



Office of the New York State Attorney General Letitia James

Invitation for Bid 25-002 Bottled Water

Bid Number: 25-002	Bid Issued: 5/19/2025
Bid Description: Bottled Water	Bid Due Date and Time*: 6/10/2025 at 5:00 PM EST
<p>Submittal Timeline: The Responder is responsible for ensuring timely proposal submission and should pay strict attention to the due dates and times on this cover page to prevent disqualification. Late proposals will not be accepted. Failure to respond or meet the bid due date and time of this IFB will be considered a “no bid” or “late bid”.</p> <p>Submission of Questions: May 27, 2025 by 5:00 PM EST All questions and clarification request must cite the particular page, section, and paragraph number, where applicable. Questions and/or clarification request will only be accepted via e-mail and in writing and should be submitted to the following e-mail address: purchase@ag.ny.gov with the subject line of “Questions for IFB 25-002 - Bottled Water from [insert name of firm or organization]”.</p> <p>OAG Issuance of Answers: May 30, 2025 by 5:00 PM EST Official answers to questions will be provided via addendum and posted to the OAG website: https://ag.ny.gov/resources/organizations/contract-procurement-opportunities. Answers will also be emailed to all organizations who received this solicitation via email.</p> <p>*Proposal Submissions must be received by OAG prior to the bid due date and time AND submitted via e-mail to purchase@ag.ny.gov with the subject line “Proposal for IFB 25-002 – Bottled Water from [insert name of firm or organization]”.</p> <p>Contract Start Date: Upon Office of the State Comptroller (OSC) Approval</p>	
<p>In compliance with Procurement Lobbying Law, contacting anyone other than designated herein may result in rejection of Application. Primary Designated Contact: Rachel Young, Contract Management Specialist Budget and Fiscal Management Bureau Office of the New York Attorney General State Capitol Albany, New York 12224-0341 Telephone: (518) 776-2144 E-Mail: purchase@ag.ny.gov</p>	<p>In the event the Primary designated contact is not available, the alternate designated contact is:</p> <p>Christopher Reksc, Contract Management Specialist Budget and Fiscal Management Bureau Office of the New York Attorney General State Capitol Albany, New York 12224-0341 Telephone: (518) 776-2138 E-Mail: purchase@ag.ny.gov</p>
<p>NYS CONTRACT REPORTER Responders must register with the New York State Contract Reporter (NYSCR) at https://www.nyscr.ny.gov/ to receive notifications about this Solicitation. Navigate to the “I want to find contracts to bid on” page to register for your free account. To receive e-mail notifications regarding updates to the content or status of a particular ad, you must “bookmark the ad” on the upper right-hand side of the ad, then return to your Account, view your list of bookmarked ads, and then select “send me notification updates” option listed to the right of the ad.</p>	

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Section 1 OVERVIEW

1.1 Bid Overview

The New York State Office of the Attorney General (OAG) is seeking sealed bids from qualified bidders to supply and deliver (F.O.B. destination) Bottled Water Service and Rental Dispensing Equipment at various OAG facilities on a bi-weekly basis. The OAG's intent is to enter in a contract(s) with one selected prospective Bidders for approximately three (3) years, with the option for two (2) one-year renewals.

The Contractor shall provide supply and delivery of bottled drinking water (on a bi-weekly basis) and the supply, set-up and/or installation of water dispensing machines at the locations/facilities specified herein. All machines installed by the contractor shall be new or in like new condition. The Contractor shall be available to provide services during normal working hours, 8:00 am to 5:00 pm, Monday through Friday, except holidays, to insure adequate water supply to each site and to keep rental dispensing equipment in good working order.

The Contractor shall provide all resources (labor, equipment, supplies, transportation, etc.) necessary to provide Bottled Water Services at various locations/facilities of the New York State Office of the Attorney General (OAG).

Section 2 BACKGROUND

2.1 Agency Background Information

As head of the Department of Law, the Attorney General is both the “People's Lawyer” and the State's chief legal officer. As the “People's Lawyer,” the Attorney General serves as the guardian of the legal rights of the citizens of New York, its organizations and its natural resources. In fulfilling the duties of the State’s chief legal counsel, the Attorney General not only advises the Executive branch of State government, but also defends actions and proceedings on behalf of the State.

The Attorney General serves all New Yorkers in numerous matters affecting their daily lives. The Attorney General's Office is charged with the statutory and common law powers to protect consumers and investors, charitable donors, the public health and environment, civil rights, and the rights of wage-earners and businesses across the State.

The Attorney General's authority also includes the activities and investigations of the State Organized Crime Task Force and Medicaid Fraud Control Unit. While the Attorney General acts independently of the Governor, the Governor or a state agency may request the Attorney General to undertake specific criminal investigations and prosecutions.

The legal functions of the Department of Law are divided primarily into five major divisions: Appeals and Opinions, State Counsel, Criminal Justice, Economic Justice and Social Justice.

Over 1,700 employees, including over 700 attorneys, as well as forensic accountants, legal assistants, scientists, investigators, and support staff, serve in the Office of the Attorney General in many locations across New York State.

Section 3 BID QUESTIONS AND BID SUBMISSIONS

3.1 IFB Questions/Inquiries and/or Clarifications

All questions/inquiries and/or clarifications concerning this bid solicitation shall be addressed to the Office of the Attorney General (OAG) designated contact. All questions should be submitted by email to purchase@ag.ny.gov with the subject line: IFB #25-002 Bottled Water – Q&A. Cite the particular bid section and paragraph number the question relates to. Prospective Bidders should note that all clarifications and exceptions, including those relating to the terms and conditions of the contract, are to be resolved prior to the submission of a bid.

Questions/inquiries and/or requests for clarification are only accepted via e-mail. Official answers to questions will be provided via addendum posted to the OAG website (<https://ag.ny.gov/resources/organizations/contract-procurement-opportunities>) and the NYS Contract Reporter (<https://www.nyscr.ny.gov/>). Deadline for submission of questions will be as stated on the cover page of this document.

3.2 Bid Format and Content

In order for the State to evaluate bids fairly and completely, bidders must follow the format set forth herein and must provide all of the information requested. All items identified in the following list must be addressed as concisely as possible in order for a bid to be considered complete. Failure to conform to the stated requirements may necessitate rejection of the bid. Bidder must supply copies of all documents listed below for their bid submission to be considered complete. All materials shall be attached, clearly labeled and sent via email, in a manner to allow for ease of separation in evaluating bids. Failure to conform to the stated requirements may necessitate rejection of the bid. Bidders are encouraged to include all information that may be deemed pertinent to their proposal.

Note: The OAG reserves the right to request any additional information or clarification deemed necessary to ensure the Bidder is able to fulfill the requirements of the IFB. Any such information will be considered a formal part of the Proposer's original proposal. All proposals, upon submission to the OAG, shall become OAG property for use as deemed appropriate and shall not be returned.

Bidders are responsible for the accuracy of their Bid Responses. All Bidders are directed to take extreme care in developing their Bid Responses. Bidders are cautioned to carefully review their Bid Responses for completeness and accuracy, prior to submission.

3.2.1 Attachment A - Bid Response Cover Form [Excel Workbook] . The form must be completed in its entirety and a bidder representative authorized to make contractual obligations must sign the Bid Response Cover Form. By signing the Bid Response Cover Form, the bidder understands and agrees to all the terms and conditions contained in this IFB and will comply with all the provisions of this IFB and appendices attached herein.

Bidders must describe their capabilities to provide the services requested in this IFB by providing the following:

- 3.2.2 Experience.** Bidder must provide three (3) references utilizing **Attachment B - Bidder Reference Form** provided in Bidder Response Excel Workbook. Each reference must clearly demonstrate that the bidder has completed a project similar in scope to the size, nature and complexity outlined in this IFB for the reference. At least one of the references should be from a government agency (not including the OAG). References will be scored on a pass/fail basis.

Note: The OAG retains the right to request any additional information pertaining to the Contractor's ability, qualifications, and procedures used to accomplish all work under the resulting contract, as it deems necessary to ensure safe and satisfactory work.

- 3.2.3 Financial Response.** Bidders must submit pricing using the **Bidder Price Proposal Page(s)** contained in the Bidder Response Excel Workbook. The Bidder Price Proposal Pages contain yearly estimates for each region/location. These estimates are based on historical usage. The volume of work cannot be predicted in advance and there is no minimum purchase guarantee in the resulting contract(s). **Bidder must provide pricing for all regions (Central NY, Lower Hudson Valley, Northeast NY, Western NY, and NYC – Long Island).** The bid prices listed herein shall be inclusive of all cost associated with providing bottled water services, including any anticipated fuel cost. Pricing shall be submitted only on, and in the form prescribed by, the bidder Price proposal Pages. No other (additional) charges beyond the services specified herein (those listed on the Bidder's Price Proposal Pages) shall be permitted by the Contractor, nor will they receive any consideration. Changes to the document format, formulas and content will not be accepted.

- 3.2.4** Procurement Lobbying Form

- 3.2.5** NYS Vendor Responsibility Questionnaire for Profit Business Entity, may be electronically filed

- 3.2.6** ST-220-CA Contractor Certification to Covered Agency

- 3.2.7** ST-220-TD Contractor Certification

- 3.2.8** NYS Office of the State Comptroller Substitute W-9

- 3.2.9** Acceptable Proof of NYS Worker's Compensation and Disability Coverage is not required for Bid Submission but will be required before a contract can be executed with the awarded bidder (Refer to section 6.12 – Workers' Compensation Insurance and Disability Requirements for acceptable forms).

3.3 Bid Submission

Bids shall be prepared on forms furnished by OAG; shall be manually signed by an authorized official of the company submitting the bid and shall be submitted in an electronic version. Please submit all the required documents adhering to instructions listed in Section 3.2 – Bid Format and Content. Failure to complete all information on the bid or attach all required documents by the submission deadline may result in disqualification. All bids shall be emailed to purchase@ag.ny.gov, with the Subject Line: Bid for IFB #25-002 for Bottled Water.

3.4 Important Notice to Potential Bidders

The Office of the Attorney General, Budget & Fiscal Management Bureau, will receive bids pursuant to the provisions of Article XI of the State Finance Law. All bids shall be received with the understanding that the acceptance in writing by the Office of the Attorney General with the approval of the Office of the State Comptroller, with communication to the contractor in accordance with clause #24 of Appendix B, shall constitute a contract between the Bidder and the State. All bids and accompanying documentation shall become the property of the State of New York and shall not be returned.

Section 4 MANDATORY SERVICE REQUIREMENTS (DETAILED SPECIFICATIONS)

The following minimum requirements must be met by each bidder and evidence should be submitted per instructions in Section 3.2 Bid Format and Content:

4.1 Equipment and Facility Requirements

The equipment listed below consists of the major components and parts of the equipment to be serviced at the facility. The Contractor shall be responsible for any other components not specifically listed that are supplemental to and a part of the operation of the overall system for the facility. Prospective Contractors must personally verify all quantities of equipment listed. Water Serving Equipment shall meet the following requirements:

- 4.1.1** All coolers/heaters shall be Underwriter Laboratories (UL) approved, or equal.
- 4.1.2** All equipment shall not contain lead or lead-based solder in contact with water.
- 4.1.3** Coolers/Heaters shall be free standing type suitable to accept containerized water.
- 4.1.4** Cold Water Service Equipment shall be mechanically cooled with thermostatic controls.
- 4.1.5** Hot Water Service Equipment shall be electrically heated & thermostatically controlled to deliver water at approximately 160° – 180° F.
- 4.1.6** Electrical Requirements – 120V, single phase, 60HZ.
- 4.1.7** Serving Faucets shall be normally off type with approximated six (6) inches clearance.
- 4.1.8** Drip receptor shall be removable type.
- 4.1.9** Dimensions – 13" W x 13" L x 3' to 4' H (Approximately).
- 4.1.10** Dispensing equipment shall be heating/cooling meeting the above requirements.
- 4.1.11** All containers shall be returnable/reusable type three (3) or five (5) gallon capacity designed for inverted operation on dispenser. All containers shall be constructed of clear or translucent impact resistant polycarbonate plastic.
- 4.1.12** All bottled water furnished shall be from a New York State Department of Health "Certified Bulk Water Facility"; and Certified Bottled Water Facility.

4.1.13 All bottled water furnished shall be from a spring water source and assigned a New York State Department of Health Certification Number (NYSHD Certificate #000)

4.2 Equipment Locations

Below are the locations and specific sites at which rental water dispensing equipment and regularly scheduled bottled water deliveries will be required. Service locations may be added to or removed from the list during the term of this contract depending on OAG needs. By submission of its bid, Vendor agrees to provide bottled water in accordance with actual need at the locations specified on a bi-weekly basis.

Please Note: Contractor must contact the OGS Mail & Freight Security Unit at (518) 473-2256 to schedule deliveries to the Empire State Plaza and the Capitol Building in Albany; “Northeast Locations”: Sites 1, 2, 3, 4 and 5). All deliveries must be made to these locations with vehicles that do not exceed 50' in length and 12' 6" in height. The Contractor shall supply at a minimum, the following water dispensing machines at the below specified locations/facilities:

Region	Office Name	Address	Minimum # of Dispensers	Bottle Size	Number of Bottles per Month
Central NY	Binghamton Regional	44 Hawley St, Binghamton, NY 13901-4433 – 17 th floor-Room 1707, 16 th floor-Room 604	2	5	7
Central NY	SUNY Upstate Medical	447 S Salina St, Camillus, NY 13219 – 1 st -Storage Room 447 S	1	5	10
Central NY	Watertown Regional	317 Washington St, Watertown, NY 13601 – 10 th Floor	1	5	7
Central NY	Utica Regional	207 Genesee St, Utica, NY 13501 – Break Room # 5-18	1	5	10
Lower Hudson Valley	Helen Hayes Hospital	Rte 9W, West Haverstraw, NY 10993 – Bldg 1, Room 13	1	3	12
Lower Hudson Valley	Poughkeepsie Regional	1 Civic Ctr Plaza, Poughkeepsie, NY 12601 – Suite 401-Lunch Room/Kitchen Area	1	5	10
Lower Hudson Valley	College Point	130-20, 20 th Ave, College Point, NY 11356 - OCTF	1	5	12
Northeast NY	Robert Abrams Bldg	Empire State Plaza, Dock B, Albany, NY 12224 - Library	1	5	5

	for Law & Justice	Rm C48- Main Library/Reading Room			
Northeast NY	Robert Abrams Bldg for Law & Justice	Empire State Plaza, Dock B, Albany, NY 12224 - Copy Center Rm C49	1	5	5
Northeast NY	Robert Abrams Bldg for Law & Justice	Empire State Plaza, Dock B, Albany, NY 12224 - Annex - Civil Recoveries, Rm A5, Rm C1, Rm D24, Rm E11, Rm E22, Rm C11	6	5	24
Northeast NY	Robert Abrams Bldg for Law & Justice	Empire State Plaza, Dock B, Albany, NY 12224 - Annex- Rm D-10 Kitchen Area - Consumer Frauds	1	5	4
Northeast NY	Robert Abrams Bldg for Law & Justice	Empire State Plaza, Dock B, Albany, NY 12224 - Annex Rm D31 - Mailroom	1	5	2
Northeast NY	Robert Abrams Bldg for Law & Justice	Empire State Plaza, Dock B, Albany, NY 12224 - 2nd Floor - Appeals & Opinions, Break room 237, record room 214, outside room 215, outside room 226	4	5	8
Northeast NY	Robert Abrams Bldg for Law & Justice	Empire State Plaza, Dock B, Albany, NY 12224 - 3rd Floor- Kitchen Room 337 & In the hallways between rooms 332 and 331	2	5	9
Northeast NY	Robert Abrams Bldg for Law & Justice	Empire State Plaza, Dock B, Albany, NY 12224 - 4th Floor- Claims outside room 433N & StateCounsel Rm 436	2	5	9
Northeast NY	Executive Department	Capitol Bldg – Dock B 2 nd Floor, Albany, NY 12224 – Capitol-2nd Floor- Across from room 219	1	5	8
Northeast NY	Agency Bldg #4	Empire State Plaza, Dock D, Albany, NY 12224 - ASB - 3rd Floor 1-Kitchen, 1- Confernce room, 1- back of office, 1- Training Room	4	5	5
Northeast NY	Agency Bldg #4	Empire State Plaza, Dock D, Albany, NY 12224 - BFMB - 4th Floor Break Room	1	5	20

Northeast NY	Agency Bldg #4	Empire State Plaza, Dock D, Albany, NY 12224 - HR - 7th Floor- Kitchen and next to conference room	2	5	6
Northeast NY	Agency Bldg #2	Empire State Plaza, Dock G, Albany, NY 12224 - Criminal Prosecutions - 9th Floor, Kitchen Room 9-05	1	5	10
Northeast NY	Agency Bldg #2	Empire State Plaza, Dock G, Albany, NY 12224 - Investigations - 10th Floor, Rm 10-25	1	5	10
Northeast NY	Empire State Plaza	Concourse, Albany, NY 12224 - Investigations/Special Operations, Room 134-1, 134-2	1	5	8
Northeast NY	Warehouse (Supply Unit)	3 Airport Park Blvd, Latham, NY 12110 - Warehouse- one Plant- one	2	5	4
Northeast NY	Plattsburgh Regional Office	43 Durkee St, Plattsburgh, NY 12901-2958 – Suite 700, Kitchen	1	5	5
Western NY	Roswell Park Cancer Center	665-666 ELM Street, Buffalo, NY - 3rd Floor- K-411 at the North of the Building	1	5	6
Western NY	Rochester Regional Office	144 Exchange Boulevard, Rochester, NY 14614-2176 - 2nd Floor- Kitchen	1	5	5
NYC – Long Island	Harlem Regional	163 W 125 th St, New York, NY 100287-8201 – Suite 1324	1	5	5
NYC – Long Island	Brooklyn Regional	55 Hanson Pl, Brooklyn, NY 11217 – Suite 732	1	5	4
NYC – Long Island	Brooklyn Regional	55 Hanson Pl, Brooklyn, NY 11217 – Suite 1080	1	5	3
NYC – Long Island	Brooklyn Regional	55 Hanson Pl, Brooklyn, NY 11217 – RO – Lunch Room #1087	1	5	3
NYC – Long Island	Suffolk Regional	300 Motor Pkwy, Hauppauge, NY 11788 - Regional Office Suite 230	1	5	12
NYC – Long Island	Suffolk Regional	300 Motor Pkwy, Hauppauge, NY 11788 - Real Property Suite 205- Kitchenette	1	5	5

NYC – Long Island	Nassau Regional	200 Old Country Rd, Mineola, NY 11501-4239 – Suite 240-Lunch Room	1	5	6
NYC – Long Island	Stony Brook University Hospital	2100 Middle Country Rd, Centereach, NY 11720 - Suite 108- 1 Break Room, 1 Hallways of the Office and 1 is in the house area of the office	3	3	8

4.3 Equipment Maintenance

- 4.3.1 The Contractor shall perform preventive maintenance or take any remedial actions needed to maintain the operation of the water dispensing machines in a satisfactory manner. Any defective or malfunction water dispensing machine shall be repaired within one (1) business day after the Contractor is notified that repairs are required. If repairs cannot be completed within one (1) business day, the Contractor shall replace the machine with an operational machine within that time.
- 4.3.2 It will be the responsibility of the Contractor(s) to clean and sanitize all dispensing units at least every six (6) months, or in whatever additional intervals are necessary to keep the water up to sanitary standards and perform whatever other maintenance is required to meet manufacturer's specifications. The OAG can request cleaning at their discretion; however, the OA will not be unreasonable with requests beyond the six (6) month requirement. Proper cleaning procedure is outlined in brochures published by the International Bottled Water Association.

Section 5 ADMINISTRATIVE INFORMATION

5.1 Method of Award

The OAG shall make award by "Best Price" Grand Total to the lowest **responsible** and **responsive** Bidder(s), where applicable, meeting all terms and conditions as outlined in this IFB.

Responsive Bids: will include all of the completed documents and attachments requested for submission in Section 3.2, comply with all material aspects of the solicitation, conform to the solicitation documents and meet the requirements set forth in this solicitation. Bids that do not comply with the terms and conditions of the solicitation will be rejected as non-responsive.

Bidder Responsibility: Using the Vendor Responsibility Questionnaire completed by the bidder, any information disclosed by the bidder, and various online resources, the OAG will review bidder responsibility for the following criteria (pass/fail):

1. Financial and organizational capacity
2. Legal/regulatory authority to do business
3. Integrity, and
4. Performance history.

Bidders deemed to be non-responsible will not be considered for final award.

5.2 Administrative Review

Bids will be reviewed for completeness on a **pass/fail** basis. Bids that do not meet the Bid Submission and Content Requirements outlined in Section 3.2 of this IFB may be deemed **non-responsive** by the OAG and given no further consideration.

5.3 Award

Award of a contract, if awarded, will be made to the bidder who (a) submitted a responsive bid; (b) is a responsible bidder; and (c) is the lowest Grand Total bid. Bidders must submit pricing for all regions (Central NY, Lower Hudson Valley, Northeast NY, Western NY, and NYC – Long Island).

A response to the solicitation is an offer to contract with the OAG based on the terms and conditions contained therein. Bids do not become contracts until they are accepted by the OAG through issuance of a duly executed contract signed by both parties, and the New York State Office of the State Comptroller. The general terms and conditions in this solicitation, the applicable requirements and provisions of the IFB, and other provisions required by the OAG shall be included in any resulting contract.

5.4 Notice of Contract Award

The selected Responders will be electronically notified their submitted proposal has been selected for tentative award and that a contract will be forthcoming for execution. Non-awardees will also be notified that their proposal was not selected for award.

5.5 Bidder Debriefing

A proposer shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Prior to contract award, the OAG shall, upon request, provide a debriefing which would be limited to review of that proposer's bid response. After contract award, the OAG shall, upon request, provide a debriefing to any unsuccessful proposer that responded to the solicitation, regarding the reason that the bid or bid submitted by such proposer was not selected for a contract award. The post-award debriefing should be requested in writing within 30 days of notification of an unsuccessful award.

5.6 Volume and Price

The Bidders Response Price Proposal Pages includes estimates compiled from current bottled water usage for OAG locations across NYS for the last year. **The volume of work cannot be predicted in advance, and there is no guarantee of actual volume of work in the resulting contract(s). An estimated quantity of one (1) for service items listed on each Price Proposal Page indicates potential need for that service item during the term of the contract. Therefore, please offer your typical/best pricing for that service.**

Prospective Bidders are reminded that all proposed pricing submitted pursuant to this Invitation for Bids (IFB) shall be all-inclusive and include all direct and indirect (physical and administrative) costs for the performance of the services described herein; including, but not necessarily limited to, all Contractor

provided labor and personnel, parts, postage/handling, materials and equipment cost; all administrative, reporting or other requirements; all overhead costs, fees and profit and shall also include all travel costs (transportation, lodging, meals, etc.), and any other ancillary fees and costs including permits, licenses, insurance, etc.; and services not explicitly stated in the IFB, but necessarily attendant thereto as and as applicable to the associated item for which the rate is being quoted.

Additionally, pricing shall be submitted only on, and in the form prescribed by, the Bidder Response Price Proposal Page. All fields must be completed. If there is no charge associated with a particular service, the Bidder shall indicate such by utilizing "0" in the space provided for such service. **No other (additional) charges beyond the services specified on the Bidders Price Proposal Page(s) shall be permitted by Prospective Bidders, nor will they receive any consideration.**

The services and pricing set forth in the Bidder's Price Proposal Page(s) are the only services and pricing that shall be charged for and payable by the OAG under the resulting Contract in the event the Prospective Bidder is the awardee.

The OAG is tax exempt as a governmental subdivision of the State of New York under Section 501(C) (3) of the Internal Revenue Code. Tax Exemption Certificate 14-740026K. The Bidder Price Proposal Pages, and resulting contract, shall not contain any requirement for the OAG to pay sales or other taxes from which it is exempt under applicable law.

5.7 Term of Contract

It is the intention of the State to enter into a contract for three (3) years with two (2) one-year renewal options, subject to approval by the OAG and the Office of the State Comptroller (OSC), except that, the commencement and termination dates may be adjusted forward unilaterally by the State for any resulting contract for up to two calendar months.

The contract dates may be adjusted forward beyond two months only with the approval of the successful bidder. If, however, the bidder is not willing to accept an adjustment of the contract dates beyond the two-month period, the State reserves the right to proceed with an award to another bidder.

5.8 Price Adjustment Clause

The pricing shall remain firm for the first three (3) years of the awarded contract. Rate increases can only be applied for on the anniversary date of the Agreement in year four (4) and five (5) of the contract and must be justified in writing. Any increase will be limited to the Consumer Price Index Percentage Change for All Items (CPI-U), Not-Seasonally-Adjusted as published by the U.S. Bureau of Labor Statistics in March of each year or by 3%, whichever is less. The percentage change of any increase/decrease shall not exceed the CPI-U of three (3) months prior to the start date of the applicable extension period, or 3%, whichever is less.

Price adjustments involve changing the base payment by the percent change reflected in the CPI between the reference and subsequent time. The price adjustment shall be calculated as follows: Take the CPI for the 3rd month prior to the month of the contract start date (reference) and subtract this figure from the CPI value for the 3rd month prior to the month of the contract extension start date (i.e.: if the contract begins in January, use the October CPI). That sum is then divided by the original (reference) CPI value, with this result being multiplied by 100 to equal the percent change, which is the

price adjustment value. This percentage increase/decrease shall be applied to the contract extension period, effective on the start date of the extension period. The following example illustrates this calculation:

CPI – 3rd month prior to anniversary date	136.0
Less CPI at 3rd month prior to contract start date	129.9
Equals index point change	6.1
Divided by previous period CPI	129.9
Equals	0.047
Result multiplied by 100	0.047 x 100
Equals Percent Change	4.7%

All awarded contracts shall be entered into at prices bid in response to this IFB and may be adjusted on the anniversary date of the contract in like manner as specified above.

The Contractor has the sole responsibility to submit invoices at the adjusted rate on the applicable anniversary date and shall provide a copy of the index and other supporting documentation necessary to support the increase or decrease to the Office of the Attorney General, as appropriate. Should the Contractor fail to submit adjusted invoices and/or supporting documentation within three (3) months after the applicable anniversary date, the Contractor shall be deemed to have waived its right to any increase in price for that year, but the State shall not be barred from making the appropriate adjustment in the case of a decrease determined in accordance with the above methodology.

5.9 Invoicing and Payment

Payments are made each month against the encumbrance documents or other written orders.

Billings must be made no more frequently than once a month based on services provided. All records regarding service and billings to the OAG under this contract shall be retained as per Appendix A, Clause #10 – Records and may be subject to audit by appropriate State officials upon written notice.

Invoices for payment shall be submitted to the Office of the Attorney General, Accounts Payable Unit, at the end of each month on a company invoice for services satisfactorily completed during that month.

The invoice shall contain the following:

- (1) Payee's complete name, telephone, email address, address, including zip code*;
- (2) Statewide Financial System vendor identification number;
- (3) Contract number assigned by OAG (i.e.: C10XXXX);
- (4) The name of the Office of the Attorney General, the location served, defendant served, price of service and the date the service that was provided.

*Information should agree with Remit to information in the Statewide Financial System (SFS). New York State Vendor's are responsible for ensuring their business information is accurate and up to date in the SFS. Vendors may visit the following link for guidance <http://www.osc.state.ny.us/vendors/index.htm>.

Invoices can be submitted by mail or email:

NYS Office of the Attorney General,

Budget & Fiscal Management Bureau - Payments Unit
The Capitol
Albany, NY 12224-0341
E-Mail: payments@ag.ny.gov.
Electronically: <http://www.osc.state.ny.us/vendors/invoices.htm>

Note: The Contractor shall refrain from performing and/or invoicing for work outside the scope of the Contract. The services and pricing set forth in the Schedule of Items and Prices Page are the only services and pricing that shall be charged for and payable by the State under the resulting Contract in the event the Prospective Bidder is the awardee

5.10 Electronic Payment

Contractor shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the contract, the agency, and OSC. 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 OSC's website at, <http://osc.state.ny.us/vendors/epayments.htm>, by e-mail at epayments@osc.state.ny.us, or by phone 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 OSC's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

Please note that in conjunction with New York State's implementation of the statewide financial system, OSC requires all vendors doing business with New York State agencies to complete a Substitute W-9 form. Vendors registering for electronic payment can complete the W-9 form when they register. Vendors already registered for electronic payment are requested to go to the above website and complete the Substitute W-9 form and submit following the instructions provided.

5.11 Hours of Operation and Legal Holidays

The Contractor shall be available to provide services during normal working hours, 8:00 am to 5:00 pm, Monday through Friday, except holidays.

The following are a list of State holidays that need to be considered during the course of providing services under any resulting contract:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Lincoln's Birthday (Floater)	Election Day (Floater)
President's Day	Veteran's Day
Memorial Day	Thanksgiving Day
Juneteenth	Christmas Day
Independence Day	

5.12 Appropriated Funds

The purchase of service or product, which arises from this solicitation, is contingent upon the availability of appropriated funds. The OAG shall have the right to terminate the resulting contract at the end of the current or each succeeding fiscal year if funds are not appropriated by the Legislature and Governor for the next fiscal year that would permit continuation of the resulting contract. If funds are withdrawn or do not become available, The OAG reserves the right to terminate the contract by giving the contractor a thirty (30) day written notice of its intention to terminate without penalty or any further obligations on the part of the OAG or the contractor. Upon termination of the contract, the OAG shall not be responsible for any payment of any service or product received that occurs after the end of the current contract period or the effective date of termination, whichever is the earlier to occur. The OAG's fiscal year begins on April 1st and ends on March 31st.

Section 6 CONTRACT PROVISIONS AND ADMINISTRATIVE CLAUSES

6.1 Appendix A/Order of Precedence

Appendix A — Standard Clauses for New York State Contracts, dated October 2023 attached hereto, is hereby expressly made a part of this solicitation document as fully as if set forth at length herein.

The memorandum of agreement (contract) resulting from a successful award will include the following documents. Conflicts between these documents will be resolved in the following descending order of precedence:

- 6.1.1 Appendix A - Standard Clauses for NYS Contracts (dated October 2023)
- 6.1.3 Memorandum of Agreement (Contract)
- 6.1.4 OAG IFB # **25-002** (this document, and any addenda/ Unincorporated Appendices
- 6.1.5 Selected Contractor(s) Bid Proposal

6.2 Appendices

The Bidder's attention is directed to the appendix's documents attached hereto, and hereby incorporated by reference and made part hereto as fully as if it were set forth at length herein. They are a part of the contract and the Bidder is responsible for adhering to all requirements of all attachment and appendices.

6.3 Procurement Lobbying Requirements

State Finance Law §§139-j and 139-k imposes certain restrictions on communications between the OAG and the bidder during the procurement process. The bidder is restricted from making contacts from the date of bid advertisement in the NYS Contract Reporter through final approval of the contract award by the Office of the State Comptroller, with anyone other than designated OAG staff; certain exceptions to this restriction are set forth in State Finance Law §139-j(3)(a). OAG employees are also required to obtain certain information when contacted during the "restricted period" and to make a determination of responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award, and in the event of two such findings within a four-year period, the bidder is debarred from obtaining State contracts. Further information about these requirements can be found on the OGS website: <https://ogs.ny.gov/acpl>.

6.4 Procurement Rights

State of New York reserves the right to:

- 6.4.1 Prior to the bid opening, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available.
- 6.4.2 Reject any or all bids received in response to this solicitation.
- 6.4.3 Disqualify a Proposer from receiving the award if the Proposer, or anyone in the Proposer's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
- 6.4.4 Correct Proposers' mathematical errors and waive or modify other minor irregularities in bids received, after prior notification to the Proposer.
- 6.4.5 Negotiate with Proposers responding to this solicitation within the solicitation requirement to serve the best interest of the State.
- 6.4.6 Not make an award from this solicitation.
- 6.4.7 Make an award under this solicitation in whole or in part.
- 6.4.8 Make multiple contract awards pursuant to the solicitation.
- 6.4.9 Seek clarifications from proposers for assuring a full understanding of responsiveness to the IFB.

6.5 Dispute Resolution

It is the policy of the Office of the Attorney General, Budget & Fiscal Management Bureau, to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to bid solicitations, contract awards and contract administration. The Budget & Fiscal Management Bureau encourages vendors to seek resolution of disputes informally, through consultation with agency staff, prior to commencing a formal dispute process. All such matters will be accorded impartial and timely consideration.

6.6 Procurement Lobbying Termination

As stated in Section 7.9 – NYS Vendor Responsibility Questionnaire For-Profit Business Entity and/or "Termination –for Cause" in Appendix B, General Specifications and/or New York State Finance Law Section 139-k, the Office of the Attorney General reserves the right to terminate a contract by providing ten (10) days written notification to the Contractor, for cause in the event of determination made after an award with respect to vendor non-responsibility, or in the event of determination that certification filed in accordance with State Finance Law Section 139-k was intentionally false or intentionally incomplete.

6.7 Subcontracting

Contractor may subcontract to subcontractors selected by Contractor. 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. A subcontractor cannot subcontract work under the resulting contract. Any costs associated with subcontracting are the obligation of the Awarded Contractor.

Contractor shall be fully responsible to OAG for the acts and omissions in the performance of services under the Contract of the subcontractor 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 contractual or financial responsibility under the Contract by its agreement with any subcontractor or by an OAG approval of such an agreement with a subcontractor.

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

6.8 Indemnification

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

6.9 New York State Vendor Responsibility Questionnaire For-Profit Business Entity (hereinafter the "Questionnaire")

The OAG conducts a review of prospective contractors ("Proposers") to provide reasonable assurances that the proposer is responsive and responsible. A Questionnaire is used for non-construction contracts and is designed to provide information to assess a proposer's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a bid, proposer agrees to fully and accurately complete the "Questionnaire." The proposer acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the proposer is responsible, and that the State will be relying upon the proposer's responses to the Questionnaire when making its responsibility determination.

OAG recommends each proposer file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller's (OSC) website, <http://www.osc.state.ny.us/vendors/index.htm> or to enroll, go directly to the VendRep System online at <https://www.osc.ny.gov/state-vendors/vendrep/enroll-vendrep-system>.

OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbuss.htm>. Proposers opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at: http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

To assist the State in determining the responsibility of the proposer, the proposer should complete and certify (or recertify) the Questionnaire no more than six (6) months prior to the bid opening date. A proposer's Questionnaire cannot be viewed by the OAG until the proposer has certified the Questionnaire. It is recommended that all proposers become familiar with all of the requirements of the Questionnaire in advance of the bid opening to provide sufficient time to complete the Questionnaire.

The Proposer agrees that if it is awarded a Contract the following shall apply:

The Firm shall always during the Contract term remain responsible. The Firm agrees, if requested by the OAG or their designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The OAG or their designee, in their sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when they discover information that calls into question the responsibility of the Contractor. In the event of such suspension, the Firm will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Firm must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OAG or their designee issues a written notice authorizing a resumption of performance under the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OAG officials or staff, the Contract may be terminated by the OAG or their designee at the Contractor's expense where the Firm is determined by the OAG or their designee to be non-responsible. In such event, the OAG or their designee may complete the contractual requirements in any manner they may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Firm because of such termination.

6.10 NYS Vendor File Registration

Prior to being awarded a contract pursuant to this Solicitation, the Bidder(s) must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, unique New York State ten-digit vendor identification numbers will be assigned to your company for usage on all future transactions with New York State.

Vendor File enables vendors to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York. If Bidder is

already registered in the New York State Vendor File, list the ten-digit vendor ID number on the Firm Information page included in ATTACHMENT A of this solicitation.

If the Bidder is not currently registered in the Vendor File and is recommended for award, OAG shall Request completion of OSC Substitute W-9 Form. A fillable form with instructions can be found at the link below. The OAG will initiate the vendor registration process for all Bidders recommended for Contract Award. Once the process is initiated, registrants will receive an email from OSC that includes the unique ten-digit vendor identification number assigned to the company and instructions on how to enroll in the online Vendor Self-Service application. For more information on the vendor file please visit the following website: <http://www.osc.state.ny.us/vendors/index.htm>

Forms to be completed:

<https://www.osc.state.ny.us/files/vendors/2017-11/vendor-form-ac3237s-fe.pdf>

6.11 Tax Law § 5-A (Amended April 26, 2006):

Tax Law § 5-a, as amended on April 26, 2006, requires certain contractors who are awarded state contracts for commodities and/or services valued at more than \$100,000 (over the full term of the contract, excluding renewals) to certify to the Department of Taxation and Finance (DTF) they are registered to collect New York State (NYS) and local sales and compensating use taxes. The law applies to contracts where the total amount of the contractor's sales delivered into NYS exceed \$300,000 for the four quarterly periods immediately preceding the quarterly period when the certification is made; and with respect to any affiliates and subcontractors whose sales delivered into NYS also exceed \$300,000 in the same manner as noted above for the contractor.

This law 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 tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold 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 is not so registered in accordance with the law.

The OAG reserves the right to terminate the contract in the event it is found that the certification filed by the Contractor in accordance with §5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the OAG may exercise its termination right by providing written notification to the Contractor.

Vendors may call DTF at (518) 485-2889 for any and all questions relating to Tax Law § 5-a and relating to a company's registration status with DTF. For additional information and frequently asked questions, please refer to the DTF web site: <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>

6.12 Workers' Compensation Insurance and Disability Benefit Requirements

Sections 57 and 220 of the New York State Workers' Compensation Law require the heads of all municipal and state entities to ensure that businesses applying for contracts have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals. Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of a Bid or any contract renewal. A Bidder will not be awarded a Contract unless proof of

workers' compensation and disability insurance is provided to OAG. Proof of workers' compensation and disability benefits coverage, or proof of exemption must be submitted to OAG at the time of notification of tentative award, policy renewal, contract renewal and upon request. Proof of compliance must be submitted on one of the following forms designated by the New York State Workers' Compensation Board. An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.

Proof of Compliance with Workers' Compensation Coverage Requirements:

- Form CE-200, Certificate of Attestation for New York Entities with No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (www.wcb.ny.gov).
- Form C-105.2 (9/15), Certificate of Workers' Compensation Insurance, sent to OAG by the Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide
- Form U-26.3 to OAG upon request from the Contractor; or
- Form SI-12, Certificate of Workers' Compensation Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office, or
- Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance, available from the Contractor's Group Self-Insurance Administrator
- Form CE-200, Certificate of Attestation for New York Entities with No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (<https://www.wcb.ny.gov/>)
- Form DB-120.1, Certificate of Disability Benefits Insurance, sent to OAG by the Contractor's insurance carrier upon request; or
- Form DB-155, Certificate of Disability Benefits Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office.

An instruction manual clarifying the New York State Workers' Compensation Law requirements is available for download at the New York State Workers' Compensation Board's website, requirements-businesses-applying-government-permits-licenses-contracts.pdf (ny.gov).

Firm acknowledges that failure to obtain and/or keep in effect any or all required insurance on behalf of OAG constitutes a material breach of contract and subjects it to liability for damages, indemnification, and all other legal remedies available to OAG. Contractor's failure to obtain and/or keep in effect any or all required insurance shall also provide the basis for OAG's immediate termination of any contract resulting from this Solicitation, subject only to a five (5) business day cure period. Any termination by OAG under this section shall in no event constitute or be deemed a breach of any contract resulting from this Solicitation and no liability shall be incurred by or arise against the Office of General Services, its agents, and employees therefore for lost profits or any other damages.

6.13 Sexual Harassment Prevention Certification

Pursuant to N.Y. State Finance Law § 139-l, every bid made on or after January 1, 2019, to the State or Any public department or agency thereof, where competitive bidding is required by statute, rule, or

regulation, for work or services performed or to be performed or goods sold or to be sold, and where otherwise required by such public department or agency, shall contain a certification that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all its employees. Such policy shall, at a minimum, meet the requirements of N.Y. State Labor Law § 201-g.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following: <https://www.ny.gov/programs/combating-sexual-harassment-workplace>

Pursuant to N.Y. State Finance Law § 139-l, any bid by a corporate bidder containing the certification Required above shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, OAG may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

6.14 Piggybacking

The OAG reserves the option to extend the terms and conditions of this contract to any other State Agency in New York subject to all required state approvals. The Contractor is not required to take on any additional such work. In the event that the Contractor chooses to do so, it must provide written consent to extend the terms and conditions of the Contract to another State Agency.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, “the contract” or “this contract”) agree to be bound by the following clauses which are hereby made a part of the contract (the word “Contractor” herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

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

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller’s approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

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

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

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

accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

law will be the responsibility of the contractor to establish to meet with the approval of the State.

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

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

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

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

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

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

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

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

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

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

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

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

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

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

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

Office of the Attorney General – Procurement Lobbying Guidelines

I. Introduction

The Guidelines have been issued pursuant to the New York State Finance Law, which prohibits lobbying on procurement contracts. The Guidelines, which apply to all Office of Attorney General (OAG) procurement contracts, limit communications between offerers and the OAG during the Restricted Period of a Governmental Procurement. During the Restricted Period, an Offerer may only communicate with the person or persons designated by the OAG to receive communications regarding such Governmental Procurement.

II. Statutory Definitions¹

ARTICLE OF PROCUREMENT A commodity, service, technology, public work, construction, revenue contract, the purchase sale or lease of real property or an acquisition or granting of an interest in real property that is the subject of a governmental procurement.

CONTACT Any oral, written or electronic communication with the OAG under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement.

GOVERNMENTAL ENTITY All New York State agencies and authorities, both houses of the Legislature, the Unified Court System, municipal agencies and their respective employees.

GOVERNMENTAL PROCUREMENT shall mean: (i) the preparation of terms of the specifications, bid documents, requests for proposals, or evaluations criteria for a procurement contract, (ii) solicitation for a procurement contract, (iii) evaluation of a procurement contract, (iv) award, approval, denial or disapproval of a procurement contract, or (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the Comptroller, as applicable), renewal or extension of procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer.

OFFERER The individual or entity, or any employee agent or consultant or person acting on behalf of such individual or entity, that communicates with the OAG about a **Governmental Procurement** or seeks to participate in a **Governmental Procurement**.

PROCUREMENT CONTRACT Any contract or other agreement for an **Article of Procurement** involving an estimated annualized expenditure in excess of \$15,000. Grants, Article 11-B State Finance Law Contracts, Intergovernmental Agreements, Railroad and Utility Force Accounts, Utility Relocation Project Agreements or Orders of Eminent Domain Transactions shall not be deemed **Procurement Contracts** in these Guidelines.

RESTRICTED PERIOD The period of time commencing with the earliest date of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerers intending to result in a **Procurement Contract** with

the OAG and, ending with the final contract award and approval by, where applicable, the Office of the State Comptroller.

III. Exemptions

Certain communications are exempt from the Guidelines. These include: (i) submissions in response to an invitation for bid, a request for proposal or other solicitation, (ii) submissions of written questions to a designated contact set forth in an invitation for bid, request for proposal or other solicitation, (iii) participation in a conference provided for in an invitation for bid, request for proposal or other solicitation, (iv) contract negotiations, (v) inquiries regarding the factual status of a **Procurement Contract**, and (vi) complaints and protests regarding the procurement process and outcome.

In addition, any communication received by the OAG from members of the New York State Legislature or the Legislative Staff, when acting in their official capacity, shall not be considered a **Contact**.

IV. Violations

A violation of these Guidelines occurs when there is a **Contact** during the **Restricted Period** between the **Offerer** and someone other than the person or persons designated by the OAG to receive communications for the particular **Governmental Procurement**. This includes instances where the **Offerer** **Contacts** the OAG regarding **Governmental Procurements** of other **Governmental Entities**.

Attempts by an **Offerer** to influence a **Governmental Procurement** in a manner that would result in a violation of the Public Officer's Law, the Executive Orders of the Attorney General, or any other applicable ethics code shall also be a violation of these Guidelines.

V. Procedures

A. Notifying Vendors of Procurement Lobbying Guidelines

1. For each **Procurement Contract**, the OAG Budget and Fiscal Management Bureau will designate a person or persons to receive communications from **Offerers** concerning the **Procurement Contract**.

2. The OAG Purchasing Team will incorporate a summary of the policy and prohibitions regarding permissible communications during a **Governmental Procurement** in its documents relating to the **Procurement Contract** and provide a copy of these Guidelines.

3. The OAG Purchasing Team shall seek written affirmation from all **Offerers** as to the **Offerer's** understanding of and compliance with these Guidelines (Appears at the end of this guideline).

B. Making Determinations of Responsibility

1. Prior to award of a **Procurement Contract**, the OAG must make a responsibility determination with respect to the **Offerer** to be recommended for the award of the contract based upon, among other things, the information supplied by that **Offerer**. The **Offerer** must disclose in the Vendor Responsibility Questionnaire whether it has been found non-responsible within the last five years by any **Governmental Entity** for: (1) failure to comply with State Finance Law §139-j, or (2) the intentional provision of false or incomplete information. This disclosure must be certified by the **Offerer** and must affirmatively state that the information supplied by the **Offerer** to the OAG is complete, true and accurate (Appears at the end of this guideline).

2. The **Procurement Contract** shall include a provision allowing the OAG to terminate the contract if the certification is subsequently found to be incomplete, false or inaccurate. Admissions by the **Offerer** of past findings of non-responsibility may constitute a basis for rejection of the **Offerer** by the OAG. The OAG can award a contract to the **Offerer** despite the past findings of non-responsibility if it determines 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 time frame. The basis of such a finding must be included in the procurement record of the **Procurement Contract**.

C. Recording Contacts

1. All OAG employees must record any **Contact** from any person or entity. **Contacts** may be initiated by parties with an interest in the procurement that are not necessarily connected directly to the **Offerer**. **Contacts** may come in the form of telephone conversations, correspondence, electronic mail and person-to-person discussions. The Record of Contact Form should be used to record all **Contacts**.

2. Examples of **Contacts** for which a Record of Contact must be completed include:

a. During the **Restricted Period**, an **Offerer** **Contacts** an OAG employee (other than the employee designated to receive such communications) to discuss the **Offerer's**, cost-competitiveness or its suitability to be selected for a contract
b. A court reporter, expert witness or any other vendor offers an OAG employee a gift of any monetary value during the **Restricted Period**.

3. Examples of permissible communications for which there is no need to prepare Record of Contact include:

a. Inquiries as to the status of the procurement process
b. Requests to be included on the OAG's **Offerer's** list
c. Receipt of advertising material
d. Intra-agency communications of administrative details concerning the procurement
e. Responses to OAG issued Requests for Information
f. Written questions submitted by **Offerers** regarding a solicitation during the allowable time period of a competitive procurement
g. Complaints about the procurement process or outcome
h. Participation in an **Offerer's** conference as provided in a request for proposal or invitation for bid
i. Submission of a bid in response to a request for proposal or invitation for bid
j. Contract negotiations
k. Debriefing of a **Offerer** after a contract award has been made

4. If an OAG employee is in doubt about whether a communication was intended to influence the **Governmental Procurement**, he/she should record the communication on the Record of Contact Form and submit it to

ProcurementLaw@OAG.State.NY.US for further investigation

5. The OAG Purchasing Team will be required to include all Records of Contact in the procurement record for the related **Procurement Contract**.

D. Investigation of Contacts/ Penalties for Violations

1. All reported **Contacts** will be immediately investigated by the OAG Ethics Officer or his or her designee. If the OAG Ethics Officer finds sufficient cause to believe that an **Offerer** has violated these Guidelines, the **Offerer** will be notified in writing of the investigation and will be afforded an opportunity to respond to the alleged violation. Investigations will be completed as soon as practicable so as not to delay the progress

of the **Governmental Procurement**.

2. If the OAG Ethics Officer should find at the conclusion of the investigation that the **Offerer** knowingly and willfully made prohibited **Contact** in violation of these Guidelines, then the **Offerer** shall be disqualified as non-responsible, unless the OAG makes a finding 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 time frame. The basis of such a finding must be included in the procurement record of the **Procurement Contract**.

¹Defined terms are in bold

Bidder Understanding & Compliance with State Finance Law Section 139-j & 139-k:

Company affirms that it understands and agrees to comply with the procedures of the Office of the Attorney General relative to permissible contacts as required by State Finance Law Section 139-j (3) and Section 139-j (6) (b); and that all information provided to the Office of the Attorney General, with respect to State Finance Law Section 139-k is complete, true and accurate.

Signed By: _____

Date: _____

Name (Print): _____

Title: _____

Company Name: _____

Company Address: _____

Bidder Disclosure of Prior Non-Responsibility Determinations:

Has any NYS agency/authority made a finding of non-responsibility regarding the Offerer in the last 5 years?:

☐ Yes ☐ No

Has any NYS agency/authority terminated a procurement contract with the Offerer due to intentional provision of false or incomplete information?:

☐ Yes ☐ No

If "Yes" to either/both questions, please provide details; such as: NYS agency/authority, Basis for Finding, Year of Finding/Termination, and Facts Underlying Finding/Termination.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or owner's official representative authorized to legally bind the Reporting Entity must certify the truth of the questionnaire answers.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the IT Service Desk at ITServiceDesk@osc.state.ny.us or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at <https://www.osc.state.ny.us/files/vendors/2017-11/vendor-questionnaire-definitions.pdf>. These terms may not have their ordinary, common or traditional meanings. Each vendor must read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered fully. Each response must provide all relevant information to appropriately explain the answer. If you have concerns as to the legal requirements behind your answers, please seek clarification from your counsel. However, information regarding a determination or finding made in error which was subsequently corrected or overturned, and/or was withdrawn by the issuing government entity is not required to be identified. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity, or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity. Please refer to the Definitions List for the complete definition.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION			
<u>Legal Business Entity Name*</u>		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone Ext.	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u>)		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company</u> (LLC or PLLC)		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u>)		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If ‘No,’ indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____ <input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” Enter <u>DUNS</u> Number			

*All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” which can be found at <https://www.osc.state.ny.us/files/vendors/2017-11/vendor-questionnaire-definitions.pdf>

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION

1.4 If the Legal Business Entity's Principal Place of Business is not in New York State, does the Legal Business Entity maintain an office in New York State?
(Select "N/A," if Principal Place of Business is in New York State.)

☐ Yes ☐ No
☐ N/A

If "Yes," provide the address and telephone number for one office located in New York State.

1.5 Is the Legal Business Entity a New York State certified Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE), Service-Disabled Veteran-Owned Business (SDVOB), New York State Small Business (SB) or a federally certified Disadvantaged Business Enterprise (DBE)?

☐ Yes ☐ No

If "Yes," check all that apply:

- ☐ New York State certified Minority-Owned Business Enterprise (MBE)
☐ New York State certified Women-Owned Business Enterprise (WBE)
☐ New York State certified Service-Disabled Veteran-Owned Business (SDVOB)
☐ New York State Small Business (SB)
☐ Federally certified Disadvantaged Business Enterprise (DBE)

1.6 Identify Officials and Principal Owners of the Reporting Entity, if applicable. For each person, include name, title, date of birth, and percentage of ownership. For each Business Entity that is a Principal Owner, include name, address, EIN, and percentage ownership. Identify all Business Entities owning 25% or more of the Reporting Entity and include name, address, EIN and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional. Each Business Entity identified as a Principal Owner must also submit a vendor responsibility questionnaire.

If there is no person or Business Entity that owns 25% or more of the Reporting Entity (or 10% or more if the Reporting Entity is publicly traded), check here. ☐

Name of Officials and Principal Owners (for each person, please include a middle initial)	Title	Date of Birth	Percentage Ownership (Enter 0% if not applicable)
Name of each Business Entity owning 25% or more of Reporting Entity	Address	EIN	Percentage Ownership

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

II. REPORTING ENTITY INFORMATION

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

☐ Legal Business Entity

Note: If selecting this option, “Reporting Entity” refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)

☐ Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF “REPORTING ENTITY” AND “ORGANIZATIONAL UNIT” FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

Note: If selecting this option, “Reporting Entity” refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)

IDENTIFYING INFORMATION

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

☐ Yes ☐ No

If “Yes,” enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity.
For each person, include name and title. Attach additional pages if necessary.

Name

Title

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each “Other,” provide an explanation which provides the basis for not definitively responding “Yes” or “No.” Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY

Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:

3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other

For each “Yes” or “Other” provide an explanation for the response and attach additional sheets with numbered responses if necessary:

IV. INTEGRITY – CONTRACT BIDDING

Within the past five (5) years, has the reporting entity:

4.0 Been <u>suspended or debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers’ Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise, Service-Disabled Veteran-Owned Business or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” provide an explanation for the response and attach additional sheets with numbered responses if necessary:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

V. INTEGRITY – CONTRACT AWARD

Within the past five (5) years, has the reporting entity:

- | | |
|---|--|
| 5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” provide an explanation for the response and attach additional sheets with numbered responses if necessary:

VI. CERTIFICATIONS/LICENSES

Within the past five (5) years, has the reporting entity:

- | | |
|--|--|
| 6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> , <u>Service-Disabled Veteran-Owned Business</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” provide an explanation for the response and attach additional sheets with numbered responses if necessary:

VII. LEGAL PROCEEDINGS

Within the past five (5) years, has the reporting entity:

- | | |
|--|--|
| 7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious or willful</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.5 Other than previously disclosed:
a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or
b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” provide an explanation for the response and attach additional sheets with numbered response if necessary:

NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY

8.0 Within the past five (5) years, has the Reporting Entity received any formal unsatisfactory performance assessment(s) from any government entity on any contract? ☐ Yes ☐ No

If "Yes," provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

8.1 Within the past five (5) years, has the Reporting Entity had any liquidated damages assessed over \$25,000 for any reason, including failure to meet Minority-Owned Business Enterprise, Women-Owned Business Enterprise, Service-Disabled Veteran-Owned Business, or Disadvantaged Business Enterprise goals? ☐ Yes ☐ No

If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

8.2 Within the past five (5) years, have any liens, claims or judgments (not including UCC filings) over \$25,000 been filed against the Reporting Entity which remain undischarged? ☐ Yes ☐ No

If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the lien(s), the current status of the issue(s), and the balance of the lien or judgment not yet paid. Provide answer below or attach additional sheets with numbered responses.

8.3 In the last seven (7) years, has the Reporting Entity initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending? ☐ Yes ☐ No

If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.

8.4 During the past three (3) years, has the Reporting Entity failed to file or pay any tax returns required by federal, state or local tax laws? ☐ Yes ☐ No

If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the Reporting Entity failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.

8.5 During the past three (3) years, has the Reporting Entity failed to file or pay any New York State unemployment insurance returns? ☐ Yes ☐ No

If "Yes," provide the years the Reporting Entity failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

8.6 During the past three (3) years, has the Reporting Entity had any government audit(s) completed? ☐ Yes ☐ No

a) If "Yes," did any audit of the Reporting Entity identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any material disallowance? ☐ Yes ☐ No

If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

IX. ASSOCIATED ENTITIES

*This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.
(See definition of “associated entity” for additional information to complete this section.)*

<p>9.0 Does the <u>Reporting Entity</u> have any <u>Associated Entities</u>?</p> <p>Note: All questions in this section must be answered if the <u>Reporting Entity</u> is either:</p> <ul style="list-style-type: none"> – An <u>Organizational Unit</u>; or – The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies). <p>If “No,” SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.</p> <p>If “Yes,” provide the name, address and EIN of each Associated Entity and its relationship to the <u>Reporting Entity</u>.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>9.1 Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for:</p> <p>a) Any business-related activity; or</p> <p>b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If “Yes,” provide an explanation of the issue(s), the individual involved, their title and role in the <u>Associated Entity</u>, identify the <u>Associated Entity</u>’s name(s), <u>EIN</u>(s), primary business activity, the individual’s relationship to the <u>Reporting Entity</u>, relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s).</p>	
<p>9.2 Does any <u>Associated Entity</u> have any currently undischarged <u>federal</u>, New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$50,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If “Yes,” provide an explanation of the issue(s), identify the <u>Associated Entity</u>’s name(s), <u>EIN</u>(s), primary business activity, relationship to the <u>Reporting Entity</u>, relevant dates, the Lien holder or Claimant’s name(s), the amount of the <u>lien</u>(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</p>	
<p>9.3 Within the past five (5) years, has any <u>Associated Entity</u>:</p>	
<p>a) Been <u>disqualified</u>, <u>suspended</u> or <u>debarred</u> from any <u>federal</u>, New York State, New York City or other New York local <u>government contracting process</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>c) Been <u>suspended</u>, <u>cancelled</u> or <u>terminated for cause</u> (including for <u>non-responsibility</u>) on any <u>federal</u>, New York State, New York City or New York local <u>government contract</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>d) Been the subject of an <u>investigation</u>, whether open or closed, by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>e) Been the subject of an indictment, grant of immunity, <u>judgment</u>, or conviction (including entering into a plea bargain) for conduct constituting a crime?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

IX. ASSOCIATED ENTITIES

This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.

(See definition of “associated entity” for additional information to complete this section.)

For each “Yes,” provide an explanation of the issue(s), identify the Associated Entity’s name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

X. FREEDOM OF INFORMATION LAW (FOIL)

10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).

☐ Yes ☐ No

Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.

If “Yes,” indicate the question number(s) and explain the basis for the claim.

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE

Name	Telephone ext.	Fax
Title	Email	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or federal law, as well as a finding of non-responsibility, contract suspension or contract termination.

It being acknowledged and agreed that all responses included in this questionnaire are to the knowledge, information and belief of the Business Entity, the undersigned certifies under penalties of perjury that they:

The undersigned certifies that he/she:

- are knowledgeable about the submitting Business Entity's business and operations;
- have legal authority to bind the Business Entity;
- have read and understand all of the questions contained in the questionnaire, including all definitions;
- have not altered the content of the questionnaire in any manner;
- have reviewed and/or supplied full and complete responses to each question;
- have provided true, accurate and complete responses, including all attachments, if applicable;
- understand that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- are under an obligation to update the information provided herein to include any material changes to the Business Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official _____

Printed Name of Signatory _____

Title _____

Name of Business _____

Address _____

City, State, Zip _____

Date _____

**Contractor Certification to Covered Agency**

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

ST-220-CA

(12/11)

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

Contractor name				For covered agency use only Contract number or description	
Contractor's principal place of business		City	State		
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		
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. 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.

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:

- The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- 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).

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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



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, call the information center.

**Contractor Certification**(Pursuant to Tax Law Section 5-a, as amended,
effective April 26, 2006)**ST-220-TD**

(4/15)

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)	City	State ZIP code
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 or state agency	Contract number or description	Covered agency telephone number ()
Covered agency address	City	State ZIP code
Is the estimated contract value over the full term of the contract (but not including renewals) more than \$100,000? Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown at this time <input type="checkbox"/>		

General information

Tax Law section 5-a, 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 Form ST-220-CA, *Contractor Certification to Covered Agency*, 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.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and *Individual, Corporation, Partnership, or LLC Acknowledgement* on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and Tax Law section 5-a, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

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 12227-0826**

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?

Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features

**Telephone assistance**

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

**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, call the information center.

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.

Complete Sections 1, 2, and 3 below. Make only one entry in each section.

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 Tax Law sections 1134 and 1253, 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 Tax Law sections 1134 and 1253. 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 Tax Law sections 1134 and 1253. 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)

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

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

A Relationship to contractor	B Name	C Address	D Federal ID number	E Sales tax ID number	F Registration in progress

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

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 OFFICE OF THE STATE COMPTROLLER
SUBSTITUTE FORM W-9:
REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.

Part I: Vendor Information

1. Legal Business Name:	2. Business name/disregarded entity name, if different from Legal Business Name:
3. Entity Type (Check one only): <input type="checkbox"/> Individual Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Co. <input type="checkbox"/> Corporation <input type="checkbox"/> Not For Profit <input type="checkbox"/> Trusts/Estates <input type="checkbox"/> Federal, State or Local Government <input type="checkbox"/> Public Authority <input type="checkbox"/> Disregarded Entity <input type="checkbox"/> Other _____	
<input type="checkbox"/> Exempt Payee	

Part II: Taxpayer Identification Number (TIN) & Taxpayer Identification Type

1. Enter your TIN here: (<i>DO NOT USE DASHES</i>) See instructions.	<table border="1" style="width:100%; height: 25px;"> <tr> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </table>									
2. Taxpayer Identification Type (check appropriate box): <input type="checkbox"/> Employer ID No. (EIN) <input type="checkbox"/> Social Security No. (SSN) <input type="checkbox"/> Individual Taxpayer ID No. (ITIN) <input type="checkbox"/> N/A (Non-United States Business Entity)										

Part III: Address

1. Remittance Address:	2. Ordering Address:
Number, Street, and Apartment or Suite Number	Number, Street, and Apartment or Suite Number
City, State, and Nine Digit Zip Code or Country	City, State, and Nine Digit Zip Code or Country
	Email Address

Part IV: Vendor Primary Contact Information – Executive Authorized to Represent the Vendor

Primary Contact Name: _____	Title: _____
Email Address: _____	Phone Number: _____

Part V: Certification and Exemption from Backup Withholding

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (TIN), and
2. I am a U.S. citizen or other U.S. person, and
3. (Check one only):
☐ **I am not subject to backup withholding.** I am (a) exempt from back up withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding), or
☐ **I am subject to backup withholding.** I have been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, and I have not been notified by the IRS that I am no longer subject to back withholding.

Sign Here:

_____ Signature	_____ Title	_____ Date
_____ Print Preparer's Name	_____ Phone Number	_____ Email Address

DO NOT SUBMIT FORM TO IRS — SUBMIT FORM TO NYS ONLY AS DIRECTED

NYS Office of the State Comptroller

Instructions for Completing Substitute Form W-9

New York State (NYS) must obtain your correct Taxpayer Identification Number (TIN) to report income paid to you or your organization. NYS Office of the State Comptroller uses the Substitute Form W-9 to obtain certification of your TIN in order to ensure accuracy of information contained in its payee/vendor database and to avoid backup withholding.¹ We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States. You are required to give us the information.

Any payee/vendor who wishes to do business with New York State must complete the Substitute Form W-9. Substitute Form W-9 is the only acceptable documentation. We will not accept IRS Form W-9.

Part I: Vendor Information

1. **Legal Business Name:** For individuals, enter the name of the person who will do business with NYS as it appears on the Social Security card or other required Federal tax documents. An organization should enter the name shown on its charter or other legal documents that created the organization. Do not abbreviate names.
2. **Business name/disregarded entity name, if different from Legal Business Name:** Enter your DBA name or another name your entity is known by.
3. **Entity Type:** Check the Entity Type doing business with New York State.

Part II: Taxpayer Identification Number (TIN) and Taxpayer Identification Type

The TIN provided must match the name in the "Legal Business Name" box to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, refers to IRS W-9 instructions for additional information. For other entities, it is your employer identification number (EIN). If you do not have a number or if the account is in more than one name, refer to IRS W-9 instructions for additional information.

1. **Taxpayer Identification Number:** Enter your nine-digit Social Security Number, Individual Taxpayer Identification Number (ITIN) or Employer Identification Number (EIN).
2. **Taxpayer Identification Type:** Check the type of identification number provided.

Part III: Address

1. **Remittance Address:** Enter the address where payments, 1099s, if applicable, and official correspondence should be mailed. This will become the default address.
2. **Ordering Address:** Enter the address where purchase orders should be sent. Please note that purchase orders will be sent via email by default.

Part IV: Vendor Primary Contact Information

Please provide the contact information for an executive at your organization. This individual should be the person who makes legal and financial decisions for your organization. Name, phone number and email address are required.

Part V: Certification and Exemption from Backup Withholding

Check the appropriate box indicating your exemption status from backup withholding. Individuals and sole proprietors are not exempt from backup withholding. Corporations are exempt from backup withholding for certain types of payments. Refer to IRS Form W-9 instructions for additional information. The signature should be provided by the individual, owner, officer, legal representative, or other authorized person of the entity listed on the form. Certain exceptions to the signature requirement are listed in the IRS instructions for form W-9.

¹ According to IRS Regulations, OSC must withhold 28% of all payments if a payee/vendor fails to provide OSC its certified TIN. The Substitute Form W-9 certifies a payee/vendor's TIN.

QUICK GUIDE TO WORKERS' COMPENSATION AND DISABILITY INSURANCE DOCUMENTATION

The Office of the State Comptroller requires proof of (1) workers' compensation insurance coverage and (2) disability benefits insurance coverage when a state agency submits any type of agreement to the comptroller's office for approval.

This document is intended to assist businesses and other parties for expert service contracts to efficiently determine what form they should complete and submit concerning the New York State Workers' Compensation Program and Disability Insurance Program. This document does not constitute legal advice.

As an initial matter, businesses and other parties may wish to explore whether they are exempt from carrying (1) workers' compensation insurance coverage and/or (2) disability benefits insurance coverage. The business or other party can fill out Form CE-200 which is an Affidavit of Exemption from the workers' compensation and disability insurance coverage requirements if he or she is not required to carry the insurances.

Businesses and other parties may seek an exemption from workers' compensation requirement if:

- ☐ B. The business is owned by one individual and is not a corporation. Other than the owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.
- ☐ C. The business is a LLC, LLP, PLLP or a RLLP; OR is a partnership under the laws of New York State and is not a corporation. Other than the partners or members, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.
- ☐ D. The business is a one person owned corporation, with that individual owning all of the stock and holding all offices of the corporation. Other than the corporate owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors.
- ☐ E. The business is a two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (each individual must hold an office and own at least one share of stock). Other than the two corporate officers/owners, there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors.

Business and other parties may seek an exemption from disability requirement if:

- ☐ B. The business MUST be either: 1) owned by one individual; **OR** 2) is a partnership (including LLC, LLP, PLLP, RLLP, or LP) under the laws of New York State and is not a corporation; **OR** 3) is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation each individual must be an officer and own at least one share of stock); **OR** 4) is a business with no NYS location. In addition, the business does not require disability benefits coverage at this time since it has not employed one or more individuals on at least 30 days in any calendar year in New York State. (Independent contractors are not considered to be employees under the Disability Benefits Law.)

There are other potential grounds for an exemption, but they have not been discussed in this document. The paper version of form CE-200 is attached should the contractor wish to review it.

There are two ways to file the CE-200 Form: (1) via a paper submission or (2) and electronic submission.

Paper - The CE-200 application form should be completed in its entirety and submitted to the Workers' Compensation Board by mail or fax. The application will be processed in the order received and a certificate of attestation of exemption will be mailed to the applicant. This process may take up to four weeks to complete.

Electronic - For those who require an exemption immediately, please access the on-line application that can be found on the Board's website, at www.wcb.ny.gov. Click the "WC/DB Exemption" button on the Board's main webpage and then click on "Request for WC/DB Exemption (Form CE-200)." Complete the CE-200 application questionnaire on-line. You will be able to immediately print the certificate of attestation of exemption after completing the on-line application to document that you have submitted the CE-200 form with the Workers' Compensation Board.

Businesses and other parties must provide a copy of the certificate of attestation (Form CE-200) or acceptable certification of (1) workers' compensation insurance coverage and (2) disability benefits insurance coverage to the Attorney General's Budget and Fiscal Management Bureau.

The five acceptable workers' compensation insurance certification forms are:

- Form C-105.2 – Certificate of Workers' Compensation Insurance issued by private insurance carriers;
- Form U-26.3-- issued by the State Insurance Fund;
- Form SI-12 – Certificate of Workers' Compensation Self-Insurance;
- Form GSI-105.2 Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- Form CE-200 -- Certificate of Attestation of Exemption from Workers' Compensation and/or Disability Benefits insurance coverage.

The three acceptable disability insurance certification forms are:

- Form DB-120.1 - Certificate of Disability Benefits Insurance; or
- Form DB-155- Certificate of Disability Benefits Self Insurance
- Form CE-200 -- Certificate of Attestation of Exemption from Workers' Compensation and/or Disability Benefits insurance coverage. (Conveniently, this is the same form for exemption from Workers Compensation Insurance.)

Please note the NYS Office of the Attorney General should be listed as the "issuing government agency" on form CE-200 or "entity requesting proof of coverage" on forms C-105.2, GSI-105.2 and DB-120.1.

Questions regarding coverage requirements may be directed to Walter Peretti of the Workers' Compensation Board's Compliance Division at 518-402-8330 or walter.peretti@wcb.ny.gov.

New York State Workers' Compensation Board
Application for Certificate of Attestation of Exemption
from New York State Workers' Compensation and/or Disability Benefits Insurance Coverage.

For NYS workers' compensation exemption, this application may only be completed by entities with no employees or out-of-state entities obtaining contracts for which ALL work is performed outside of NYS. For NYS disability benefits exemption, it may only be completed by entities without employees or those with employees, as defined by the NYS Disability Benefits Law, working in NYS for less than thirty days in a calendar year.

A certificate of attestation of exemption can ONLY be used to attest to a government entity that the applicant requesting a permit, license or contract from that government entity is not required to carry workers' compensation and/or disability benefits insurance.

The application must be completed in its entirety and submitted to the Workers' Compensation Board by fax or mail. The application will be processed in the order received and a certificate of attestation of exemption will be mailed to the applicant. This process may take up to four weeks.

To obtain a certificate immediately, please use the *on-line application* at www.wcb.ny.gov. Once the application is completed on-line, you can immediately print the certificate on your printer.

Please review the separate instructions (form CE-200 instructions) prior to completing this application. Please print clearly.

1. Applicant Personal Information:

First Name: _____ Last Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Country (If other than U.S.) _____

Personal Phone Number (_____) _____

2. Your Title (check only one)

☐ Sole Proprietor

☐ Treasurer

☐ President

☐ Partner

☐ Vice President

☐ Member

☐ Secretary

☐ Trustee

☐ Homeowner

☐ Board Member

☐ Other (please provide title) _____

3. Legal Entity Information:

Business Federal ID (If none, enter social security number): _____

Legal Entity Name: _____

Doing Business As Name _____

Business Phone: (_____) _____ E-mail _____

☐ Check here if business address is the same as the applicant's personal address. If different, enter business address below.

Business Street Address: _____

City: _____ State: _____ Zip: _____

Country (If other than U.S.) _____

4. Permit/License/Contract Information:

A. Nature of Business:(please check only one)

- | | |
|---|--|
| <input type="checkbox"/> Construction/Carpentry | <input type="checkbox"/> Electrical |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Plumbing | <input type="checkbox"/> Farm |
| <input type="checkbox"/> Restaurant / Food Service | <input type="checkbox"/> Trucking / Hauling |
| <input type="checkbox"/> Food Cart Vendor | <input type="checkbox"/> Horse Trainer/Owner |
| <input type="checkbox"/> Homeowner | <input type="checkbox"/> Hotel / Motel |
| <input type="checkbox"/> Bar / Tavern | <input type="checkbox"/> Mobile - Home Park |
| <input type="checkbox"/> Other (please explain) _____ | |

B. Applying for:

- ☐ License (list type) _____
- ☐ Permit (list type) _____
- ☐ Contract with Government Agency _____

Issuing Government Agency: _____
(e.g. New York City Building Department, Ulster County Health Department, New York State Department of Labor, etc.)

5. Job Site Location Information: (Required if applying for a building, plumbing, or electrical permit)

A. Job Site Address

Street address _____

City: _____ State: _____ Zip: _____ County: _____

B. Dates of project: (mm/dd/yyyy) _____ to:(mm/dd/yyyy) _____

Estimated Dollar amount of project:

- | | |
|--|---|
| <input type="checkbox"/> \$0 - \$10,000 | <input type="checkbox"/> \$50,001 - \$100,000 |
| <input type="checkbox"/> 10,001- \$25,000 | <input type="checkbox"/> Over \$100,000 |
| <input type="checkbox"/> \$25,001 - \$50,000 | |

6. Partners/Members/Corporate Officers -must list all with titles except for limited partnerships which must include only general partners. Sole proprietors can skip this section.

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

(Attach additional sheet if necessary)

Employees of the Workers' Compensation Board cannot assist applicants in answering questions in the following two sections. Please contact an attorney if you have any questions regarding these sections.

7. Please select the reason that the legal entity is NOT required to obtain New York State Specific Workers' Compensation Insurance Coverage:

- ☐ A. The applicant is NOT applying for a workers' compensation certificate of attestation of exemption and will show a separate certificate of NYS workers' compensation insurance coverage.
- ☐ B. The business is owned by one individual and is not a corporation. Other than the owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.
- ☐ C. The business is a LLC, LLP, PLLP or a RLLP; OR is a partnership under the laws of New York State and is not a corporation. Other than the partners or members, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.
- ☐ D. The business is a one person owned corporation, with that individual owning all of the stock and holding all offices of the corporation. Other than the corporate owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors.
- ☐ E. The business is a two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (each individual must hold an office and own at least one share of stock). Other than the two corporate officers/owners, there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors.
- ☐ F. The applicant is a nonprofit (under IRS rules) with NO compensated individuals providing services except for clergy; or is a religious, charitable or educational nonprofit (Section 501(c)(3) under the IRS tax code) with no compensated individuals providing services except for clergy providing ministerial services; and persons performing teaching or nonmanual labor. [Manual labor includes but is not limited to such tasks as filing; carrying materials such as pamphlets, binders, or books; cleaning such as dusting or vacuuming; playing musical instruments; moving furniture; shoveling snow; mowing lawns; and construction of any sort.]
- ☐ G. The business is a farm with less than \$1,200 in payroll the preceding calendar year.
- ☐ H. The applicant is a homeowner serving as the general contractor for his/her primary/secondary personal residence. The homeowner has no employees, day labor, leased employees, borrowed employees, part-time employees or subcontractors. The homeowner ONLY has uncompensated friends and family working on his/her residence.
- ☐ I. Other than the business owner(s) and individuals obtained from a temporary service agency, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors. Other than the business owner(s), all individuals providing services to the business are obtained from a temporary service agency and that agency has covered these individuals for New York State workers' compensation insurance. In addition, the business is owned by one individual or is a partnership under the laws of New York State and is not a corporation; or is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation, each individual must be an officer and own at least one share of stock). A Temporary Service Agency is a business that is classified as a temporary service agency under the business's North American Industrial Classification System (NAICS) code.
Temporary Service Agency

Name _____ Phone # _____

- ☐ J. The out-of-state entity has no NYS employees and/or NYS subcontractors AND ALL work related to the permit, license or contract is done outside of NYS; OR ALL employees are direct employees of a government entity outside of New York. Please provide coverage information.

Carrier _____ Policy # _____

Policy start date _____ Policy expiration date _____

8. Please select the reason that the legal entity is NOT required to obtain New York State Statutory Disability Benefits Insurance Coverage:

- ☐ A. The applicant is NOT applying for a disability benefits exemption and will show a separate certificate of NYS statutory disability benefits insurance coverage.
- ☐ B. The business MUST be either: 1) owned by one individual; **OR** 2) is a partnership (including LLC, LLP, PLLP, RLLP, or LP) under the laws of New York State and is not a corporation; **OR** 3) is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation each individual must be an officer and own at least one share of stock); **OR** 4) is a business with no NYS location. In addition, the business does not require disability benefits coverage at this time since it has not employed one or more individuals on at least 30 days in any calendar year in New York State. (Independent contractors are not considered to be employees under the Disability Benefits Law.)
- ☐ C. The applicant is a political subdivision that is legally exempt from providing statutory disability benefits coverage.
- ☐ D. The applicant is a nonprofit (under IRS rules) with NO compensated individuals providing services except for clergy; or is a religious, charitable or educational nonprofit (Section 501(c)(3) under the IRS tax code) with no compensated individuals providing services except for executive officers, clergy, sextons, teachers or professionals.
- ☐ E. The business is a farm and all employees are farm laborers.
- ☐ F. The applicant is a homeowner serving as the general contractor for his/her primary/secondary personal residence. The homeowner has not employed one or more individuals on at least 30 days in any calendar year in New York State. (Independent contractors are not considered to be employees under the Disability Benefits Law.)
- ☐ G. Other than the business owner(s) and individuals obtained from the temporary service agency, there are no other employees. Other than the business owner(s), all individuals providing services to the business are obtained from a temporary service agency and that agency has covered these individuals for New York State disability benefits insurance. In addition, the business is owned by one individual or is a partnership under the laws of New York State and is not a corporation; or is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation, each individual must be an officer and own at least one share of stock). A Temporary Service Agency is a business that is classified as a temporary service agency under the business's North American Industrial Classification System (NAICS) code.

9. I affirm that due to my position with the above-named business I have the knowledge, information and legal authority to make this Application for Certificate of Attestation of Exemption. I hereby affirm that the information provided above is true and that I have not submitted any materially false statements and I make this application for a Certificate of Attestation of Exemption under the penalties of perjury. I further affirm that I understand that any false statement, representation, or concealment will subject me to felony prosecution, including jail and civil liability in accordance with the Workers' Compensation Law and all other New York State Laws.

Signature

Title

Date