a Rejected Item.

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<b>OSC</b>	The New York State Office of the State Comptroller.
<b>Physical Check</b>	A paper remittance.
<b>Rejected Item</b>	Any IRD that does not conform to the Check 21 standards and therefore cannot be processed using Check 21 process. A Rejected Item is also known as a Non-Conforming Image (NCI).
<b>Services</b>	The Check 21 services required.
<b>Settlement Date</b>	The date in which payment settles. The actual day on which a transfer of money is completed.
<b>Specifications</b>	The performance criteria that an Implementation Deliverable must meet as a precondition to the acceptance of the deliverable by the Department. The Department shall provide a written copy of such Specifications to Contractor on a date as mutually agreed upon by the parties.
<b>Statement of Account</b>	A summary of financial transactions which have occurred (also known as a Bank Statement or account statement).
<b>Subcontractor</b>	Any individual or other legal entity including, but not limited to, sole proprietor, partnership, limited liability company, firm or corporation who is engaged by the Contractor or another Subcontractor to perform a portion of the Contractor's obligation under a resulting Contract.
<b>Subsequent Service Provider</b>	The Contractor selected to perform the Services upon the expiration and/or termination of a resulting Contract. Such Provider may or may not be the incumbent.
<b>Transition Plan</b>	The plan provided by the Department to the Contractor, detailing the requirements for transferring the Program, or components thereof, from the Contractor to the Department and/or a Subsequent Service Provider upon expiration or termination of a resulting Contract.
<b>User Acceptance Testing or 'UAT'</b>	The Department's process to determine whether an Implementation Deliverable performs in accordance with the Specifications.
<b>UAT Delivery Date</b>	The date as set forth in the Implementation Plan, upon which an Implementation Deliverable(s), or the Final Implementation Deliverable is to be provided to the Department.

## Proposed Requirements

### I. Qualifying Requirements

Only qualified entities may submit a proposal in response to this solicitation. 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.

#### A. General

- 1. Commercial Bank** The Bidder must be a Federal or New York State Chartered Commercial Bank with at least one (1) branch or office with a physical location in New York State.

##### Response Requirement

The Bidder must identify that they are a Federal or New York State Chartered Commercial Bank, and provide the location of one of their branches or offices within New York State.

- 2. Electronic Check Processing Prior Experience**

The Bidder must have been in the business of providing electronic check processing services for a minimum of three (3) years immediately prior to bid due date. The Bidder must provide information for two (2) contracts which meet this three (3) year requirement. Additionally, each contract must demonstrate, in calendar years 2011 and 2012, the processing of file transmissions containing a minimum of 250,000 IRD's annually.

##### Response Requirement

Provide information for two (2) contracts meeting the stated requirements. Such information must include contract term, contracting entities, annual IRD volumes for 2011 and 2012, and name, title, and contact information for client staff that administered the contract and supervised the Bidder during development, implementation and operations (i.e., phone number and email address).

**NOTE:** 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 a reference, the Bidder will be provided one opportunity, with a deadline, to assist in obtaining cooperation from those clients that have not responded.

#### B. Insurance

At the time of proposal submission, the Bidder's company and all staff must be insured against financial losses resulting from Bidder's employee's actions.

### **Response Requirement**

The Bidder must provide its current insurance information and must attach a copy of its current insurance including a description of coverage and the amount of coverage.

## **C. Financial Stability**

The Bidder must be a financially stable entity, such that it may initiate and perform its obligations through the duration of the Contract. The Commercial Bank must have a Kroll Financial rating of at least B- as of the bid issue date (Kroll rating for the quarter ending June 30, 2013).

As a condition of the resulting Contract, the Contractor must continue to evidence financial stability. The on-going financial stability of the Contractor may be evaluated based upon criteria similar to that used in the evaluation process. In addition, the Department may elect to evaluate financial stability. Annual financial statements prepared by an accountant in accordance with Generally Accepted Accounting Principles (GAAP) may be required to be submitted for review to the Department within ninety (90) days of the fiscal year end. Any material change in ownership of the Contractor, or material financial change of the Contractor, will require a reevaluation of the Contract in its entirety by the Department.

### **Response Requirement**

#### **Financial Data**

The Bidder must provide documentation required for its particular organizational structures as set forth in the requirements listed in paragraphs a.i, a.ii, b.i and b.ii below. Where reviewed financial statements are required, these must have been prepared by a CPA in accordance with GAAP. All required information must be provided for any predecessor entity within the last three (3) years and any other subsidiary, affiliate, or related company requested by the Department.

#### **a. Publicly Held Companies**

- i. If the Bidder is a subsidiary of a parent company that is publicly held, the Bidder must comply with the preceding requirements by submitting copies of audited statements, including consolidating statements, for the parent and subsidiary for the last three (3) years.

Additionally, the most recent interim quarterly statements are required for both the parent and subsidiary within sixty (60) days of the end of the previous quarter.

- ii. If the Bidder is not a subsidiary of a parent company, audited statements for the last three (3) years are required.

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Additionally, the most recent interim quarterly statements are required within sixty (60) days of the end of the previous quarter.

**b. Privately Held Entities**

- i. If the Bidder is a subsidiary of a parent company, LLP or other entity that is privately held, the Bidder must comply with the requirements outlined under Financial Data by submitting separate annual, audited or reviewed consolidated and consolidating financial statements for parent, Bidder and any other sister subsidiaries for the last three years. Where there are two or more subsidiaries, the consolidating statements should detail the financial information on the largest five (5) subsidiaries as measured by Revenues.

Additionally, the most recent interim quarterly, reviewed financial statements are required for both the parent and subsidiary.

A Dunn and Bradstreet Comprehensive Report, dated no earlier than thirty (30) days prior, would be required for both the parent and Bidder.

- ii. If a Bidder is not a subsidiary of a parent company, audited or reviewed financial statements for the last three years are required.

Additionally, the most recent interim quarterly statements are required within sixty (60) days of the end of the previous quarter.

**c. Other Financial**

- i. The Bidder must provide the name and phone number of a contact at its primary bank in order for a bank reference to be obtained as part of the financial stability evaluation.
- ii. The Bidder must provide documentation attesting to any and all lines of credit that are available to the Bidder. This documentation must include information identifying the source of such lines and detailing the maximum credit amount(s) available to the Bidder, outstanding balance(s), and current amount(s) available.
- iii. The Bidder must indicate whether or not it guarantees the debt of any other entity.
- iv. If the Bidder is a subsidiary of a parent company, the Bidder must explain, in detail, the inter-company financial relationship between the parent company and the Bidder, including inter-company loans if any, and repayment terms. The Bidder must indicate if the parent company guarantees the debt of the Bidder, or if the Bidder guarantees the debt of the parent company.

**d. Organizational Data**

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At a minimum, the Bidder must provide:

- i. Organizational charts, including a listing and detailed description of:
  - the Bidder’s primary business units and divisions;
  - any and all subsidiaries; and
  - any and all minority interests, joint ventures, or other type of business affiliations.
  
- ii. Ownership and management, including a listing and detailed description of:
  - all owners and their percentage of ownership in the entity;
  - key executives; and
  - brief biographies of its key officers and management.

**For the Qualifying Requirements described above, please identify and describe any challenges or limitations that may be posed to your organization regarding these services.**

## II. Functional Requirements

This section contains the specific service and response requirements. The Functional Requirements are critical to successful project implementation. Responses to these critical requirements are **mandatory**.

Each Bidder's response will be evaluated to determine if it meets these Functional Requirements. Therefore, Bidders must provide the Department with all of the information requested to establish that they meet the minimums identified in the Functional Requirements. Failure to provide sufficient detail to the Functional Requirement topics of this section will result in the Bidder being determined non-responsive and removed from further consideration. Bidder responses that meet those minimums will gain evaluation points in the scoring process to the extent the response exceeds the requirement.

FUNCTIONAL REQUIREMENT	REQUIRED RESPONSE
<b>1.0 Deposit Accounts</b>	
1.1 The Contractor must establish bank accounts in the name of New York State for the deposit of remittances. A separate account will be established for each tax application.	1.1 Affirm understanding of, and agreement to comply with, this requirement. Provide a comprehensive description of your proposed solution demonstrating how it meets this requirement.
<b>2.0 ICL File Transmission(s)</b>	
2.1 The Contractor must be able to accept ICL file transmissions that: <ul style="list-style-type: none"> <li>• Use the ICL deposit exchange industry standard, ANSI X9.100-187 format (Specifications for Electronic Exchange of Check and Data Image) and will be expected to follow current industry standards.</li> <li>• Include images sent at a minimum of 200 DPI.</li> <li>• Include up to 25,000 items.</li> <li>• Include a deposit value of up to \$99,999,999.99 per ICL file transmission.</li> </ul>	2.1 Affirm understanding of, and agreement to comply with, this requirement.
2.2. The Contractor must be able to receive one or more ICL transmissions 24 hours a day, 365	2.2 Affirm understanding of, and agreement to

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<p>days a year for each tax application and/or unique NYS bank account(s) from DTF and/or its third party designee(s).</p>	<p>comply with, this requirement.</p>
<p>2.3 The Contractor must provide same day credit for files received prior to the agreed upon cutoff time on any Banking day and next Banking day for ICL transmission(s) files received after the cutoff time or received on non-Banking days.</p>	<p>2.3 Affirm understanding of, and agreement to comply with, this requirement. Provide the proposed ICL receipt cutoff times and describe ability to receive ICL files on non-Banking Days.</p>
<p>2.4 The Contractor must provide ICL Help-Desk support to DTF. Such support must be available from 8 A.M. to 8 P.M. Eastern Time, Monday through Saturday.</p>	<p>2.4 Affirm understanding of, and agreement to comply, with this requirement. Provide the hours in which the ICL Help-Desk support shall be available from Monday through Saturday as well as any ability for extended customer service hours during DTF specified peak processing periods.</p>
<p><b>3.0 Acknowledgement and Rejection Files</b></p>	
<p>3.1 The Contractor must provide an electronic acknowledgement receipt file to the respective originator of each ICL file(s) for each ICL file transmission(s), within one (1) hour of receipt.</p>	<p>3.1 Affirm understanding of, and agreement to comply with, this requirement. Describe the proposed receipt file process. Also describe ability to acknowledge receipt of ICL files on non-Banking Days.</p>
<p>3.2. The Contractor shall provide an electronic file of Rejected Items, or an acknowledgement that an ICL file transmission(s) has no Rejected Items, for each unique ICL file transmission, to the respective originator of each ICL file, within one half hour after sending the Acknowledgement file on Banking Days prior to cutoff; and on non-Banking Days, the next Banking Day prior to cutoff. The file must include: a reason code for the Rejected Item(s), the amount of the Rejected Item(s), the associated account number, routing number and identifying number assigned by the processor and number of total items and the total dollar amount for each unique ICL file transmission to DTF and/or DTF designee(s).</p>	<p>3.2 Affirm understanding of, and agreement to comply with, this requirement. Describe proposed process for handling Rejected Items, including, but not limited to: identification procedure, timing of identification, and notification process. Also describe ability to identify Reject items on non-Banking Days.</p>

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FUNCTIONAL REQUIREMENT	REQUIRED RESPONSE
<b>4.0 Manual Deposits</b>	
<p>4.1 The Contractor must process Physical Checks (Manual Deposits).</p> <p>Note: Certain Physical Checks require Manual Deposit because they are foreign checks or do not pass Check 21 business rules (Rejected Items).</p>	<p>4.1 Affirm understanding of, and agreement to comply with, this requirement. Describe the proposed process utilized for handling Manual Deposits.</p>
<p>4.2 The Contractor must receive and securely transport Manual Deposits Monday - Friday for same day credit from the DTF Albany, NY facility and/or DTF designee(s) site(s), including current designee sites in Binghamton, NY and Kingston, NY.</p> <p>If the Contractor is using a courier, the courier must be bonded. If the Contractor is using a third party delivery service (e.g. Fedex, UPS, USPS, DHL, etc.), they must:</p> <ul style="list-style-type: none"> <li>• Indicate which delivery service is to be used for transportation of Manual Deposits;</li> <li>• Upon Contract award, the Contractor must provide DTF with the Contractor’s account code with the third party delivery service, and provide all supplies necessary for the transportation of checks;</li> <li>• Provide the address to which the delivery service will deliver checks;</li> <li>• Identify the third party delivery service as a significant Subcontractor; and</li> <li>• Assume all responsibility of risk for lost or stolen checks while in possession of the third party delivery service.</li> </ul> <p><b>NOTE:</b> All costs associated with a third party delivery service must be a pass-through expense only and no additional</p>	<p>4.2 Affirm understanding of, and agreement to comply with, this requirement. Describe proposed method for obtaining Manual Deposits from DTF’s processing site(s), including, but not limited to:</p> <ul style="list-style-type: none"> <li>• The method of transportation of Manual Deposits; specifically identify whether a courier service or third party delivery service will be used.</li> <li>• The address where Manual Deposits will be received for processing.</li> </ul>

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FUNCTIONAL REQUIREMENT	REQUIRED RESPONSE
<p>fees may be added. The Department's preferred method of transportation of Manual Deposits is courier service.</p>	
<p>4.3 The Contractor must provide supplies necessary for DTF to process Manual Deposits:</p> <ul style="list-style-type: none"> <li>• Three part deposit slips, with DTF defined pre-printed account information.</li> <li>• Secure, weather proof, tamper-proof numbered deposit bags/boxes.</li> </ul>	<p>4.3 Affirm understanding of, and agreement to comply with, this requirement. Describe proposed method of providing supplies.</p>
<b>5.0 Reporting</b>	
<p>5.1 The Contractor shall provide an online application enabling bank account access. The application must include, but not be limited to; Bank Statements, Dishonorments, credit and debit memos. This information must be individually reported for ICLs and Manual Deposits. Access to the previous day's transactions must be available no later than 7AM on the next Banking Day. Information must be kept for a minimum of ninety (90) days. Access to the application will be controlled by DTF and may be available to DTF, its Designee(s) and OSC.</p>	<p>5.1 Affirm understanding of, and agreement to comply with, this requirement. Provide a schedule for access through the online application to daily Bank Statements for the previous day's deposits and other functionality.</p>
<b>6.0 Adjustments</b>	
<p>6.1 Dishonorments The Contractor must immediately re-present a remittance which has been dishonored for non-sufficient funds, following the initial notice of Dishonorment. The Contractor should not notify DTF after initial Dishonorment and no entries should appear on the Bank Statement. If a Dishonorment occurs after a second attempt to present the check, the Contractor must not attempt to re-present the check again.</p>	<p>6.1 Affirm understanding of, and agreement to comply with, this requirement. Describe the proposed method of identifying and processing Dishonorments.</p>
<p>6.2. The Contractor must provide an electronic</p>	<p>6.2 Affirm understanding of, and agreement to</p>

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FUNCTIONAL REQUIREMENT	REQUIRED RESPONSE
<p>adjustment file to DTF on each Banking Day in a format to be specified by DTF. Each file must include, but not be limited to:</p> <ul style="list-style-type: none"> <li>• Deposit Account</li> <li>• Deposit Location</li> <li>• Adjustment Date</li> <li>• Check Deposit Amount</li> <li>• Check Routing and Transit Number</li> <li>• Check Serial Number</li> <li>• Check Amount</li> <li>• Adjusted Amount</li> <li>• Return Reason Code</li> <li>• Disposition Indicator</li> </ul>	<p>comply with, this requirement. Describe the proposed solution to the provision of adjustment details as required. Also describe the ability to provide the same information in an alternative manner.</p>
<p>6.3 The Contractor must provide, to the respective originator of each ICL file(s), DTF, DTF's Designee(s) and OSC legible copies of all debit/credit memos for each unique ICL file transmission source and Manual Deposit account and paper copies of all IRD/Physical Check(s) for all dishonored pay adjust transactions.</p>	<p>6.3 Affirm understanding of, and agreement to comply with, this requirement. Describe the proposed means of providing copies of all debit/credit memos.</p>

**For the Functional Requirements described above, please identify and describe any challenges or limitations that may be posed to your organization regarding these services. Please specifically consider the following:**

- **Timeframes as outlined in the Functional Requirements, including ICL file acknowledgement and rejection file transmissions.**
- **Volumes for payment transaction processing, file transmissions, and Help Desk support.**
- **Help Desk support, including services offered and availability.**
- **Proposed process for Manual Deposits, including receipt and transport of Manual Deposits.**
- **File Formats for ICL File Transmissions.**

**Also, please identify and describe any additional capability your organization may be able to provide relating to our described need not specifically mentioned in these requirements.**

### III. Program Development and Support Requirements

This section contains the specific service and response requirements. The Program Development and Support Requirements are critical to successful project implementation. Responses to these critical requirements are **mandatory**.

Each Bidder’s response will be evaluated to determine if it meets the Program Development and Support Requirements. Therefore, Bidders must provide the Department with all of the information requested to establish they meet the minimums identified in the Program Development and Support Requirements. Failure to provide sufficient detail to the Program Development and Support Requirement topics of this section will result in the Bidder being deemed non-responsive and removed from further consideration.

Guiding Principles	Required Response
<p><b>1. Processing Site</b></p> <p>The Contractor must identify and maintain a processing site for the electronic processing of paper remittances. The site must be in the United States and must comply with applicable building codes, regulations and laws.</p> <p>All data must be processed and stored exclusively within the United States.</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide details addressing the Guiding Principle, including, but not limited to the:</p> <ul style="list-style-type: none"> <li>• Location of the proposed site(s) for operations</li> <li>• Details regarding ownership of the processing site(s) - whether it is to be owned or leased, and if leased, the parties to and the terms of the lease.</li> </ul>
<p><b>2. Internal Controls, Security and Confidentiality</b></p> <p>The Contractor must utilize generally accepted industry standards and procedures to minimize the risk of loss, destruction or theft of physical assets and to prevent unauthorized access to taxpayer information. These standards and procedures must be auditable and must address all points in the workflow including, but not limited to, the intake process, applications, transactions, storage (physical and electronic), and data transmission.</p> <p>The Contractor will ensure that in the performance of the services under this Agreement, the Contractor, its employees, directors, officers and Subcontractors who may</p>	<p>Affirm understanding of, and agreement to comply with the Guiding Principle. Provide details addressing the Guiding Principle, including, but not limited to the:</p> <ul style="list-style-type: none"> <li>• Existing internal controls and security and confidentiality procedures</li> <li>• Security tools (e.g., locks, alarms, badges, cameras, etc.) to be used to ensure that physical security is maintained</li> <li>• Screening process for staff to be hired by the Contractor, as well as any other persons having access to the</li> </ul>

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Guiding Principles	Required Response
<p>receive or have access to confidential information: (i) take all appropriate action to protect the confidentiality and integrity of all confidential information supplied to it or developed by it during the course of its performance under the Contract; (ii) are required to abide by all State confidentiality policies and procedures; and (iii) are prohibited from copying, removing, communicating, or otherwise revealing any confidential information of the State.</p> <p>Network security should, at a minimum, include: network firewall provisioning, intrusion detection, and regular third-party vulnerability assessments, which shall be available for agency review and/or audit, as requested.</p>	<p>processing area, within the Contractor's site</p> <ul style="list-style-type: none"> <li>• Approach used to present the secrecy and confidentiality provisions to employees for signature</li> <li>• Prevention of unauthorized access to physical site(s) and systems (i.e., code and data); record keeping of such attempts; the methods used to address these attempts by the Contractor, and the method used to communicate them to the Department</li> <li>• Method used to record access to the systems and data and how long these records are maintained</li> <li>• Identification and designation of high risk areas (e.g., data transmission areas) and any unique internal control and security procedures used to mitigate this risk</li> <li>• Use of Subcontractors, delineating who the material Subcontractors are and the nature of the relationship (e.g., security, courier or systems design).</li> </ul>
<p><b>3. Systems Environment</b></p> <p>The Contractor must use generally accepted industry standards to implement and operate the systems environment to ensure that the requirements and performance standards are achieved. This must include the use of auditable procedures for system operations, change control, capacity planning, performance management, problem management, backup (including off-site storage), business continuity, fail safe and disaster recovery.</p> <p>The systems environment must be scalable to</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide details addressing the Guiding Principle, including, but not limited to information on the system(s) environment(s) that is proposed for this Program.</p>

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<p>accommodate future systems expansion.</p> <p>If the systems environment is shared, the Contractor must follow auditable procedures which ensure the security and confidentiality of the Department’s programs and data.</p> <p><u>Test Environment</u></p> <p>The Contractor must maintain a test environment, separate from the processing environment, which is configured to allow Enhancements in a controlled environment. The test environment shall mimic production and be continuously maintained.</p> <ul style="list-style-type: none"> <li>• Bidder is required to assist DTF and/or DTF designee in developing and executing a comprehensive test schedule for initial development and any additional ICL file transmission source that will utilize the Check 21 process. Test schedule shall include: <ol style="list-style-type: none"> <li>1. Network Connectivity</li> <li>2. File transfers – In/Out</li> <li>3. Acceptance of multiple ICL file transmissions per source account</li> <li>4. File Limitations</li> <li>5. Testing from Primary and Disaster Recovery Site</li> <li>6. Any additional testing requirements to support the Check 21 process</li> </ol> </li> <li>• DTF requires 60 day notice for the following: <ol style="list-style-type: none"> <li>1. Testing and any 3rd party Vendor testing.</li> <li>2. Platform changes.</li> <li>3. System changes.</li> <li>4. Network changes.</li> <li>5. Black-out periods.</li> <li>6. Scheduled down time within a</li> </ol> </li> </ul>	

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<p style="text-align: center;">given year that impacts DTF processing either positively or negatively.</p> <p><u>Connectivity</u></p> <p>The Bidder must supply electronic data file exchange over the internet, to and from the Department and/or DTF designee(s) using protocols acceptable to the Department.</p> <p>The Bidder must also adhere to the DTF acceptable protocols for internet file exchanges.</p> <p>Data file exchange processes that are specifically unacceptable are: physical media or unsecured email, analog or digital dial up, Value Added Networks (VAN) or DSL connections.</p> <p>The Department has approved the use of the following secure file transfer protocols, which are listed in order of preference. Encryption algorithms must comply with current FIPS 140.x guidelines.</p> <ul style="list-style-type: none"> <li>• HTTPS (browser or compatible clients - pickup and drop off at Department servers only, port 443)</li> <li>• SFTP (SSH/FTP) using minimum 2048bit key based authentication (port 22)</li> <li>• FTPS (FTP/SSL) Implicit and Explicit FTPS allowed (port 990 or 21 and passive data ports)</li> </ul> <p>Additionally, the Department also supports the use of PGP "Pretty Good Privacy" or the open source equivalent GPG "Gnu Privacy Guard" with encryption key exchange. Testing is required to ensure that the encryption and version of software used by the Bidder is compatible with</p>	

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<p>Department software. This connection will need to meet all Department and industry standard security measures, including using standard TCP Ports.</p> <p>The Bidder must provide file transfer access to their server for the purpose of sending and retrieving files. The development of a schedule of file transfers to be picked up is required so that DTF and/or DTF designee(s) retrieval of files can be automated.</p>	
<p><b>4. Automated Systems Design, Development, Maintenance and Enhancement</b></p> <p>The Contractor must adhere to generally accepted information technology standards for development, documentation, maintenance and enhancement of the proposed applications solution to ensure the applications are secure from vulnerabilities and defects. This includes the use of auditable procedures for quality and version control and recommended practices as described in:</p> <ol style="list-style-type: none"> <li>1. The CWE/SANS Top 25 Programming Errors - <a href="http://cwe.mitre.org/top25">http://cwe.mitre.org/top25</a> and <a href="http://www.sans.org/top25-software-errors/">http://www.sans.org/top25-software-errors/</a></li> <li>2. The Open Web Application Security Project's (OWASP) "Top Ten Project" - <a href="http://www.owasp.org">http://www.owasp.org</a></li> </ol> <p>The proposed development tools and procedures must support rapid application development for the initial implementation and for addressing future changes.</p> <p>The Contractor must back up and retain all processing data which is sent to the Department for no less than six (6) months.</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Additionally, provide details addressing the Guiding Principle, including, but not limited to the:</p> <ul style="list-style-type: none"> <li>• Provision of details relating to the proposed applications solution.</li> <li>• Procedures for quality and version control.</li> <li>• Proposed development tools and procedures that support implementation and future changes.</li> <li>• Proposed procedures for data backup.</li> </ul>

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<p><b>5. Systems Maintenance, Testing and User Acceptance Testing</b></p> <p>The Contractor must adhere to generally accepted information technology standards for systems maintenance, testing and user acceptance testing.</p> <p>The Contractor agrees to develop a joint testing plan with DTF. The testing plan must include any periods of time when the Contractor is unable to provide a suitable test environment and/or to migrate system changes to production. It is the expectation of DTF that such “freeze” periods will not disrupt program implementation and/or any required periodic testing.</p> <p>The Contractor may be required to perform tests prior to actual annual payment processing cycles, including any and all associated file transmissions, regardless of whether there are changes or not. This periodic testing must mimic production. The Contractor would be expected to respond to defects discovered during testing within two (2) Business Days. Contractor must provide a readily accessible IT Testing Lead during regular business hours. The Contractor, during the end to end testing, will work within timeframes dictated by DTF. Timeframes such as freeze dates and check point dates will be clearly specified. The planned number of tests conducted during any testing will be at the sole discretion of DTF.</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Include the proposed provision of information on systems maintenance, testing and user acceptance testing that is being proposed.</p>
<p><b>6. Organizational Structure and Staffing</b></p> <p>The Contractor must provide and maintain an organizational structure and level of staffing to adequately operate the program as required by the requirements of this solicitation and to achieve the performance standards.</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide details including, but not limited to the:</p> <ul style="list-style-type: none"> <li>• Organizational structure within the overall corporate structure (if applicable)</li> <li>• Organizational structure as it pertains</li> </ul>

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	<p>to this Program</p> <ul style="list-style-type: none"> <li>• Proposed staffing capacity to meet needs of this Program.</li> </ul>
<p><b>7. Performance Monitoring, Audits and Reviews</b></p> <p>The Contractor must cooperate fully with DTF, or its Designee(s), for all performance reviews. Cooperation includes, but is not limited to, provision of all necessary documents in a timely manner and provision of adequate working space to conduct such reviews.</p> <p>In addition to reviews by DTF, the Contractor must cooperate fully with the Office of the State Comptroller (OSC), or its designee(s), or any other appropriate State oversight entity, for all aspects of audits, reviews, etc.</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide details for the provision of adequate working space (e.g., private office, conference room or work stations), access to phone and data lines (high speed connections), photocopier, file cabinet with locks, etc.</p>
<p><b>8. Cooperation with Department/State/Federal Investigations</b></p> <p>The Contractor must agree to cooperate fully with any state or federal investigation conducted by the State or its designee acting on its behalf including, but not limited to, the Inspector General’s Office, the NY State Police or any municipal, state or federal law enforcement agency.</p> <p>In the case of criminal investigations, an out of state Commercial Bank which performs depository bank services and/or an electronic payments processor office, must accept a subpoena served on one of its New York State branches/ offices.</p> <p>In the event that the State determines that it is necessary to investigate evidence relative to a possible or actual crime, or breach of confidentiality or security, the Contractor and its Subcontractors shall cooperate fully with the State to the extent permitted by law to investigate and identify the responsible individuals. The Contractor and its Subcontractors shall, to the extent permitted by</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide details as to how this Guiding Principle will be met.</p>

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<p>law, make their employees and all relevant records, including personnel records and employee photographs, available to investigators upon request to the appropriate enforcement entity. The State may interview the Contractor’s employees and/or agents in connection with an investigation during normal business hours.</p>	
<p><b>9. Adaptability to Program Changes</b></p> <p>The Contractor must demonstrate its ability to respond rapidly or by a fixed deadline to functionality changes resulting from legislative or administrative requirements (often in constrained time frames).</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide details including, but not limited to a description of the capabilities and limitations with regard to the ability to respond rapidly to change requests. At a minimum, the following topics should be discussed:</p> <ul style="list-style-type: none"> <li>• The methodology to be used to analyze program changes and the identification of the resource commitment to implement those changes.</li> <li>• The levels of flexibility (tolerance for change), built into the proposed processing approach.</li> <li>• A description of the scalability of the automated environment to accommodate functionality changes and/or workload expansion.</li> </ul>
<p><b>10. Business Continuity/Disaster Recovery/Fail Safe Operations</b></p> <p>The Contractor must provide a sufficient level of business continuity, fail safe and disaster recovery operations to ensure that disruptions to services are not apparent to taxpayers. All functionality must have full redundancy.</p> <p>As part of the initial implementation and Certification, the Contractor shall develop and make available a business continuity, fail safe and</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide information on the business continuity, disaster recovery/fail safe operations that can be provided.</p>

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<p>disaster recovery plan that meets or exceeds current industry standards. During the initial implementation and annually, going forward, there will be joint DTF/Contractor testing of the disaster recovery plan.</p>	
<p><b>11. Record and File Destruction</b></p> <p>DTF requires that when records maintained by the Contractor on behalf of DTF in connection with this program become obsolete (as determined by DTF), such records shall be destroyed. The Contractor shall destroy such records in accordance with directions from DTF. An officer or principal of the Contractor shall certify to DTF, in writing and under penalty of perjury, that such destruction has been completed in accordance with the direction by DTF.</p>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide details as to how the Guiding Principle will be met.</p>
<p><b>12. Transition Plan</b></p> <p>The Contractor will work with the Department to develop a detailed Transition Plan within one year of the implementation of the Program. The Department will prescribe the disengagement process to be followed during the transition phase of the Contract. This will include, but not be limited to:</p> <ul style="list-style-type: none"> <li>• Paper records, including, but not limited to, work papers, photo copies, computer printouts, and transcripts, must be returned to DTF or destroyed by shredding or disintegrating. Paper records should be shredded to 5/16 inch wide strips or smaller;</li> <li>• Inactivation of all New York State accounts on the Contractor’s system;</li> <li>• Transfer of all Department data from the Contractor’s system to the Department;</li> <li>• Removal of all Department data from the Contractor’s system. Storage devices such as</li> </ul>	<p>Affirm understanding of, and agreement to comply with, the Guiding Principle. Provide details as to how the Guiding Principle will be met.</p>

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<p>hard disk drives and other magnetic media such as tapes, diskettes, or CD's/DVD's must be physically destroyed or securely overwritten to prevent unauthorized disclosure of Department data; and</p> <ul style="list-style-type: none"> <li>• All electronic media containing confidential information must be sanitized using best practices available at the time of disengagement. Electronic media includes all back-up copies of data both on-site and off-site. Electronic media can be sanitized or disposed by clearing, purging or physically destroying the media.</li> </ul> <p>At a minimum, destruction of data activities are to be performed in accordance with the standards enumerated by the National Institute of Standards, Special Publications 800-88, Guidelines for Media Sanitization - <a href="http://csrc.nist.gov">http://csrc.nist.gov</a>.</p> <p><b>Documentation:</b></p> <p>Contractors must provide to the Department, a record of the media sanitation or disposal and maintain a record of the destruction for a period of one year. This record is to contain:</p> <ul style="list-style-type: none"> <li>• The date and time of the sanitation or disposal</li> <li>• A description of the data</li> <li>• A description of the media</li> <li>• The method of sanitation or disposal (clear/purge/physical destruction)</li> <li>• Contractor name that has contracted with the NYS Department of Taxation and Finance.</li> <li>• Contractor contact name for information regarding the sanitation or disposal activity.</li> <li>• The name of the officer, such as the company CIO, ISO, or Privacy Officer, responsible for sanitation or disposal of media. He/she must sign a record of destruction letter and send via</li> </ul>	

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<p>US Mail, or e-mail to the appropriate person in the communications matrix.</p> <ul style="list-style-type: none"><li>• The Contractor must provide a letter signed by two officials authorized to bind the Contractor at the conclusion of the Disengagement. This letter must affirm the Contractor has complied with the terms and conditions prescribed by the Department.</li></ul>	

**For the Program Development and Support Requirements described above, please identify and describe any challenges or limitations that may be posed to your organization regarding these services. Also, please identify and describe any additional capability your organization may be able to provide relating to our described need not specifically mentioned in these requirements.**

## **IV. Performance Standards and Liquidated Damages**

### **Purpose of the Performance Standards**

Performance Standards establish the acceptable level of service for all aspects of the Contractor processing systems and operations.

### **Future Program Changes**

The Performance Standards reflect current statutes, rules, regulations, policies and procedures. Future changes that alter the existing processing requirements may require the Performance Standards to be adjusted accordingly.

### **Evaluating Contractor Compliance with Standards**

The Department's performance monitoring program for Contractor services provides a means to evaluate compliance with the Performance Standards. The Contractor performance will be evaluated through performance monitoring reviews and audits to assess the effectiveness of specific functions and/or processes and to determine compliance with the Performance Standards. Accordingly, the performance monitoring program would ensure that:

- Appropriate controls are implemented and maintained for complete and accurate processing of reports and electronic files consistent with the Performance Standards.
- Security measures are implemented and maintained, consistent with the Performance Standards.
- Fail safe/disaster recovery and business continuity capability is maintained, consistent with the Performance Standards.
- Complete and accurate documentation is maintained, consistent with the Performance Standards.

Manual procedures and automated processing systems are implemented and maintained consistent with the Performance Standards.

### **Liquidated Damages and Reimbursement Structure**

Failure to comply with the Performance Standards may result in the imposition of liquidated damages and/or reimbursements. Additionally, civil and/or criminal penalties exist for violation of secrecy and confidentiality statutes.

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**Alternative Language**

The Performance Standards, as set forth in this section, represent DTF’s preferred standards. In the event a Bidder provides specific alternative language to the Performance Standards, such alternative language will be evaluated utilizing a scaled rating whereby an affirmation of the DTF standards receives the highest rating.

DTF will not accept any alternative language to the General Controls standards. The Department will allow alternative language for timeliness standards on data up to one (1) Business Day. For Liquidated Damages, the Department will not accept any alternative language that reduces a liquidated damage by more than 25% for a specified dollar damages. The Department will not accept percentage reductions to the reimbursements. **A bid which does not meet the minimum allowed values will be subject to disqualification.**

See also Section II - Functional Requirements and Section III - Program Development and Support Requirements.

**Standards and Liquidated Damages**

STANDARDS	LIQUIDATED DAMAGES AND REIMBURSEMENTS
<b>Automated Environment</b>	
<b>1.0 Timeliness, Completeness and Accuracy – 100%</b>	
<b>1.1 Initial Environment</b>  All hardware and software required to operate and support the Program must be operational according to the agreed upon schedules and requirements.	Only liquidated damages associated with failure to achieve other performance standards are applicable.
<b>1.2 Program Development</b>  All program development activities and deliverables required for implementation must be completed and operational according to the agreed upon dates in the Implementation Plan.	A flat fee of \$500 per calendar day for the first week the development activity or deliverable is missed. For each subsequent week, or portion thereof, a flat fee of \$2,500 will be assessed.
<b>1.3 Program Certification</b>  All program development activities and deliverables required for the Contractor to receive Certification must be completed and operational according to the agreed upon Certification dates in the	A flat fee of \$5,000 per calendar day for the first week the certification date is missed. For each subsequent week, or portion thereof, a flat fee of \$10,000 will be assessed.

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STANDARDS	LIQUIDATED DAMAGES AND REIMBURSEMENTS
Implementation Plan.	
<p><b>1. 4 System Modification</b></p> <p>The Contractor must accurately and timely implement and test any data and production system modifications, Enhancements and Maintenance which affect the Program, whether initiated by the Contractor, or as agreed upon pursuant to the Change Control Procedure (Exhibit XXX). The Contractor must work with the Department to test and certify such system modifications and Enhancements/Maintenance prior to the implementation of such change.</p>	<p>Reimbursement to the Department and/or Taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard.</p>
<p><b>1. 5 System/Program Documentation</b></p> <p>All documentation related to the required Services must be complete, accurate and available for DTF review upon request.</p>	<p>A flat fee of \$500 per day that the Contractor fails to deliver such documentation after the due date.</p>
<p><b>2.0 General Controls</b></p>	
<p><b>Compliance – 100%</b></p>	
<p><b>2. 1 Logical System Security</b></p> <p>The Contractor must implement and maintain the logical system security, according to the agreed upon requirements, to prevent unauthorized access to Taxpayer and DTF data.</p>	<p>Reimbursement to the Department and/or Taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard;</p> <p>and /or</p> <p>Liquidated damages of \$2,500 for each violation of unauthorized access. Corrective action and a timetable will be specified by the Department for each violation.</p>
<p><b>2. 2 Security/Confidentiality</b></p> <p>The Contractor must implement and maintain the agreed upon security and confidentiality measures articulated in its technical proposal response.</p>	<p>Reimbursement to the Department and/or Taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard;</p> <p>and /or</p>

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	Liquidated Damages of \$2,500 for each violation of the security measures as they relate to the services. Corrective action and a timetable will be specified by the Department for each violation.
<p><b>2. 3 Physical Security and Internal Controls</b></p> <p>The Contractor must maintain physical security and internal controls for all sites and services required in order to adequately prevent or minimize the risk of loss, destruction or theft of physical assets and unauthorized access.</p>	<p>Reimbursement to the Department and/or Taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard;</p> <p>and /or</p> <p>Liquidated damages of \$2,500 for each violation as it relates to the services. Corrective action and a timetable will be specified by the Department for each violation.</p>
<p><b>2. 4 Change Management</b></p> <p>The Contractor must provide DTF sixty (60) days prior notification of planned changes to the organization, expansion of services to other clients, and/or hardware and software modifications that either directly or indirectly impact the Program.</p>	<p>Reimbursement to the Department and/or Taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard;</p> <p>and /or</p> <p>Liquidated damages of \$2,500 for each violation as it relates to the Services. If appropriate, corrective action and a timetable will be specified by the Department.</p>
<p><b>2. 5 Fail Safe/Disaster Recovery/Business Continuity</b></p> <p>The Contractor must implement and maintain the agreed upon Fail Safe/Disaster Recovery/Business Continuity procedures articulated in its technical proposal response throughout the duration of the Contract, and execute the procedures when necessary, utilizing an agreed upon communication</p>	<p>Reimbursement to the Department and/or Taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard;</p> <p>and /or</p> <p>Liquidated Damages of \$5,000 for each failure to</p>

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STANDARDS	LIQUIDATED DAMAGES AND REIMBURSEMENTS
plan.	maintain the agreed upon Fail Safe/Disaster Recovery/Business Continuity operations procedures which impact the Services.
<p><b>2. 6 Procedures Documentation</b></p> <p>The Contractor must develop, implement, maintain and document all procedures in accordance with the agreed upon requirements. Complete and accurate documentation must be maintained throughout the duration of the Contract.</p>	Liquidated damages of \$500 for each failure to meet the standard. Corrective action and a timetable will be specified by the Department for each violation.
<b>3.0 Performance Monitoring</b>	
<b>Performance Audits – 100%</b>	
<p><b>3. 1 Performance Monitoring</b></p> <p>The Contractor must cooperate fully with DTF and the Office of State Comptroller, and/or their designee(s) for all performance monitoring audits and reviews.</p>	Liquidated damages of \$1,000 per day for each failure to meet this standard.
<b>4.0 Processing</b>	
<b>4. A. Timeliness of Processing</b>	
<p><b>4.A.1 ICL Transmissions</b></p> <p>All ICL transmissions must be acknowledged within the timeframes specified in the Functional Requirements of this solicitation.</p>	<p>A flat fee of \$100 per day for each ICL transmission that is not appropriately acknowledged;</p> <p>and/or</p> <p>DTF will be reimbursed for expenses and loss of revenue for failure to meet the standard. Taxpayer(s) will be reimbursed for any bank related expense (e.g., stop payment fees, return items fees, etc.) for failure to meet the standard.</p>
<p><b>4.A.2 ICL Help Desk</b></p> <p>Help Desk support for ICL transmissions must be</p>	A flat fee of \$100 per day for which ICL Help Desk

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STANDARDS	LIQUIDATED DAMAGES AND REIMBURSEMENTS
available to DTF from 8 AM through 8 PM ET, Monday through Saturday.	support is not available as required;  and/or  DTF will be reimbursed for expenses and loss of revenue for failure to meet the standard. Taxpayer(s) will be reimbursed for any bank related expense (e.g., stop payment fees, return items fees, etc.) for failure to meet the standard.
<p><b>4.A.3</b></p> <p>Deposit credit for any ICL received prior to the agreed upon receipt cut-off time as required in the Functional Requirements of this solicitation.</p>	<p>A flat fee of \$100 per day for which an ICL deposit is not made on the required Business Day;</p> <p>and/or</p> <p>DTF will be reimbursed for expenses and loss of revenue for failure to meet the standard. Taxpayer(s) will be reimbursed for any bank related expense (e.g., stop payment fees, return items fees, etc.) for failure to meet the standard.</p>
<p><b>4.A.4 Manual Deposits</b></p> <p>Remittances to be manually deposited must be picked up and deposited, on Banking Days for same day credit, from each designated processing site, within the agreed upon timeframes.</p>	<p>A flat fee of \$100 per day for which Manual Deposits are not made on the required Banking Day;</p> <p>and/or</p> <p>DTF will be reimbursed for expenses and loss of revenue for failure to meet the standard. Taxpayer(s) will be reimbursed for any bank related expense (e.g., stop payment fees, return items fees, etc.) for failure to meet the standard.</p>
<p><b>4.A.5 Bank Account Online Application</b></p> <p>The Bank Account Online application must be</p>	<p>A flat fee of \$100 per day for which the online</p>

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STANDARDS	LIQUIDATED DAMAGES AND REIMBURSEMENTS
<p>available during the agreed upon timeframes. The application must provide all required account information within these timeframes.</p>	<p>application is not available as required;  and/or  DTF will be reimbursed for expenses and loss of revenue for failure to meet the standard. Taxpayer(s) will be reimbursed for any bank related expense (e.g., stop payment fees, return items fees, etc.) for failure to meet the standard.</p>
<p><b>4.A.6 Adjustment Files and Documents</b></p> <p>Adjustment files and documents, both electronic and paper, must be provided as agreed upon.</p>	<p>A flat fee of \$10 for each adjustment not processed as required;  and/or  DTF will be reimbursed for expenses and loss of revenue for failure to meet the standard. Taxpayer(s) will be reimbursed for any bank related expense (e.g., stop payment fees, return items fees, etc.) for failure to meet the standard.</p>
<p><b>4.B Accuracy and Completeness</b></p>	
<p><b>4.B.1 ICL Transmissions</b></p> <p>All ICL Transmissions must be processed completely and accurately.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation;  and/or  Liquidated damages of \$1,000 for each violation for failure to meet the corrective action and/or the timetable as mutually agreed upon by the Contractor and the Department.</p>

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STANDARDS	LIQUIDATED DAMAGES AND REIMBURSEMENTS
<p><b>4.B.2 ICL Credits</b></p> <p>All deposits resulting from an ICL must be 100% accurate and complete.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation;</p> <p>and/or</p> <p>Liquidated damages of \$1,000 for each violation for failure to meet the corrective action and/or the timetable as mutually agreed upon by the Contractor and the Department.</p>
<p><b>4.B.3 Manual Deposits</b></p> <p>Deposits of Physical Checks must be 100% accurate and complete.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation;</p> <p>and/or</p> <p>Liquidated damages of \$1,000 for each violation for failure to meet the corrective action and/or the timetable as mutually agreed upon by the Contractor and the Department.</p>
<p><b>4.B.4 Bank Account Online Application</b></p> <p>Information provided on the Bank Account Online Application must be 100% accurate and complete.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation;</p> <p>and/or</p> <p>Liquidated damages of \$1,000 for each violation for failure to meet the corrective action and/or the timetable as mutually agreed upon by the Contractor and the Department.</p>

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STANDARDS	LIQUIDATED DAMAGES AND REIMBURSEMENTS
<p><b>4.B.5 Adjustment Files and Documents</b>            Adjustment files and documents must be 100% accurate and complete.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation;</p> <p>and/or</p> <p>Liquidated damages of \$1,000 for each violation for failure to meet the corrective action and/or the timetable as mutually agreed upon by the Contractor and the Department.</p>

**For the requirements described above, please identify and describe any challenges or limitations that may be posed to your organization regarding these performance standards and liquidated damages.**

## **V. Insurance Requirements**

Prior to the commencement of Services by the Contractor, the Contractor shall file with The State of New York, Department of Tax and Finance (hereinafter referred to as “DTF”), Certificates of Insurance evidencing compliance with all requirements contained in the solicitation. These policies must be written in accordance with the requirements of the paragraphs below. 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 the Department and rated at least “A-” Class “VII” in the most recently published Best’s Insurance Report.

The Department may, at its sole discretion, accept policies of insurance written by a non-authorized carrier(s) when Certificates and/or other policy documentation are accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit. Nothing herein shall be construed to require the Department to accept insurance placed with a non-authorized carrier under any circumstances. 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 awarded by this solicitation.

All insurance required by this solicitation shall: i) be obtained at the sole cost and expense of the Contractor, ii) be maintained with insurance carriers licensed to do business in New York State, and acceptable to DTF, iii) be primary and non-contributing to any insurance or self-insurance maintained by DTF, iv) be endorsed to provide DTF with written notice at least thirty (30) days prior to the cancellation, non-renewal or material alteration of such policies, which notice shall be sent in accordance with the notice provision of the Contract and v) name DTF, its officers, agents, and employees as additional insureds thereunder. Such additional insured coverage must be written on the ISO occurrence form CG 20 10 11 85, or a substitute form, providing equivalent coverages. The additional insured requirement does not apply to Workers Compensation Disability or Professional Liability (Errors and Omissions) 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 above \$100,000 are subject to approval by DTF. The Contractor shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.

The Contractor shall require that any Subcontractors hired, carry insurance with the same limits and provisions provided herein. Should the Contractor engage a Subcontractor, the Contractor shall require all Subcontractors, prior to commencement of an agreement between Contractor

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and the Subcontractor, to secure and keep in force during the term of the Contract the insurance requirements of this solicitation, as applicable. Required insurance limits should be determined commensurate with the work of the Subcontractor. Proof thereof shall be supplied to DTF.

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 solicitation. 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.

As soon as reasonably practicable prior to the expiration date or renewal date, the Contractor shall supply DTF updated/replacement Certificates of Insurance, and amendatory endorsements.

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

**A. Specific Coverage and Limits.** The types of insurance and the minimum policy limits shall be as follows:

**1. General Liability.** Commercial General Liability Insurance (CGL) covering the liability of Contractor for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this contract. Such liability shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages. The limits under such policy shall not be less than the following:

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

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

- Premises liability
  - Independent contractors
  - Blanket contractual liability, including tort liability of another assumed in a contract
  - Defense and/or indemnification obligations
  - Cross liability for additional insured's
  - Products/completed operations
- 2. Cyber (Internet) liability.** The Contractor shall maintain Cyber Internet Liability insurance with a limit of not less than \$1,000,000 for damages arising from theft, destruction or unauthorized use of electronic data, and/or failing to safeguard another party's electronic data, including unauthorized access, viruses, attacks on covered systems, theft, extortion, loss of income due to online business interruption, and the cost of investigating the reason for the interruption. If this coverage is made on a claims-made policy form, so the Contractor shall purchase, at its sole expense, an Extended Discovery Clause for up to three (3) years after the work is completed if the coverage is cancelled or not renewed.
- 3. Professional Liability.** Professional Liability insurance covering actual or alleged negligent acts, errors or omissions committed by the Contractor, its agents or employees, arising out of the work performed under this Contract. The policy coverage shall extend to include bodily injury and property damage from negligent performance of professional services. The policy shall have limits of liability not less than \$1,000,000 each occurrence, with a limit not less than \$5,000,000 aggregate. The Contractor shall be responsible for payment of all claim expenses and loss payments with the deductible.
- This errors and omissions insurance shall include coverage for third party claims and losses. If this coverage is made on a claims-made policy form, so the Contractor shall purchase, at its sole expense, an Extended Discovery Clause for up to three (3) years after the work is completed if the coverage is cancelled or not renewed.
- 4. Workers Compensation.** For work to be performed in NYS, Contractor shall provide and maintain coverage during the life of the Contract for the benefit of such employees of Contractor that are required to be covered by the NYS Workers Compensation Law.

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5. **Disability Benefits.** For work to be performed in NYS, Contractor shall provide and maintain coverage during the life of the Contract for the benefit of such employees of Contractor that are required to be covered by the NYS Disability Benefits Law. Any waiver of this requirement must be approved by the Department and will only be granted in unique or unusual circumstances.
6. **Comprehensive 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.
7. **Crime Insurance.** Crime Insurance (Fidelity Bond) in the amount not less than \$1,000,000 including employee dishonesty coverage on money, securities or property other than money and securities including contract and temporary, whether identified or not, acting alone or in concert with others.

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

- B. **Waiver of Subrogation.** Contractor shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty, 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 provides (ii) any other form of permission for the release of DTF.

The successful Contractor will indemnify DTF against any and all liability which may be assessed against it as a result of the actions, activities, neglect, or malpractice of the successful Contractor, its officers, employees' agents, Subcontractors or corresponding attorneys relating to its performance of the functions required.

**Response Requirement**

The Bidder must affirm understanding of, and agreement to comply with, the Insurance Requirements.

**For the Insurance Requirements described above, please identify and describe any challenges or limitations that may be posed to your organization regarding these services.**

## VI. Financial Requirements

In response to this section, the Bidder must complete **Attachment 16 (A and B), Financial Response Form**. Bidders should only use Attachment 16 to present their pricing. The tables on Attachment 16 indicate the task and associated AFP Code for pricing purposes. Bidders should not modify or change the Attachment. Pricing information should be completed as presented. All costs associated with the requirements of this solicitation must be incorporated into the Bidder's financial response. No other add-on costs are permitted. Bidders' failure to complete and/or submit Attachments 16-A and 16-B will result in the Bidder's proposal being deemed non-responsive.

Please note, Attachments 16-A and 16-B include tier pricing, based on the number of IRDs processed annually. The tiers are as follows:

- Tier 1: 1 – 3,000,000;
- Tier 2: 3,000,001 – 5,000,000;
- Tier 3: 5,000,001 +.

Fees provided on Attachment 16 will not be increased during the initial three years of the Contract. Thereafter annual fees may be increased for each subsequent annual period of said term upon the anniversary of the Contract resulting from this solicitation with sixty (60) days written notice to the Department. Such increase will be limited to the lesser of the Consumer Price Index, Table 10, for All Urban Customers (CPI-U) as reported by the U.S. Department of Labor, Bureau of Statistics for the preceding one (1) year period ending on December 31, or three percent (3%).

If the renewal option is exercised, rate increases for each of the two (2) subsequent one (1) year renewal periods shall be so limited.

Additional payment information is located in the Administrative Requirements, Section XXX and, Section XXX of the Preliminary Contract.

The State of New York will pay for the services requested in this Request for Proposal by either Compensating Balance or Direct Fee payments. **Each Bidder must prepare two Financial Response Forms (as described below) - one detailing the cost of the same services should the State elect to pay by Direct Fee (Attachment 16-A) and one detailing the cost of the same services should the State elect to pay by Compensating Balance (Attachment 16-B).** The State reserves the right to change the compensation method at any time during the Contract term with appropriate notification to the Contractor. The State reserves the right to determine the method to be used to compensate the Contractor for services. The method may include, but is not limited to, Direct Fee, Compensating Balance, or a combination of both. The method of compensation shall be that which is expected to provide the lowest cost of Services to the State, as determined solely by the State. The State agrees not to change the method of compensation at a frequency greater than once annually, except in extraordinary circumstances, as determined by the State. The State shall provide the Contractor with at

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least ninety (90) days written notice of such a change.

Depending upon the method of compensation chosen, the following procedures will be used to determine the payment for Services:

**Payment by Direct Fee**

If the State elects to pay by Direct Fee, the State may choose to either offset the fee payment with Earnings Credits (as hereinafter defined) or request Earnings Credits reimbursement from the Contractor. All excess Earnings Credits on a monthly basis must be carried forward to offset future payments throughout the life of the Contract. Earnings Credits are to be calculated using the following formula:

$$\text{Earnings Credits} = (\text{average available account balance}) \times (1 - \text{RR}) \times (\text{ECR}) \times \text{Time}$$

Where:

RR = Federal Reserve Bank Reserve Requirement percentage.

ECR = Earnings Credit Rate, the determination of which is described below.

Time = number of days in period/365.

The Earnings Credit Rate is the monthly average investment yield on the three-month Treasury Bill, as determined at the weekly auction and published in the New York Times or the Contractor standard rate, whichever is greater. The Earnings Credit Rate shall be determined by the New York State Office of the State Comptroller and confirmed with the Contractor.

Payment for services by Direct Fee should be billed by the Contractor to the Department and will be paid in accordance with the voucher and audit procedures established by OSC.

**Payment by Compensating Balance**

If the State elects to pay by Compensating Balance, the value of the compensating balance shall be calculated using the same formula as shown above under “Payment by Direct Fee”, provided, however, that the Earnings Credit Rate shall be determined based on an OSC computation which factors a three year average spread between the State’s short term investment pool rate and the monthly average investment rate on the three-month Treasury Bill as determined at the weekly auction (currently 40 basis points) and published in the New York Times. The Earnings Credit Rate shall be determined by the Office of the State Comptroller and confirmed with the Bank. If payment is made via compensating balance, the Contractor must provide a monthly bank account analysis electronically to OSC. This analysis must include the monthly volume and total costs associated with the Account. All excess Earnings Credits on a monthly basis must be carried forward to offset future payments throughout the life of the Contract.

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Please consider the above discussion of the Earnings Credit Rate in preparing the Schedules of Fees and Expenses.

### General

1. FDIC fees must not be included within the operational fees. FDIC fees must be a pass-through cost only and no additional fees may be added.
2. All costs associated with the requirements of this solicitation must be incorporated into the categories shown on the Financial Response Form. No other add-on costs are permitted. The State may, by amendment to the Contract, entertain changes in fees under the following circumstances:
  - Billings for additional, enhanced or modified services requested by the State.
  - Other extraordinary cost increases which are beyond the control of the Bank.

### Response Requirement

The Bidder must complete and submit **Attachment 16-A and 16-B, Financial Response Form**, detailing the cost of the service for both Direct Fee and Compensating Balances. **The prices quoted will be in effect for the initial term of the Contract.**

### Contractor Reimbursement

The Contractor will be reimbursed monthly, in arrears, upon receipt of a proper invoice in accordance with Article XI-A of the New York State Finance Law. Reimbursement will be based on the cost per item for each category on **Attachment 16-A and 16-B, Financial Response Form**. Tiered pricing is required to allow for reimbursement for a range of items within specific categories.

The initial price will be established using the volumes set out in this solicitation.

Reimbursement for the period commencing XXX, will be based on tier 2 pricing, as it expected that IRD volumes will be approximately 4.5 million annually.

At the end of each calendar year, the Department will reconcile the actual volume to the correct tier pricing in order to establish the appropriate price. If a credit is due to the Department, the Contractor will provide the credit on the next invoice. If the Department has been under billed, the Contractor will invoice the Department for the difference on the next invoice and will be compensated in accordance with this section.

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**For the Financial Requirements described above, please identify and describe any challenges or limitations that may be posed to your organization regarding these services.**

**When considering the ‘Financial Response Form’ below, please identify and describe any alternative method(s) of pricing/pricing structure that may conform to industry standards for these types of services.**

**Also, please specifically consider the pricing for the pass-through fees, as well as the transportation of Manual Deposits via courier service or a third party delivery service.**

## Attachment 16 – Financial Response Form

### Attachment 16-A - Direct Fees

#### 1. Annual Check Processing Fee (Check 21)

Operation Fees	AFP Code	Years 1-3		
		Tier 1 1-3,000,000 (IRD's per year)	Tier 2 3,000,001-5,000,000 (IRD's per year)	Tier 3 5,000,001 + (IRD's per year)
Check 21 fees				
Image Replacement Documents	100229			

Operation Fees	AFP Code	Cost
ICL Transmission – Monthly Fee per Account	100209	
Adjustments		
Dishonorments	1004XX	
ACH Originated	2501XX	
ACH Received	2502XX	
Deposit Corrections	100500	

#### 2. Manual Deposit Fees

Manual Deposit Fees	AFP Code	Cost
Deposited Items	002XX	

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**3. Other Fees**

Miscellaneous Fees	AFP Code	Cost
Deposit Slips – pass through fee	100840	
Courier/Deposit Bags/Boxes – Pass through fee	1008XX	
Courier Service		
Albany	101020	
Binghamton	101020	
Kingston	101020	
Third Party Delivery Service		
Address where Manual Deposits will be received for processing	Contractor Name: _____  Address: _____ _____  City: _____ State: _____ Zip: _____	
Building 8 W.A.Harriman Campus  Albany, NY 12227		
20 Wall Street Binghamton, NY 13901-2718		
575 Boice’s Lane  Kingston, NY 12401		
Wire Transfer Fee(s)	350XXX	
Monthly Maintenance Fee(s)	010000	

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**Attachment 16 – B - Compensating Balances**

**1. Annual Check Processing Fees (Check 21)**

Operation Fees	AFP Code	Years 1-3		
		Tier 1 1-3,000,000 (IRD's per year)	Tier 2 3,000,001-5,000,000 (IRD's per year)	Tier 3 5,000,001 + (IRD's per year)
<b>Check 21 fees</b>				
Image Replacement Documents	100229			

Operation Fees	AFP Code	Cost
ICL Transmission – Monthly Fee per Account	100209	
Adjustments		
Dishonorments	1004XX	
ACH Originated	2501XX	
ACH Received	2502XX	
Deposit Corrections	100500	

**2. Manual Deposit Fees**

Manual Deposit Fees	AFP Code	Cost
Deposited Items	1002XX	

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**3. Other Fees**

Miscellaneous Fees	AFP Code	Cost
Deposit Slips – pass through fee	100840	
Courier/Deposit Bags/Boxes – Pass through fee	1008XX	
Courier Service		
Albany	101020	
Binghamton	101020	
Kingston	101020	
Third Party Delivery Service		
Address where Manual Deposits will be received for processing	Contractor Name: _____ Address: _____ _____ City: _____ State: _____ Zip: _____	
Building 8 W.A.Harriman Campus Albany, NY 12227		
20 Wall Street Binghamton, NY 13901-2718		
575 Boice’s Lane Kingston, NY 12401		
Wire Transfer Fee(s)	350XXX	
Monthly Maintenance Fee(s)	010000	