

STATE OF NEW YORK

DEPARTMENT OF TAXATION & FINANCE



Invitation for Bids 10-05 Books, Subscriptions and Internet Access to Various Publications

New York State Department of Taxation and Finance
Invitation for Bids (IFB) 10-05
Books, Subscriptions and Internet Access to Various Publications

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Schedule of Events

Issuance of IFB	August 13, 2010
Deadline for filing Offerer Affirmation and Understanding of, and compliance with, Procurement Lobbying Guidelines	August 20, 2010
Deadline for Submission of Questions	August 20, 2010
Department Response to Bidder Questions	August 27, 2010
Proposals Due	September 14, 2010 by 2:00 pm EST
Notification of Intent to Award	September 21, 2010
Deadline for Contract Signature	October 21, 2010

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Preface

A. Proposal Questions/Inquiries

Prospective Bidders will have an opportunity to submit written questions and requests for clarification regarding this Invitation for Bids (IFB). All questions regarding this IFB 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 IFB 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
WA Harriman State Campus
Building 9, Rm 234
Albany, NY 12227

Prospective Bidders should note that all clarifications and exceptions, including those relating to the terms and conditions of the IFB, 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
Karen Brino	(518) 485-6091	bfs_contracts@tax.state.ny.us
Dorothy Lechmanski	(518) 457-0954	bfs_contracts@tax.state.ny.us
Shannon Plasencia	(518) 485-6091	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 IV, Administrative Requirements.

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B. Procurement Lobbying – Offerer Affirmation of 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 2: Offerer Affirmation of Understanding of, and Compliance with, Procurement Lobbying Guidelines 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 Departments Procurement website at: <http://www.nystax.gov/procurement>.

E. Submission of Proposals

The Bidder must submit their proposals as instructed in Section V, Proposal Submission.

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IFB Key Points

- 1. Read the IFB in its entirety.** Note key items such as: critical dates, mandatory technical 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 IFB.
- 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 questions 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. Provide complete answers/descriptions. Bidder proposals must completely address all mandatory technical requirements.** To ensure you are not unnecessarily disqualified from bid evaluation, thoroughly read all proposal requirements and provide complete response. Use all the forms provided to submit your response.
- 6. Review the IFB document and your proposal.** Make sure all requirements are addressed and all copies are identical and complete.
- 7. Package your proposal as required in the IFB.** Make sure your proposal conforms to the packaging requirements. Proposals not packaged accordingly may be deemed non-responsive.
- 8. 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.

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IFB Glossary

Attorney General (AG) means the Attorney General of the State of New York, or designee.

Contractor means *[successful Bidder's name to be inserted here]*.

Department means the New York State Department of Taxation and Finance.

Invitation for Bids means this bid request for Books, Subscriptions, and Internet Access to Various Publications.

IP Specific Address for purposes of this IFB requires recognition by the vendor's server of the Department's proxy server.

Licensed Documentation means the documentation prepared for or related to Licensed Software.

Licensed Software means commercially available and licensed software used in support of Program objectives and provided by Contractor.

OSC means the New York State Office of the State Comptroller.

Proposal means the Proposal submitted by Contractor in response to IFB 10-05 (Volume 1, Mandatory Technical and Administrative Requirement Response Forms and Volume 2 Financial Response Form dated XXXXXXXX), and any written clarifications thereto made by Contractor.

Subcontractor means 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 contract.

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I. Introduction

A. Overview/Purpose

The New York State Department of Taxation and Finance (Department) has the sole responsibility for the administration of over thirty tax types imposed by the New York State Tax Law. The Department is soliciting proposals from entities to provide internet access and various books and subscriptions utilized by our collection agents, auditors, lawyers and tax policy analysts in the course of revenue collection activities. In addition, this IFB requires the vendor to provide training on the use of the products offered. This training may take place at the Tax Department's office in Albany as well as the various District Offices located throughout New York State and one District Office located in Des Plaines, Illinois. The Department intends to place an annual order, usually in December, to obtain books, subscriptions, CD-ROMS/DVDS and Internet Access to Various Publications utilized by Department staff.

B. Implementation

The services solicited herein must be operational no later than January 1, 2011.

C. Contract Term

The Department will award one contract for a period of five years commencing January 1, 2011. The successful Bidder must sign a contract within thirty (30) days of contract award. If the successful Bidder fails to do so, the Department reserves the right to begin negotiations with the second highest rated Bidder.

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II. Mandatory Technical Requirements

Only qualified entities may submit a proposal in response to this IFB. A qualified entity is defined as one that meets all of the mandatory technical requirements. Entities not meeting these mandatory technical requirements should not submit a proposal.

A. Products to be provided

The titles listed below of the handbooks, paper subscriptions, CD-ROM/DVDS Multi-user/Single User and internet access are the titles currently received from Commerce Clearing House. It is expected that potential bidders will be able to ascertain what information is provided in these titles and their eligibility to bid. Please note: The Bidder may propose alternate titles however the content within those titles must match the content in the titles listed below. Prior to award, Bidders proposing alternate titles will be required to submit evaluation samples to ensure the titles proposed meet the requirements. While this list is not all inclusive of the titles the Department may order, these are the mandatory requirements for purposes of this IFB.

The following Publications must be provided:

1. Handbooks

Almanac of Business Ratios

Corporation Tax Laws and Regulations

Federal Estate and Gift Tax Code and Regulations

Federal Income Taxes of Decedents and Trusts

Guide to Limited Liability

Guidebook to New York State Taxes

Express Answers 1040

Internal Revenue Code

New York State Sales and Use Tax Law

Personal Income Tax Law and Regulations

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Tax Law of the State of New York

U.S. Master Tax Guide

U.S. Master Estate and Gift Tax Guide

U.S. Master Excise Tax Guide

U.S. Master GAAP Guide

2. Paper Subscriptions

Federal Tax Guide Control Edition

IRS Publications

New York Tax Reports

S Corporations Guide

Standard Federal Tax Reports Income

Standard Federal Tax Reports Income – Value Pack Print

State Tax Guide

State Tax Reports (All States)

3. CD-ROM/DVD Multi-User/Single User

Archival Federal Tax Cases (Updates)

Federal and State Tax Forms

Internal Revenue Manual

Multi-State Corporate Income Tax Guide

Multi-State Sales and Use Tax Guide

New York Tax Reports

Standard Federal Tax Reports – Income, Estate, Gift and Excise

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State Tax Guide

Tax Court Reports

4. Internet

Federal Estate and Gift Tax Guide Reports

Federal Estate and Gift Tax Reports – Federal All States

Federal Excise Tax Reports

Federal Tax Guide

Federal Tax Guide Control Edition

IRS Publications

New York Tax Reports

Partnership Tax Reporter

Pensions and Deferred Compensation

S Corporations Guide

Securities Transfer Guide

Standard Federal Tax Reports Income

State Tax Guide

State Tax Guide: State Tax Cases

State Tax Reports (All States)

State Tax Review Newsletter

Tax Court Reports

Tax Magazine

Tax Treaties

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U.S. Master Tax Guide

Response Requirement

Bidders must complete Attachment A, Attestation, the Bidder must provide an affirmation that they have read the IFB in its entirety and understands and agrees to abide by the requirements and indicate if alternate titles are being proposed. Prior to award, if the Bidder is offering alternate titles, evaluation samples must be provided to ensure they meet the requirements of this IFB. In addition, Bidders proposing alternate titles will be required to submit evaluation samples to ensure the titles proposed meet the requirements.

B. Technical Specifications

Unless otherwise noted, all publications must be offered in Paper, CD-ROM/DVD and Internet formats. CD-ROM/DVD subscriptions will be required for both single-user and multi-user formats. Listed below are the specifications for both product content and technical requirements.

There will be a gradual conversion from paper subscriptions to CD-ROM/DVD and internet over the next several years.

Product Content

Standard Federal Tax Reports – Income

The Federal Tax Report service **must** provide the following:

- Internal Revenue Code (IRC): Complete provisions of the 1986 code with all amendments and committee reports
- Federal Tax Regulations: Final, Temporary and Proposed regulations promulgated by the Treasury Department and the IRS for the application of the Internal Revenue laws.
- Current Developments: U. S. Tax cases, Tax Court Memoranda, Revenue Rulings, Revenue Procedures, Treasury decisions, Procedural Rules amendments, Commissioner Orders, Cumulative Bulletin notices and Treasury Department Orders.
- Citator: Listing of all decisions reported throughout the service where each decision has been cited in later court decisions.

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- An easy to read guide to the current IRC which can be used as a reference to the main service.
- Monthly updates and weekly newsletters on recent developments and noteworthy topics.
- Annotations and Explanations.

Note: The Federal Service for Estate and Gift Tax and Excise Tax **must** have like content for the same period of time.

New York State Tax Reporter

The New York State Service **must** have the following:

- The laws and regulations for all taxes imposed by the State of New York.
- New York State Matters (Technical Services Bureau Advisory Opinions and Decisions from 1978 to present).
- New York State Matters (Declaratory Rulings and Rulings of the State Tax Commission prior to 1978).
- New York Administrative Release (Technical Services Bureau Memorandum).
- Full text reporting of all source documents mentioned above (e.g. Court cases, Administrative hearings including advisory opinions, Memorandums, Administrative Law Judge Decisions and Tribunal Decisions, Declaratory Rulings and Rulings of the State Tax Commission) cited in editorial comments.
- Full integration by reference of all source documents in annotations and editorial analysis.
- All supplemental publications and updates issued by the company during the year.

State Tax Reporters for all other States

The State Tax Reporters for all other states **must** have the following:

- Laws and regulations for all taxes imposed by the respective state.
- Full text of all administrative rulings and releases for the respective state.

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- Full text reporting of all source documents (e.g. Court cases, Administrative hearings, rulings and releases).
- Full integration by reference of all source documents in Annotations and editorial analysis.
- All supplemental publications and updates issued by the company during the year.

Internet Requirements

- An IP Specific Address will be required for this format. This will preclude the use of Log on ID's and passwords by users.
- Products must be fully functional and integrated with Internet Explorer (IE) 7.0 and 8.
- The application must be able to function via a proxy that scans the http traffic sent from the application to the client for a virus.
- Initial and continuous use of the Application: If the Application resembles a virus at any time during its use it will be the responsibility of the Vendor to correct this behavior otherwise the application will not meet the requirements of this IFB.

CD-ROM/DVD Requirements

CD-ROMS/DVDS are required in both single and multi-user format. If the CD-ROM/DVD is for both single and multi-user, it must meet both the requirements identified below.

Single User

- Product must operate in the following operating systems, as well as on a stand-alone PC: Windows 2000 SP4, Windows XP SP1, Windows XP SP2, Windows XP SP3 and Windows 7.
- PC Model/make: IBM compatible personal computer with color monitor (minimum of 800x600 resolution).
- Search Software (Federal and State) to be provided on CD-ROM and installable to PC hard drive from CD-ROM/DVD.
- Information to be provided on CD-ROM/DVD media.

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- Specifications are based on the assumption that the Department will have in place CD-ROM servers on the LAN and stand-alone CD-ROM/DVD readers on PC's.

Multi User

- Must operate in a CITRIX Environment.
- Must operate in a LAN environment from CD-ROM/DVD Servers.

Functionality

Required Functionality for CD-ROM/DVD and Internet

- Software must allow for keyword searching of the entire database or individual or selected components of the database.
- Database components are those listed under product content.
- Research material must be able to be copied to a "notepad/clipboard" and placed into a Word document.
- Research material must be able to be exported to as a PC file and retrieved and opened for further research and selective printing.
- System users must be able to record/retrieve their own notes in keyword searching.
- Searches must be able to use Boolean logical operators in keyword searching.
- Searches must be able to perform "proximity searches", i.e. certain words must be within certain distances of each other within certain documents.
- Software must provide a thesaurus.
- Ability to review neighboring documents.

Training –

The Vendor must provide on-site training designed to provide users with a good working knowledge of the operation, use and key features of the CD-ROM/DVD software and Internet systems. A minimum of four (4) hours of training should be allotted for each of the training sessions. Training may be required at each of the following locations:

- Building 9 State Campus Albany, NY

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- Binghamton Office – 44 Hawley Street, Binghamton, NY 13901
- Buffalo Office – 77 Broadway, Suite 112, Buffalo, NY 14203
- Capital Region Office – 299 Old Niskayuna Road, Latham, NY 12110
- Hudson Valley Office – 33 Airport Center Dr., Suite 106, New Windsor, NY 12553
- Manhattan District Office – 1740 Broadway 16th Floor, NY, NY 10019
- Metropolitan District Office – 55 Hanson Place, Brooklyn, NY 11217
- Midwestern Regional Office (Chicago) – 1011 East Touhy Ave., Suite 475, Des Plaines, IL, 60018
- Nassau District Office – 400 Oak St. Suite 102, Garden City, NY 11530
- Queens District Office – 80-02 Kew Gardens, NY 11415
- Rochester District Office – 340 East Main St., 3rd Floor, Rochester, NY 14604
- Syracuse District Office – 333 E. Washington St., Syracuse, NY 13202
- Suffolk District Office – State Office Building, 250 Veteran’s Memorial Highway, Hauppauge, NY, 11788
- Utica District Office – 207 Genesee Street, Utica, NY 13501
- Westchester District Office – 90 South Ridge Street – Rye Brook, NY 10573

The Vendor must maintain a telephone support hotline between the hours of 9:00 a.m. and 5:00 p.m. (EST) daily, except holidays. Vendor must provide a minimum response time to an inquiry of four (4) hours. The hotline must be staffed by personnel qualified to resolve normal user problems.

The Vendor must provide one (1) user’s manual for each subscription (single-user CD-ROM/DVD).

The Vendor must be able to conduct on-site training on how to conduct Federal Tax research. The training should be designed to provide staff with an understanding of the contents of the services and how it can be utilized to find answers to questions relating to Federal Taxation. This training is to be conducted at the same locations and in conjunction with the product training.

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Response Requirement

On Attachment A, Attestation, the Bidder must provide an affirmation that they have read the IFB in its entirety and understands and agrees to abide by the requirements and indicate if alternate titles are being proposed.

Prior to award, the highest ranking vendor will be required to submit an evaluation sample of the CD-ROM's/DVD'S to verify their compliance with the requirements of this IFB. In addition, Bidders proposing alternate titles will be required to submit evaluation samples to ensure the titles proposed meet the requirements.

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III. Financial Requirements

The Bidder must provide pricing for the books, subscriptions, CD-ROMS/DVDS, internet access to various publications and training requested in Section II, Mandatory Technical Requirements. The price must be inclusive of all customs, duties and charges and all costs necessary or incidental to proper execution of the services including, but not limited to, shipping, handling,¹ training and travel expenses for training.

Any proposed increase for the books for subsequent years of the contract shall be limited to a maximum of five percent (5%) per title. Any proposed increase for subscriptions, CD-ROMS/DVDS, and/or internet access to publications for subsequent years shall be limited to the lesser of the percentage increase in the U.S. Department of Labor's Consumer Price Index (before seasonal adjustment) for the preceding twelve (12) months, or five percent (5%). Written notice of requested rate changes for succeeding years must be provided to the Department at least sixty (60) days prior to the end of the contract year.

Response Requirement:

The Bidder **must** complete Attachment 12, Financial Response Form, with the price for each of the titles listed in Section II. A, Mandatory Technical Requirements. If the pricing is volume based, attach additional sheets showing the volumes and associated pricing for each of the titles. These volume based sheets will be subject to the CPI-U adjustment identified above.

In addition, if titles offered are not updated annually, the Bidder must indicate when the books are printed (e.g. every two years, etc.).

¹ All books and CD-Rom's will be delivered to the Department's mail facility located at 90 Cohoes Avenue, Green Island, NY 12183. All subscriptions will be delivered to the individual ordering them at their current work location.

IV. Administrative Requirements

A. Administrative Proposal Conditions

With the submission of a response to this Invitation for Bids, the Bidder agrees to the proposal conditions outlined in Section IV. A.

1. Issuing Agency

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

2. Solicitation

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

3. Liability

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

4. Proposal Ownership

All proposals and accompanying documentation become the property of the State of New York and will not be returned. The Department reserves the right to use any 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 and 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

The Department reserves the right to require a Bidder to provide clarification and validation of its proposal, to the satisfaction of the Department, through any means the Department deems necessary. 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 be given no further consideration.

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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 IFB.

10. Bid Evaluation and Selection

See **Section VI: 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 IFB shall be notified of such non-selection.

13. Proposal Review and Contract Approval

Any contract resulting from this IFB 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 C: NYS DTF 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 IFB specification(s) after their release to correct errors or oversights, or to supply additional information as it becomes available and so notify all Bidders.
- C. Withdraw the IFB, at its sole discretion.
- D. Eliminate a technical specification when all bidders cannot meet such requirement.
- E. 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.
- F. Require the Bidder to demonstrate, to the satisfaction of the Department, any information presented as a part of their proposal.
- G. Use proposal information obtained through the Department's investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to the Department's request for clarifying information in the course of evaluation and selection under this IFB.
- H. Determine a tie breaking mechanism for award of the contract to serve the best interests of the State.
- I. Negotiate with the successful Bidder within the scope of the IFB to serve the best interests of the State.
- J. Conduct contract negotiations with the next ranked responsible Bidder should the Department be unsuccessful in negotiating an agreement with the selected Bidder.
- K. 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 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

With the submission of a response to this Invitation for Bids, the Bidder agrees to the contract conditions outlined in Section IV. B unless the Bidder proposes extraneous terms (see Section IV. B. 19).

1. Appendix A

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

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2. Payments

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

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

3. Public Announcements

Public announcements or news releases relating to this IFB 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 zero percent of the total dollar value

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of this agreement, and women-owned business enterprises (WBE) as subcontractors and suppliers on this agreement for provision of service and materials in the amount of zero percent 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 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 B** for a description of the requirements of Article 15-A.

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

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 a 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 a M/WBE, a change in the type of work to be performed, or the addition of other M/WBEs.

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.
- 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.

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- c. The Contractors 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 bases 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.
- 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.

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

8. Cover Letter

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

Response Requirement:

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

The cover letter must include the following:

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- 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 IV. A. 7.

9. 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 email 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.

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 3, Vendor Responsibility Questionnaire**. 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 its bid proposal.

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

10. 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

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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 the Non-Discrimination in Employment in Northern Ireland: **MacBride Fair Employment Principles Form, Attachment 4.**

11. 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 complete and submit the **Designation of Prime Contact Form, Attachment 5.**

12. 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 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 the **Non-Collusive Bidding Certification, Attachment 6.**

13. 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

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that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated staff, as of the date hereof, are identified in the Preface section of this Invitation for Bids. 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-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).

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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 **Offerer Disclosure of Prior Non-Responsibility Determinations, Attachment 7.**

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 if this IFB in the event it is found that the certification filed by the Offerer/Bidder in accordance with New York State Finance Law 139-k was intentionally false or intentionally incomplete.

Response Requirement

Each Bidder must complete and submit **Offerer's Certification of Compliance with State Finance Law 139-k(5), Attachment 8.**

14. Secrecy Provisions (DTF-202)

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

Response Requirement

Each Bidder must complete and submit the **New York State Department of Taxation and Finance Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code, Attachment 9.**

15. 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

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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 **Public Officers Law Form, Attachment 11** which addresses business or professional activities by state officers and employees and party officers. This form shall be made part of the resultant contract.

16. 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, the **Contractor Certification Form ST-220, Exhibit A**. 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 conferment 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. 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>.

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17. Prime Contractors/Subcontractors

The successful Bidder shall act as Prime Contractor under the contract, and shall be held solely responsible for contract performance by the Bidder, its partners, officers, employees, subcontractors and agents. The Bidder shall be responsible for payment of all subcontractors and suppliers, including all third-party service providers contracted by or through the Bidder in performance of the contract.

Where services are supplied by or through the Bidder under the contract, it is mandatory for the Bidder to assume full integration responsibility for delivery, installation, maintenance, performance and support services for such items. The Bidder shall also be responsible for payment of any license fees, rents or other monies due third parties for services or materials provided under this contract.

The Bidder must assume responsibility as prime Contractor for the resulting contract. Proposed subcontractors must be identified at the time of bid submission and are subject to the approval of the State (see **Article XVI, General Terms and Conditions of Exhibit B: Preliminary Contract**, for additional information).

Response Requirement

The Department requires a list of subcontractors who will be utilized for the performance of services under any resultant contract as well as a description of the services to be subcontracted. This information must be provided on the **Subcontractor List Form, Attachment 10**.

18. Proposed Extraneous Terms

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

Response Requirement

The Bidder must attach any objections to the terms and conditions outlined in Section IV.B. or the **Preliminary Contract, Exhibit B**.

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;

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- 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.

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 IV. Failure to object to any terms identified in Section IV of this IFB and the **Preliminary Contract, Exhibit B**, shall be deemed to constitute acceptance thereof by the Bidder.

19. Request for Exemption from Disclosure

As outlined in Section IV 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 Requirements

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.

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V. Proposal Submission

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

A. Proposal Content and Organization

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

Volume One: Technical and Administrative Requirements

Volume Two: 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 – Technical Requirements
- b. Tab 2 – Administrative Requirements

2. Volume Two Format

This volume must contain the Financial Proposal.

B. Submission of Proposals

The Bidder must submit one original and two copies of Volume One: Technical and Administrative Requirements and one original and two copies of Volume Two: 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 a copy 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
Building 9, room 234
Albany, NY 12227

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

“BID ENCLOSED”
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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 IV. 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.

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VI. Proposal Evaluation

Pursuant to Article XI of the State Finance Law, the basis for contract award under this IFB will be “lowest cost” among responsive and responsible Bidders.

1. Proposal Clarification

The Department reserves the right to require a Bidder to provide clarification and validation of its proposal through any means the Department deems necessary. Failure of a Bidder to cooperate with the Department efforts to clarify or validate proposal information may result in the proposal being labeled as non-responsive and given no further consideration.

2. 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.

a. Phase One Evaluation

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

i. 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 IFB. Proposals which do not meet the requirements may be labeled as non-responsive and may not be given further consideration.

ii. Technical Requirements

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

All proposals that pass this stage of the evaluation process will be further evaluated in Phase Two.

b. Phase Two Evaluation

Financial Evaluation

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The Financial evaluation will be conducted separately from the technical evaluation. Bidder's financial evaluation will be based on a sample publication order similar to those in Exhibit 1. These samples are not a guarantee of services and are for information purposes only.

Prior to award, the highest ranking Bidder will be required to submit an evaluation sample of the CD-ROMS to verify their compliance with the requirements of the IFB. If applicable, the bidder must also submit evaluation samples of alternate titles to ensure they meet the requirements.

c. Award

An Award will be made to the Bidder who successfully passes the Technical Specifications and provides the lowest overall cost based on the Financial Evaluation.

In the event of a tie, the following mechanism will be used to determine the winning Vendor:

- i. Cost of Internet Access to Various Publications
- ii. Cost of Handbooks
- iii. Cost for subscriptions (paper and CD-ROM/DVD)
- iv. Determination by Commissioner.

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Books, Subscriptions and Internet Access to Various Publications

Exhibit 1 – Department Orders for the last three years

2008

Handbooks	
Almanac of Business & Industrial Financial Ratios	25
Corporation Tax Laws and Regulations	613
Federal Estate and Gift Tax Code and Regulations	15
Federal Inc Taxes of Decedents, Estates & Trusts	12
Guide to Limited Liability Companies	51
Guidebook to New York State Taxes	355
Express Answers 1040	83
Internal Revenue Code	164
New York State Sales and Use Tax Law	900
Personal Income Tax Law and Regulations	714
Tax Law of the State of New York	734
U.S. Master Tax Guide	250
US Master Estate and Gift Tax Guide	21
US Master Excise Tax Guide	2
US Master GAAP Guide	18
Subscriptions	
Federal Tax Guide Reports-Control Ed.-Print	2
IRS Publications - Print	3
New York State Tax Reports- print	1
S Corporation Guide - Print	4
Standard Federal Tax Reports - Income - Print	2
Standard Federal Tax Reports - Income-Value Pack - Print	4
State Tax Guide - Print	2
State Tax Reports (All States) - Print	1
CD-ROMS/DVDS	
Archival Federal Tax Cases (Updates)	1
Federal and State Tax Forms	4
Internal Revenue Manual Without Print	2
Multi-State Corporate Income Tax Guide	2
Multi-State Sales and Use Tax Guide	6
New York State Tax Reports	3
Standard Fed Tax Reports-Income/Estate & Gift/Excise	1
State Tax Guide	7
Tax Court Reports	1
Internet	
40 Concurrent Users	

New York State Department of Taxation and Finance
 Invitation for Bids (IFB) 10-05
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2009

Handbooks

Almanac of Business & Industrial Financial Ratios	14
Corporation Tax Laws and Regulations	100
Federal Estate and Gift Tax Code and Regulations	7
Federal Inc Taxes of Decedents, Estates & Trusts	0
Guide to Limited Liability companies	0
Guidebook to New York State Taxes	100
Express Answers 1040	5
Internal Revenue Code	60
New York State Sales and Use Tax Law	250
Personal Income Tax Law and Regulations	250
Tax Law of the State of New York	250
U.S. Master Tax Guide	50
US Master Estate & Gift Tax Guide	6
US Master Excise Tax Guide	1
US Master GAAP Guide	5

Subscriptions

Federal Tax Guide Reports - Control Edition - Print	1
IRS Publications - Print	1
New York State Tax Reports- print	0
S Corporation Guide - Print	1
Standard Federal Tax Reports - Income - Print	1
Standard Federal Tax Reports - Income-Value Pack - Print	1
State Tax Guide - Print	0
State Tax Reports (All States) - Print	1

CD-ROMS/DVDS

Archival Federal Tax Cases (Updates)	1
Federal and State Tax Forms	2
Internal Revenue Manual Without Print	1
Multi-State Corporate Income Tax Guide	2
Multi-State Sales and Use Tax Guide	2
New York State Tax Reports	1
Standard Fed Tax Reports-Income/Estate & Gift/Excise	1
State Tax Guide	1
Tax Court Reports	0

Internet

30 Concurrent Users

New York State Department of Taxation and Finance
 Invitation for Bids (IFB) 10-05
 Books, Subscriptions and Internet Access to Various Publications

2010

Handbooks

Almanac of Business & Industrial Financial Ratios	14
Corporation Tax Laws and Regulations	153
Federal Estate and Gift Tax Code and Regulations	4
Federal Income Taxes of Decedents, Estates & Trusts	5
Guide to Limited Liability Companies	12
Guidebook to New York State Taxes	65
Express Answers 1040	2
Internal Revenue Code	50
NYS Sales & Use Tax Law	278
Personal Tax Law	183
Tax Law of the State of NY	266
U.S. Master Tax Guide	50
US Master Estate & Gift Tax Guide	4
US Master Excise Tax Guide	1
US Master GAAP Guide	6

Subscription

Federal Tax Guide Reports - Control Edition - Print	1
IRS Publications - Print	0
New York State Tax Reports- print	0
S Corporation Guide - Print	1
Standard Federal Tax Reports - Income - Print	0
Standard Federal Tax Reports - Income-Value Pack - Print	1
State Tax Guide - Print	0
State Tax Guide: State Tax Cases (Cases Only)	0
State Tax Reports (All States) - Print	1

CD-ROMS/DVDS

Archival Federal Tax Cases (Updates)	1
Federal & State Tax Forms	11
Internal Revenue Manual Without Print	2
Multi-State Corporate Income Tax Guide	12
Multi-State Sales and Use Tax Guide	12
New York State Tax Reports	12
Standard Fed Tax Reports-Income/Estate & Gift/Excise	11
State Tax Guide	11
Tax Court Reports	1

Internet

30 Concurrent Users

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

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name) (title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

- The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.
- The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)
 and, to the best of the contractor's knowledge, the information provided on that previously filed Form 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).

New York State Department of Taxation and Finance
 Invitation for Bids (IFB) 10-05
 Books, Subscriptions and Internet Access to Various Publications

Page 2 of 2 ST-220-CA (6/06)

Individual, Corporation, Partnership, or LLC Acknowledgment

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

On the ____ day of _____ in the year 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _____ he resides at _____, Town of _____, County of _____, State of _____; and further that:

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

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

 Notary Public
 Registration No. _____

Privacy notification

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

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

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

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

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

Need help?

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

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

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

To order forms and publications: 1 800 462-8100
 From areas outside the U.S. and outside Canada: (518) 485-6800

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

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

New York State Department of Taxation and Finance
 Invitation for Bids (IFB) 10-05
 Books, Subscriptions and Internet Access to Various Publications



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
Invitation for Bids (IFB) 10-05
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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
Invitation for Bids (IFB) 10-05
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Page 4 of 4 ST-220-TD (6/06)

Individual, Corporation, Partnership, or LLC Acknowledgment

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

On the ____ day of _____ in the year 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _____ he resides at _____, Town of _____, County of _____, State of _____; and further that:

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

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

Notary Public
Registration No. _____

New York State Department of Taxation and Finance
Invitation for Bids (IFB) 10-05
Books, Subscriptions and Internet Access to Various Publications

Exhibit B – Preliminary Contract

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

WHEREAS, the Department issued Invitation for Bids (IFB) 10-05 on August 13, 2010, for Books, Subscriptions, CD-ROMS/DVDS and Internet Access to Various Publications; and

WHEREAS, the Contractor timely submitted a bid proposal to provide the services set forth in IFB 10-05; and

WHEREAS, pursuant to **Section VI** of said IFB, 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 undertake performance of supplying the Department with Books, Subscription and Internet Access to Various Publications according to the terms of this Agreement, and recognizing that turnover of functions to the Department or at the direction of the Department, to a successor Contractor is a fundamental requisite of such undertaking.

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

Article I. Definitions

The following terms when used herein shall have the specified meanings:

Agreement means this contract C4006XX, which includes all documents identified in **Article II: Entirety of Agreement**.

Attorney General (AG) means the Attorney General of the State of New York, or designee.

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

Contractor means [*successful Bidder’s name to be inserted here*].

Department means the New York State Department of Taxation and Finance.

Dispute Resolution means the process set forth in Article XII for resolving disputes arising under this Agreement.

New York State Department of Taxation and Finance
Invitation for Bids (IFB) 10-05
Books, Subscriptions and Internet Access to Various Publications

Invitation for Bids (IFB) means the Books, Subscription and Internet Access to Various Publications Invitation for Bids issued by the Department on August 13, 2010 including all appendices and exhibits contained therein, and any written clarifications or amendments thereto made by DTF. The IFB is attached as Appendix 1.

IP Specific Address for purposes of this IFB requires recognition by the vendor's server of the Department's proxy server.

Licensed Documentation means the documentation prepared for or related to Licensed Software.

Licensed Software means commercially available and licensed software used in support of Program objectives and provided by Contractor.

OSC means the New York State Office of the State Comptroller.

Proposal means the Proposal submitted by Contractor in response to IFB 10-05 (Volume 1, Mandatory Technical and Administrative Requirement Response Forms and Volume 2 Financial Response Form dated XXXXXXXX), and any written clarifications thereto made by Contractor. The Proposal is attached hereto as Appendix 2.

Subcontractor means 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 contract.

Article II. Entirety of Agreement

This Contract C4006XX 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 IFB, "Standard Clauses for New York State Contracts";

Attachment 9 – Secrecy Provision Agreement (DTF-202);

Appendix B – Participation by Minority Group Members and Women with Respect to State Contracts;

Base Contract;

Contractor Proposal Clarifications;

Contractor Proposal, excluding clarifications;

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

New York State Department of Taxation and Finance
Invitation for Bids (IFB) 10-05
Books, Subscriptions and Internet Access to Various Publications

Department's IFB, excluding Appendix A and Attachment 9.

Article III. Contractor Responsibilities

The Contractor hereby agrees to provide all services as set forth herein and in IFB 10-05 and the Contractor's bid proposal in response to said IFB.

The Contractor will comply with the Secrecy requirements set forth in Article IX herein.

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.

Provide the Department with Invoices for the services.

Article IV. Department Responsibilities

Assign a contact person to generate an order for all of its needs.

Provide the contractor with the address to deliver the services to.

Promptly process for payment properly submitted invoices.

Article V. Additional Product

The Department may add additional products, software or services to this agreement by submitting properly completed Supplemental Schedule Orders referencing this agreement. All orders will be valid only when signed by the appropriate New York State Department of Taxation and Finance Officials.

The Department may also withdraw any products or services by providing 30 days written notice to the Contractor.

Article VI. Contract Term

The Contract term will be for a five year period. This Contract requires the approval of the Offices of the New York Attorney General (AG) and the New York State Comptroller (OSC). The term of the Contract shall commence upon approval of OSC.

Article VII. Cost

The cost for the products for the first year of the contract shall be those set forth in Attachment 12: Financial Response Form of IFB 10-05 including all supplement volume price schedules. Pricing is inclusive of all costs, including shipping, handling and travel expenses for training. Any proposed

Books, Subscriptions and Internet Access to Various Publications

Exhibit B – Preliminary Contract

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New York State Department of Taxation and Finance
Invitation for Bids (IFB) 10-05
Books, Subscriptions and Internet Access to Various Publications

increase in cost for handbooks for subsequent years shall be limited to a maximum of five percent (5%) per title. If volume based pricing is included, each tier will be so limited. Any proposed increase for Subscriptions, CD-ROM's/DVD's and/or internet access to various publications shall be limited to the lesser of the percentage increase on the U.S. Department of Labor's Consumer Price Index for the preceding twelve (12) month period or five percent (5%). Written notice of requested rate changes must be received by the Department at least sixty (60) days prior to the end of the contract year.

If the Department cancels a subscription(s) during the contract term, the contractor will issue a refund of the time remaining through the first nine months of the current term. If the time remaining is less than three months, no refund will be due. All cancellation requests received prior to the tenth of the month will be cancelled as of the first of the month. All cancellation requests received after the tenth are cancelled as of the first of the next month.

The Department reserves the right to increase or decrease the number of concurrent users for electronic services during the contract term. If the department decreases the number of concurrent users for electronic services the Contractor will issue a refund for the time remaining on a pro-rata basis. If the Department increases the number of concurrent users, the Contractor will issue an invoice for the balance effective the date of the increase.

Article VIII. Payment

Payment will be made upon submission by the Contractor of proper invoices and in accordance with the provisions of Article XI-A of the New York State Finance Law and the electronic payment provision below.

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

Subscription and Electronic Services

Payment for subscriptions and electronic services shall be made annually in advance upon receipt of a proper invoice.

New York State Department of Taxation and Finance
Invitation for Bids (IFB) 10-05
Books, Subscriptions and Internet Access to Various Publications

Books and CD-ROMS/DVDS

Payment for books and CD-ROMS/DVDS shall be made annually in arrears upon receipt of the product and submission of a proper invoice.

Article IX: Secrecy Provisions

A. Required Forms

The Contractor will require each employee and/or subcontractor 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 9** of the IFB. The signed forms will be retained by the Contractor and provided to the Department upon request.

B. New York State 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, all staff members and subcontractors shall agree not to divulge or use, for their own benefit or the benefit of others, confidential tax administration information; and to subscribe to § 73 and 74 the Public Officers Law.

C. Information Security Breach and Notification Act

Contractor expressly agrees to comply with the provisions of Chapter 442 of the Laws of 2005, as amended by Chapter 491 of the Laws 2005, commonly known as the Information Security Breach and Notification Act (the "ISBNA" or "Act"), and any future amendments thereto. Contractor shall comply with all obligations imposed by the notice provisions of the ISBNA with respect to any computerized "private information" (as defined in the Act) received, handled, processed, uploaded, or maintained by Contractor on behalf of DTF under this Contract (hereinafter, the "DTF Information"). In the event of a "breach of the security of the system" (as defined by the Act), Contractor shall immediately notify DTF upon discovery or notification of such breach. Such notice to DTF shall be made in one of the following ways: by contacting the Contractor's DTF liaison for the contract, or by e-mail to Dave_Beals@tax.state.ny.us, or by telephone to (518) 292-7827. Contractor shall immediately commence an investigation, in

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cooperation with DTF, to determine the scope of the breach and to restore the security of the system. To the extent DTF determines that further notifications are required to be sent out pursuant to the Act, Contractor shall be responsible for providing all notifications to all required recipients including, in accordance with New York State policy, non-New York State residents whose private information is reasonably believed to have been exposed as a result of the breach, and all costs associated with providing such notices shall be borne by the Contractor. It is expressly agreed that Contractor shall be obligated to receive authorization from DTF *prior* to making any notifications to any individuals, the State Office of Cyber Security and Critical Infrastructure Coordination, the State Consumer Protection Board, the Attorney General's Office or any consumer reporting agencies, of a breach of the security of the system, or concerning making any determination to delay notifications due to law enforcement investigations. Contractor agrees that DTF shall have final approval over the form, content, mode of transmission, and timing of any notice to be provided concerning a breach of security of the DTF Information. Nothing contained herein shall be interpreted as reducing or altering Contractor's obligations under section 899-aa of the General Business Law.

Article X. Reserved Rights

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

The Department shall have the right to send its officers and/or employees into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the Contractor is found to be non-compliant with contract safeguards. Such determination shall be made at the sole discretion of the Department.

Article XI. 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. 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 XII. 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 his/her 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

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

Article XIII. Continuing Administrative Requirements

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.

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.

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

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staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a).

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.

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. The Contractor is required to ensure that the provisions of Appendix A, Clause 12 – Equal Employment Opportunities for Minorities and Women, are included in every subcontract in such a manner that the requirements of these provisions will be binding upon each Subcontractor as to work in connection with the State Contract.

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>.

Article XIV. Termination

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 IX (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 XV (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 limited to:

1. Failure to meet the obligations and responsibilities imposed on the Contractor by Article III.
2. Breach of a material term or condition of any subcontract by Contractor or the subcontractor, if such breach materially impairs Contractor's performance under this Agreement with the reasonable likelihood that a material failure to perform by the Contractor will occur.
3. 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.
4. Failure of the Contractor to remain a responsible Contractor consistent with applicable New York State law, regulations and/or policy.
5. A finding that the certification filed by the Contractor in accordance with Procurement Lobbying was intentionally false or intentionally incomplete.
6. A finding that the information filed by the Contractor in accordance with the requirements for Vendor Responsibility is incomplete, untrue or inaccurate.
7. Failure of Contractor to maintain vendor responsibility substantially similar to, or superior to, its status as of the execution of this Agreement.
8. 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

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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 to as a termination for convenience of the Department or allow the Contractor to resume performance under the Agreement without an increase in cost.

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 XV (Indemnification and Limitation of Liability).

Termination for Convenience

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

Article XV. Indemnification and Limitation of Liability

A. General

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. Intellectual Property Rights

Contractor shall fully indemnify, defend and save harmless the State, its officers, employees, and agents or subcontractors without limitation from and against any and all losses, liabilities, judgments, damages, awards and costs (including legal fees and expenses), arising out of or related to any claim of, or action for, infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party intellectual property rights in each case to the extent caused by any services provided by Contractor hereunder, provided that the Department shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, promptness of which shall be established by the Department upon the furnishing of written notice and verified receipt, (ii) the opportunity to take over, settle or defend such action, claim or suit at the Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of the Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the Department may require the Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Department shall require.

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

C. Force Majeure

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

D. Breach of Confidentiality

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

E. Licensed Software and Licensed Documentation

1) Contractor grants the Department, at no charge, an irrevocable, nonexclusive license and right to use, copy, display and internally distribute at its own expense the Licensed Software provided by Contractor to perform the Services under the Contract. Contractor shall employ, and shall provide the Department with the information needed to install and use, copy, display, and internally distribute the Licensed Software and Licensed Documentation provided by Contractor for performance of the Services under the Contract.

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- 2) Contractor shall, at no additional cost to the Department, be responsible for maintaining the Licensed Software used in providing the Services hereunder, throughout the term of this Agreement, and for any additional period of time during which Contractor continues to perform services for the Department.
- 3) Contractor agrees to provide the Department with prompt access to all Licensed Software used to perform the Services hereunder, and related Licensed Documentation to the extent of Contractor's intellectual property rights in such software and documentation, upon reasonable notice by the Department, throughout the term of this Agreement.

Article XVI: 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.

Tax Liabilities:

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

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.

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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.

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 day 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 IX (Secrecy) and Article XV (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, 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

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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.

Subcontractors

The State reserves the right to reject any proposed subcontractor, assignee or supplier for bona fide business reasons, which may include, but are not limited to: that the proposed transferee is on the Department of Labor's list of companies with which New York State cannot do business; or the Department determines that the company is not qualified; unsatisfactory contract performance or service has been previously provided.

Contractor may subcontract to subcontractors selected by Contractor, for services performed in connection with this Contract, subject to the Department's prior written approval. A subcontractor shall be defined as any firm or person who is not a full time employee of the Contractor, engaged or assigned to perform work under the Contract. All agreements between the Contractor and its subcontractors shall be by bona fide written contract.

Contractor shall include in all subcontracts for the services performed in connection with this Contract, in such a manner that they will be binding upon each subcontractor with respect to work performed in connection with the Contract, provisions consistent with those found in the Contract, including, but not limited to:

- That the work performed by the subcontractor must be in accordance with the terms of the Contract including, but not limited to, Appendix A;
- That subcontractor shall comply with the provisions of section 5-a of the Tax Law and all Secrecy provisions;
- That nothing contained in such subcontract shall impair the rights of the Department;
- That nothing contained herein shall create any contractual relation between any subcontractor and the Department;
- That subcontractor shall maintain all records with respect to work performed under the subcontractor in the same manner as required of the Contractor; and
- That the DTF shall have the same authority to audit the records of all subcontractors as it does those of the Contractor.

Contractor shall be fully responsible to the Department for the acts and omissions in the performance of services under the Contract of the subcontractors and/or persons either directly or indirectly employed by it or by the subcontractors, as it is for the acts and omissions in the performance of services under the Contract or persons directly employed by the Contractor. Contractor shall not in any way be relieved of any financial, programmatic or service

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responsibility under the Contract by its agreement with any subcontractor or by the Department's approval of such an agreement with a subcontractor.

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
- 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
Procurement Services Unit
W.A. Harriman Campus
Building 9, Room 234
Albany, NY 12227

Notices from the Department to the Contractor:

To be Provided

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

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

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

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Appendix A – Standard Clauses for New York State 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

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qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor 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

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such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

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

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

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

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of 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,

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promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

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

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

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

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

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must

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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

<http://www.empire.state.ny.us>

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

NYS Department of Economic Development

New York State Department of Taxation and Finance
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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.

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Appendix B – 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.

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- f. "Subcontract" shall mean an agreement providing for a total expenditure in excess of \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contract and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a Contractor's obligation under a state contract is undertaken or assumed, but shall not include work undertaken for the beneficial use of the Contractor.
- g. "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:
 - i. at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;
 - 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 Directory of Certified Businesses is available at <http://www.nylovesmwbe.ny.gov/>

3. Equal Employment Opportunities

- a. The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- b. At the request of Tax and Finance the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of this contract to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age,

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disability or marital status and that such union or representative will cooperate in the implementation of the Contractor's obligation hereunder.

- c. The Contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor in the performance of this contract, that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex age, disability or marital status.
 - d. The Contractor will include the provisions of clauses (a), (b) and (c) above in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with this contract.
 - e. The provisions of these equal employment clauses shall not be binding upon Contractors or subcontractors in the performance of work or the provision of services or another activity that are unrelated, separate or distinct from the State contract as expressed by its terms.
 - f. The requirements of these equal employment clauses shall not apply to any employment outside this State or application for employment outside this State or solicitations or advertisements therefore, or any existing programs or affirmative action regarding employment outside this State and the effect of contract provisions required by clauses (a), (b) an (c) above shall be so limited.
4. Minority- and Women-Owned Business Enterprise Utilization Plan; Equal Employment Opportunity Program; Waivers
- a. If goals have been established by Tax and Finance for this agreement, no later than seven business days after receiving notice that the bidder has submitted the lowest responsible bid, the bidder shall submit to Tax and Finance a Minority- and Women-Owned Business Enterprise (M/WBE) utilization plan on forms to be provided by Tax and Finance. The M/WBE utilization plan shall list those M/WBEs, which will be used by the Contractor to meet the contracts M/WBE goals.
 - b. Tax and Finance will review the M/WBE utilization plan and will issue to the Contractor a written notice of acceptance or deficiency within twenty calendar days of receipt. An M/WBE notice of deficiency shall include (i) the name of any M/WBE which is not acceptable for the purpose of complying with the goal requirements' (ii) elements of the contract scope of the work which Tax and Finance has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the contract by M/WBEs; and (iii) other information which Tax and Finance determines to be relevant to the utilization plan.
 - 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

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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, Tax and Finance may make a determination that the Contractor's failure to remedy deficiencies is non-responsible and disqualify the bid or proposal. Notice of disqualification, along with a denial of a request for waiver, where applicable, shall be delivered to the Contractor no later than twenty calendar days after Tax and Finance receives the request for waiver.
- f. If Tax and Finance disqualifies the bidder as non-responsible for failure to remedy deficiencies in its M/WBE utilization plan and to document good faith efforts, Tax and Finance may award the contract to the next-lower responsible or otherwise acceptable bidder, whether or not the disqualified bidder pursues any remedies established pursuant to Article 15A of the Executive Law.
- g. The Contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its M/WBE utilization plan, at least to the extent indicated in the plan.

5. Administrative Hearing on Disqualification

- a. If Tax and Finance disqualifies the bid on the 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 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,

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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 that 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?

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- g. How many minority- and women-owned business enterprises in the directory of certified businesses could perform work required by the State contract scope of work in the region as defined in paragraphs (1) and (2) of subdivision (a) of Section 543.2 of this part?
- h. What actions were taken to contact and assess the financial ability of certified minority- and women-owned business enterprises to participate on the State contract, which enterprises are located outside of the region in which the State contract scope of work was or will be performed?
- i. Were relevant plans, specifications or terms and conditions of the state contract, necessary to prepare an informed response to a Contractor solicitation, provided in a timely fashion to certified minority- or women-owned business enterprises?
- j. What subcontract terms and conditions were offered to certified minority- and women-owned business enterprises, and how do those subcontract terms and conditions compare to those offered in the ordinary course of the Contractor's business and to other subcontractors of the Contractor?
- k. Has the Contractor made payments for work performed by certified minority- and women-owned business enterprises in a timely fashion so as to facilitate continued performance by certified minority- or women-owned business enterprises? 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

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comply with the contract's M/WBE requirements, and no waiver has been issued in regards to such non-compliance, Tax and Finance may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of M/WBE goal requirements.

9. Contractor and Agency Complaints; Arbitration

- a. If the Contractor submits a request for waiver of M/WBE goal requirements and Tax and Finance denies the request or fails to respond in any way within twenty days of receiving it, the Contractor may file a complaint with the Director according to the provisions of Section 316 of Article 15-A of the Executive Law. The complaint must be filed within twenty calendar days of Tax and Finance receipt of the request for waiver, if Tax and Finance has not responded in that time, or with twenty calendar days of a notification that the request has been denied by Tax and Finance.
- b. If the Contractor fails to respond to a notice of deficiency, or if Tax and Finance denies a request for waiver of M/WBE goal requirements, Tax and Finance shall file a complaint with the Director pursuant to Section 316 of Article 15-A of the Executive Law.
- c. A complaint should set forth the facts and circumstances giving rise to the complaint together with a demand for relief.
- d. The party filing a complaint, whether the Contractor or Tax and Finance, shall deliver a copy to the other party. Both the complaint and the copy shall be delivered by either personal service or by Certified Mail, return receipt requested.
- e. Upon receipt of a complaint, the Director shall provide the party against whom the complaint has been filed with an opportunity to respond to the complaint. If within thirty days of receipt of the complaint, the Director is unable to resolve the complaint to the satisfaction of Tax and Finance and the Contractor, the complaint shall be referred to the American Arbitration Association for resolution pursuant to Section 316 of Article 15-a of the Executive Law.
- f. Upon conclusion of the arbitration proceedings, the arbitrator will submit to the Director his/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

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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.

Appendix C – Bid Protest Policy

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

Informal Complaints/Protests

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

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

Formal Written Protests

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

Submission of Bid or Award Protests

Deadline for Submission

- a. Concerning Errors, Omissions or Prejudice in the Bid Specifications or Documents - Formal protests which concern the drafting of bid specifications must be received by DTF at least twenty (20) business days before the date set in the solicitation for receipt of bids. If the date set in the solicitation for receipt of bids is less than twenty (20) business days from the date of issue, formal protests concerning the specifications must be received by DTF at least seventy-two (72) hours before the time designated for receipt of bids.

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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 IFB.

Review and Final Determination

Copies of all protests will be provided to the Assistant Director, Procurement of the Office of Budget and Management Analysis and appropriate program staff.

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

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

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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.

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Attachment 1 – Bidder’s Checklist

Volume 1

Mandatory Technical Requirement

- Attachment A – Attestation

Volume 2

Administrative Requirements

- Cover Letter
- Proposed Extraneous Terms
- Request for Exemption from Disclosure
- Attachment 3 – Vendor Responsibility
- Attachment 4 – MacBride Fair Employment Principles Form
- Attachment 5 – Designation of Prime contact
- Attachment 6 – Non-Collusive Bidding Certification
- Attachment 7 – Offerer Disclosure of Prior Non-Responsibility Determination
- Attachment 8 – Contractor Certification of Compliance with State Finance Law 139-k(5)
- Attachment 9 – DTF-202 Agreement to Adhere to Secrecy Provisions
- Attachment 10 – Subcontractor List
- Attachment 11 – Public Officers Law

Volume 3

- Attachment 12 – Financial Proposal

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

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

Procurement Description, Contract or Bid Number:

Offerer Name: _____

Offerer Address: _____

Telephone Number: _____

e-Mail Address: _____

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

By (*signature*): _____

Name (*please print*): _____

Title (*please print*): _____

Date: _____

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Attachment 3 – Vendor Responsibility Questionnaire

Bidder's Name: _____

Bidders must complete a Vendor Responsibility Questionnaire in response to this IFB. Bidders are invited to file the required Vendor Responsibility Questionnaire online via the OSC New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at 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 4 – 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, New York State, the Contractor, 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):

Have no business operations in Northern Ireland: _____ Yes

or

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

_____ Yes

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Attachment 5 – Designation of Prime Contact

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

Firm Name: _____

Address: _____

Prime Contact Name: _____ Title: _____

e-mail address: _____

Phone Number: _____ Fax: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

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Attachment 6 – Non-collusive Bidding Certification

In accordance with Section 139-d of the State Finance Law:

- 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.
 - 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 therefor. 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 IFB.

Bidder's Name: _____

Bidder's Address: _____

Authorized Signature: _____

Name: _____

Title: _____

Attachment 7 - 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

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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Date of Finding of Non-responsibility: _____

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

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

No Yes

If you responded yes to the above question, please provide details regarding the termination below:

Government Entity: _____

Date of Finding of Non-Responsibility: _____

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

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

By: *(Signature)*: _____

Name: *(Please print)* _____

Date: _____

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**Attachment 8 – Offerer’s Certification of Compliance with State Finance Law
139-k (5)**

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

Offerer Certification

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

By: *(signature)* _____

Date: _____

Procurement Description, Contract or Bid Number: _____

Name *(Please print)*: _____

Title: _____

Offerer Name: _____

Offerer Address: _____

Telephone Number: _____

e-Mail Address: _____

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Attachment 9 – 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**

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

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

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

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

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

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

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

Organization: _____

Signature _____ Date _____

Name: _____

Address Street: _____

City: _____ State _____ ZIP code _____

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Attachment 10 – Subcontractor List

Complete this form for the Subcontractor requirement as requested in section VIII. D. 10. The Bidder must identify all subs to be utilized for any resultant contract, their Employer Identification Number (EIN) and the services that they will perform.

Subcontractor Name	EIN	Services to be performed

Expand form if necessary.

Attachment 11 – 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)

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Attachment 12 – Financial Response Form

Unit pricing should reflect the individual pricing of the books, subscription, CD-ROM/DVD and Internet Access to Various Publications required. If pricing is based on volume, check the yes box and attach additional sheets identifying the volumes and associated pricing per title. If multiple price ranges exist, please provide all ranges. The price must be inclusive of all customs, duties and charges and all costs necessary or incidental to proper execution of the services including, but not limited to, shipping, handling, training and travel expenses for training.

Firm Name: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Federal ID # _____

Date: _____

Financial Response Table

Handbooks

Title	Price	Price Based on Volume
Almanac of Business Ratios	_____	<input type="checkbox"/>
Corporation Tax Laws and Regulations	_____	<input type="checkbox"/>
Federal Estate and Gift Tax Code and Regulations	_____	<input type="checkbox"/>
Federal Income Taxes of Decedents and Trusts	_____	<input type="checkbox"/>
Guide to Limited Liability	_____	<input type="checkbox"/>
Guidebook to New York State Taxes	_____	<input type="checkbox"/>
Express Answers 1040	_____	<input type="checkbox"/>

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Financial Response Table

Internal Revenue Code	_____	<input type="checkbox"/>
New York State Sales and Use Tax Law	_____	<input type="checkbox"/>
Personal Income Tax Law and Regulations	_____	<input type="checkbox"/>
Tax Law of the State of New York	_____	<input type="checkbox"/>
U.S. Master Tax Guide	_____	<input type="checkbox"/>
US Master Estate & Gift Tax Guide	_____	<input type="checkbox"/>
US Master Excise Tax Guide	_____	<input type="checkbox"/>
US Master GAAP Guide	_____	<input type="checkbox"/>

Subscription

Title	Price	Price Based on Volume
Federal Tax Guide Reports - Control Edition - Print	_____	<input type="checkbox"/>
IRS Publications - Print	_____	<input type="checkbox"/>
New York State Tax Reports- print	_____	<input type="checkbox"/>
S Corporation Guide - Print	_____	<input type="checkbox"/>
Standard Federal Tax Reports - Income - Print	_____	<input type="checkbox"/>
Standard Federal Tax Reports - Income-Value Pack - Print	_____	<input type="checkbox"/>

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Financial Response Table

State Tax Guide - Print	_____	<input type="checkbox"/>
State Tax Reports (All States) - Print	_____	<input type="checkbox"/>

CD-ROMS/DVDS

Title	Price	Price Based on Volume
Archival Federal Tax Cases (Updates)	_____	<input type="checkbox"/>
Federal & State Tax Forms	_____	<input type="checkbox"/>
Internal Revenue Manual Without Print	_____	<input type="checkbox"/>
Multi-State Corporate Income Tax Guide	_____	<input type="checkbox"/>
Multi-State Sales Tax Guide	_____	<input type="checkbox"/>
New York State Tax Reports	_____	<input type="checkbox"/>
Standard Fed Tax Reports-Income/Estate & Gift/Excise	_____	<input type="checkbox"/>
State Tax Guide	_____	<input type="checkbox"/>
Tax Court Reports	_____	<input type="checkbox"/>

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Financial Response Table

Internet

Number of Concurrent Users	Price
20 Concurrent Users	_____
30 Concurrent Users	_____
40 Concurrent Users	_____
50 Concurrent Users	_____

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Attachment A - Attestation

This form is for the Attestation requirement as specified in Section II. Mandatory Technical Requirements.

A. Products to be provided

The Bidder attests they will provide all of the titles required in this IFB.

Yes No

Alternate Titles Proposed? Yes No

B. The Bidder affirms they have read the IFB in its entirety and understands and agrees to abide by the requirements.

Yes No

Firm Name: _____

Authorized Representative: _____

Representative's Signature: _____

Date: _____