



State of New York

**David A. Paterson,
Governor**



New York State Department of Civil Service

Nancy G. Groenwegen
Commissioner

INVITATION FOR BIDS

ENTITLED:

"Banking Services"

REFERENCE #:

2010Banking

RELEASE DATE:

05/03/2010

PROPOSAL DUE DATE:

06/07/2010, 3:00 p.m. ET

IMPORTANT NOTICE: A Restricted Period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until State Comptroller approval of the resultant contract. During the Restricted Period for this Procurement ALL communications must be directed, in writing, solely to the Department' procurement manager for this IFB as listed in IFB, **§2.01.1** and the table below and shall be in compliance with the Procurement Lobbying Law and the NYS Department of Civil Service "*Rules Governing Conduct of Competitive Procurement Process*" (refer to IFB, **§2.01**).

NYS Department of Civil Service
Attn: Banking Services Procurement Manager, Room 803
Alfred E. Smith Office Building
Albany, New York 12239
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*E-mail: 2010BankingIFB@cs.state.ny.us

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SECTION 1 INTRODUCTION

§1.01 BACKGROUND

The New York State Health Insurance Program (NYSHIP) was established by the State Legislature in 1957 to provide health insurance coverage to New York State (NYS or State) employees, retirees and their eligible dependents. Public authorities, public benefit corporations, and other quasi-public entities, such as the NYS Thruway Authority and the Dormitory Authority may choose to participate in the NYSHIP Health Plan; those that do are called Participating Employers (PEs). Article XI of the NYS Civil Service Law also allows local units of government such as school districts, special districts, and municipal corporations to participate in NYSHIP; those local government units which choose to participate in NYSHIP are called Participating Agencies (PAs). At present there are approximately 368 NYS agencies, 92 Participating Employers, and 800 Participating Agencies in NYSHIP.

NYSHIP is designed to provide health insurance coverage through the Empire Plan, a Participating Provider Organization (PPO) with managed care components; eleven (11) Health Maintenance Organizations (HMOs); and through the Student Employee Health Plan (SEHP), a health insurance plan for graduate student employees of the State University system and the City of New York (CUNY) system.

NYSHIP currently covers over 594,000 NYS, PA and PE employees and retirees. Eligible covered dependents bring the total number of covered lives in NYSHIP (Empire Plan and HMOs) to approximately 1,188,000. SEHP covers an average of 4,980 employees and their eligible covered dependents bring the total number of average covered lives to approximately 5,890.

The Employee Benefits Division (“EBD” or “Division”) of the Department is responsible for administering NYSHIP and other health benefits plans. An overview of EBD is provided in [Appendix K](#) of the IFB, entitled “[Overview of the Employee Benefits Division](#)”. In addition to NYSHIP, EBD administers other benefits for which it collects premium dollars. Programs include Dental Insurance, M/C Life Insurance, Income Protection Plan, and a Vision Plan. Additional benefit programs may become available through the EBD as a result of collective bargaining, legislation, or administrative determinations.

As administrator of these Programs, EBD is responsible for the collection of premium payments from all payors. EBD utilizes a lockbox system as a depository for payment by three different classes of payors for the various benefit programs it administers. Those payors that make payments to the EBD via the two required lock boxes and the dates payments are due are:

- **Direct Pay Enrollees** - Direct Pay Enrollee payments are generally due by the 30th of each month.
- **Participating Agency** - Participating Agency payments are due by the 25th day of each month.
- **Participating Employer** - Participating Employer payments are due on the last day of each month.

Appendix M illustrates the average daily receipts received by the two lockboxes and provides a two month count of transactions for the two lockboxes that are currently utilized.

[Note: Additional information regarding NYSHIP is also available on the Department's website at <http://www.cs.state.ny.us/employees/state/> .]

§1.02 PURPOSE

This Invitation For Bids, Reference No. **2010Banking**, entitled, “**Banking Services**” (“IFB” or “Procurement”) is being issued by the New York State (“NYS” or “State”) Department of Civil Service (“Department” or “DCS”), as the administrator of the New York State Health Insurance Program (“NYSHIP”) pursuant to §161-a of the Civil Service. The purpose of the IFB is to competitively secure the services of a qualified entity to provide banking services (hereinafter collectively referred to as either “the Project” or “Project Services”) for the EBD in its administration of NYSHIP. These Project Services include, but are not limited to, processing premium payments from: enrollees for active and retiree insurance benefits; enrollees for COBRA health, dental and vision programs; and PA and PE employers that participate in the NYSHIP. Processing premium payments involves making daily bank deposits, providing deposit advices, reporting individual remittance information on a daily basis and providing weekly bank statements.

Project Services shall mean the entire scope of the banking services as more detailed in Section 3 of the IFB to be provided by the successful Offeror (“Contractor”). In summary Project Services include:

a. **Lockbox Services**

EBD utilizes a web based computerized system for the administration of accounts receivable. The system is referred to as the New York Benefits Eligibility & Accounting Systems (NYBEAS).

The processing of payments feeds two separate accounting streams, utilizing two lockboxes, one for enrollee payments and one for payments received from other government agencies. All enrollee remittance documents are in the same format and contain the same information. An example of the current remittance advice for enrollee insurance premiums is provided as Appendix N. All remittance documents for Participating Agencies and Participating Employers are also in the same format and an example is provided in Appendix O. Any check suitable for deposit accompanied by a valid remittance document is processed.

b. **Non-Lockbox Services**

These services involve daily deposit courier service pick-up at the Department of Civil Service offices at the Alfred E. Smith State Office Building, Albany NY 12239, of non-lockbox receipts using sealed bank pouches (formerly bank lock-bags) and the deposit of non-lockbox receipts.

c. **Additional Project Services**

The current Contractor also provides the following services or products to the Department, including but not limited to:

- Triplicate Deposit forms;

- Daily Cash receipts data for posting to accounting subsystems;
- Daily and Monthly Reports/Files.

Contract award will be made to that eligible responsive and responsible Offeror whose Proposal is determined to provide the “best value” to the State.

The contract between DCS and the Contractor that results from this IFB (“Agreement”) shall substantially contain the terms and conditions set forth in IFB, [Section 6](#); it will also include the terms and conditions set forth in IFB, Appendices A, B and C (“Agreement”). (Note: [Appendix A](#), “Standard Clauses for NYS Contracts” is basically a compilation of statutory requirements applicable to all persons and entities contracting with the State and, therefore, has been deemed to be non-negotiable by the Offices of the Attorney General and the State Comptroller. [Appendix B](#), “Standard Clauses for All Department Contracts,” and [Appendix C](#), “Third Party Connection and Data Exchange Agreement,” are compilations of standard clauses for Department contracts and also are non-negotiable.) The Agreement shall be subject to the approval of the NYS Attorney General’s Office (“AG”) and the NYS Office of the State Comptroller (“OSC”). The term of the Agreement shall commence upon the approval of the Agreement by OSC, with the Implementation Phase of the Project to be completed no later than September 30, 2010, and the Operational Phase to commence on October 1, 2010, and shall continue through and include September 30, 2013, with up to two (2) one (1) year optional extension periods. Said optional extensions are exercisable at the sole discretion of DCS subject to the approval of the AG and OSC.

Subcontracting the performance of a portion of the required Project Services is permitted; however, the Department will only contract with a single Offeror, which will be the sole contact with regard to all provisions of the Agreement. Should the selected Offeror propose that all or a portion of the Project Services be performed by a third party (“Key Subcontractor”), Offerors are advised that the Department will consider the Offeror the Prime Contractor, and the Offeror shall assume full responsibility for all aspects of the performance of Project Services, including those portions performed by a Key Subcontractor. The Department reserves the right to approve (or disapprove) any or all Key Subcontractors.

Notes:

- A **Glossary** of terms used in this IFB and the resultant contract can be found at IFB, [Section 7](#). In addition, as used in this IFB, the term “check” refers to both checks and money orders.
- **Statistics and Terminology** - The Department has taken care in preparing the data accompanying this IFB, however, the Department does not warrant the accuracy of the data; the numbers or statistics which appear in the IFB are for informational purposes only and should not be used or viewed by prospective Offerors as guarantees or representations of any levels of past or future performance or participation. Accordingly, prospective Offerors should rely upon and use such numbers or statistics in preparing their Proposals at their own discretion.

§1.03 OFFEROR ELIGIBILITY

Offerors must meet all of the requirements of this **§1.03** of the IFB in order to be deemed eligible to respond to this IFB. Failure to comply with these requirements may result in disqualification from the procurement process.

§1.03.1 Offeror Qualifications/Pre-Requisites:

- (a) Offeror, at time of bid submission and throughout the term of the Agreement, must be authorized to conduct business in New York State, or have filed an application for authority to do business in New York State with the New York State Secretary of State at time of bid submission. Such application must have been approved prior to Contract Award. (For details concerning this requirement, refer to: http://www.dos.state.ny.us/cnsl/do_bus.html) To register with the Secretary of State, contact: <http://www.dos.state.ny.us/corps/index.html>. The Contractor shall notify the Department immediately in the event that there is any change in the above corporate status.
- (b) The Offeror must represent and warrant that it has completed, obtained or performed all registrations, filings, approvals, authorizations, consents and examinations required by any governmental authority for the provision of the delivery of Project Services and agree that it will, during the term of the Agreement, comply with any requirements imposed upon it by law.
- (c) The Offeror must represent and warrant that it possesses adequate qualified staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified herein this IFB.
- (d) The Offeror must represent and warrant that it has maintained an organization capable of performing that portion of Project Services to be rendered by the Offeror in continuous operation for at least the past three (3) years. If the Contractor is proposing the use of a Key Subcontractor, the Offeror must also represent and warrant that the Key Subcontractor has maintained an organization capable of performing that portion of Project Services to be rendered by the Key Subcontractor in continuous operation for at least the past three (3) years.
- (e) The Offeror must represent and warrant that it has provided or is currently providing services similar in scope to that portion of Project Services to be rendered by the Offeror, during the last three (3) years for the benefit of, at a minimum, (3) entities. If the Contractor is proposing the use of a Key Subcontractor, the Offeror must also represent and warrant that the Key Subcontractor has provided or is currently providing services similar in scope to that portion of Project Services to be rendered by the Key Subcontractor, during the last three (3) years for the benefit of, at a minimum, (3) entities.
- (f) The Offeror's principal place of business must not be located in a state that penalizes New York State vendors, and the Offeror/Contractor must

represent and warrant that, during the term of the Agreement, Project Services will not be substantially produced or performed in such a state.

- (g) Prior to contract award, the Offeror must have, and the Contractor must maintain throughout the term of the Agreement, a principal office or branch office in Albany, New York.
- (h) The Offeror must be a bank or trust company chartered under Article III of New York Banking Law, or a national bank. The Offeror must possess and the Contractor must maintain throughout the term of the Agreement the authority to accept deposits held in the name of the State of New York and must agree to pledge securities as collateral for New York State deposits at the State's Fiscal Agent in accordance with Section 105 of NYS Finance Law, satisfactory in form and amount to the State of New York for the repayment of such deposits.
- (i) At time of bid, the Offeror must have and the Contractor must maintain throughout the term of the Agreement a LACE (Liquidity Asset Quality Capital Earnings) rating of at least a C. Failure of the Contractor to maintain at least a C during the term of the Agreement may, at the Department's sole discretion, result in termination of the Agreement for cause.
- (j) The Offeror must agree to and the Contractor must make all deposited funds available immediately upon deposit for transfer into the State treasury.
- (k) At time of contract execution, the Offeror must have on file with the Office of the State Comptroller (OSC), and the Contractor must maintain throughout the term of the Agreement, a "State of New York Undertaking for Bank Deposits and Assignment of Securities".
- (l) The Offeror must agree and acknowledge:
 - i. all information, materials and other data (i.e., materials) provided by the Department or the Department's agents and/or contractors provided to the Contractor will be provided solely for the purposes of allowing the Contractor to fulfill its duties and responsibilities under the Agreement; and
 - ii. said materials are the sole property of the State; and
 - iii. the Contractor represents and warrants that it will not, in perpetuity, share, sell, release, or make the materials available to third parties in any manner without the written consent of the Department, except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law.
- (m) The Offeror must represent and warrant that all information provided by the Offeror in connection with its Proposal is true and accurate and that none of the IFB Exhibits completed by the Offeror and which are incorporated in its Proposal have been altered in any manner so as to change, in any way, the Department's requirements as originally set forth therein.
- n) The Offeror must agree to, and be able to perform all of the Project Services described in [§3.01](#) "Project Services" of this IFB.

- o) The Offeror must provide a copy of all bank agreements that may be necessary to perform the Project Services outlined in the IFB. The Offeror's Proposal must state the Offeror's willingness to negotiate the terms of the(se) bank agreement(s) with the State.
- p) All outstanding tax liabilities, including unemployment insurance taxes, if any, due to the State of New York from the Offeror, or from the Offeror's partners, officers, agents or subcontractors engaged in providing Project Services under the Agreement, must be satisfied prior to contract execution or prior to contract execution establish to a payment schedule, subject to the approval of the State, for the timely satisfaction of such outstanding liabilities, if any.

§1.04 PROCURMENT TIMETABLE/KEY EVENTS

The following is the estimated timetable of key events for this Procurement:

EVENT	DATE
IFB Release Date	May 3, 2010
<u>Offeror's Affirmation of Understanding and Agreement</u>	*
Deadline for Submission of Offeror Questions	May 17, 2010, 5:00 p.m. ET
Issue Date of <i>Official Responses to Offeror Questions</i>	May 26, 2010, 2009
Proposal Due Date and Time**	June 7, 2010, 3:00 p.m. ET
Anticipated Selection Date	June 28, 2009
Anticipated Contract Start Date	August 15, 2010
Anticipated Ongoing Operations to Commence	October 1, 2010

- * To be provided prior to Offerors' initial contact with the Department, the Offeror must complete and submit the Procurement Lobbying Offeror's Affirmation of Understanding & Agreement form contained in [Attachment 1](#) - Offeror's Affirmation of Understanding SFL 139, of the IFB to the Banking Services Procurement Manager per IFB, [§2.01.2](#).

**** MANDATORY REQUIREMENT ****

SECTION 2 PROCUREMENT PROTOCOL AND PROCESS

This Procurement is being conducted in accordance with, and is subject to, the competitive bidding laws of the State of New York (New York State Finance Law, Article 11) and the New York State ethics laws (New York State Public Officers Law, § 73 and 74).

§2.01 RULES GOVERNING CONDUCT OF COMPETITIVE PROCUREMENT PROCESS**§2.01.1 Department's Procurement Manager for Inquires and Submissions**

All inquires, questions, filings and submission of Proposals in regard to the IFB must be directed, in writing, by mail, facsimile or e-mail, as applicable, solely to the Banking Services Procurement Manager, the Department's designated contact for this Procurement:

NYS Department of Civil Service
Attn: Banking Services Procurement Manager
Alfred E. Smith Office Building
Room No. 803
Albany, New York 12239
*Fax: 518-473-3354
*E-mail: 2010BankingIFB@cs.state.ny.us

* Proposals may not be submitted by e-mail or facsimile.

The Banking Services Procurement Manager is the sole authorized contact for the Department for this IFB. From the IFB Release Date, until a determination is announced regarding the selection of a Proposal, all contacts concerning the IFB must be through the individual listed above. Any inquiries, questions, filings or submission of Proposals that are submitted to any other individual or physical address shall not be considered as official, binding or as having been received by the Department.

§2.01.2 Procurement Lobbying Limitations

- a. Pursuant to State Finance Law §139-j and §139-k, this Procurement imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the Procurement's "Restricted Period" (from the issuance of the IFB until the date of the Agreement's final approval by the OSC) to other than designated staff of the Department and the Executive Branch of New York State government, unless the contact falls within certain statutory exceptions ("permissible contacts"). For purposes of this [§2.01.2](#) of the IFB, "Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids (i.e., Proposals) in response to the solicitation document (i.e., "IFB" or "Procurement"). Staff is required to obtain certain information from Offerors and others whenever there is a contact about the Procurement during the Restricted Period, and is required to make a determination of the Offeror's responsibility that addresses the Offeror's compliance with the statutes' requirements. Findings of non-responsibility result in rejection for contract

award, and if an entity is subject to two non-responsibility findings within four years the entity also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding. The Department's Policy and procedures are attached as Appendix D entitled "Policy on Restrictions on Contacts during the Procurement Process" to the IFB. Further information about these requirements can be found at:

www.ogs.state.ny.us/aboutOGS/regulations/defaultAdvisoryCouncil.html.

- b. In order to ensure public confidence and integrity in the procurement process, the Department will strictly control all communications between any Offeror and participants in the evaluation process from the date the IFB is released until the Agreement is approved by OSC. All contacts and inquiries concerning the Procurement must be directed solely to the attention of the Banking Services Procurement Manager, the Department's designated contract for this Procurement. An Offeror's failure to comply with this requirement may result in the Offeror's disqualification from this Procurement.

Additionally, prospective Offerors and Offerors are strictly prohibited from making any contacts or inquiries concerning the Procurement with any member, officer or employee of any State governmental entity other than the Department from the date the IFB is released until the Agreement is approved by OSC, subject only to the specific exceptions listed below. Further, any prospective Offeror or Offeror shall not attempt to influence this Procurement in any manner that would result in a violation or an attempted violation of Public Officers Law §73(5) or §74.

- c. The following contacts are exempted from the provisions of this section:

- (1) The submission of written Proposals in response to this IFB;
- (2) The submission of written questions as set forth in this IFB when all written questions and responses are to be distributed to all prospective Offerors who have expressed an interest in the Procurement;
- (3) Participation in the Pre-Proposal Conference, if any as provided for in the IFB;
- (4) A complaint by a prospective Offeror or an Offeror regarding the failure of the Banking Services Procurement Manager to respond to an authorized contact, when such complaint is made in writing to the Department's Office of the General Counsel, provided that any such written complaint shall become a part of the procurement record;
- (5) Communications by the selected Offeror who has been tentatively awarded a contract and is engaged in communications with the Department solely for the purpose of negotiating the terms of the agreement after having been notified of the tentative award;
- (6) Contact by an Offeror to request a review of a proposed award when done in accordance with the procedure specified in the IFB;

- (7) (a) Contacts by an Offeror in protests, appeals or other review proceedings (including the apparent selected Offeror and its representatives) before the Department seeking a final administrative determination, or in a subsequent judicial proceeding; or
 - (b) Complaints of alleged improper conduct in the Procurement when such complaints are made to the State Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or
 - (c) Written protests, appeals or complaints to OSC office during the process of contract approval, where the approval of the OSC is required by law, and where such communications and any responses thereto are made in writing and shall be entered in the procurement record pursuant to State Finance Law §163.
- d. It is **Mandatory** that all prospective Offerors/offerors complete **Part 1 of Attachment 1** entitled “**Offeror’s Affirmation of Understanding and Agreement**”, affirming their understanding of and agreement to comply with the procurement lobbying requirements set forth in State Finance Law §139-k and §139-j. A completed **Offeror’s Affirmation of Understanding and Agreement** form must be submitted to the Banking Services Procurement Manager prior to a prospective Offeror making its initial contact with the Department (e.g., attendance at the Pre-proposal Conference, submission of a Notice of Bidding Intention Form, submission of questions, etc.) or concurrent with an Offeror’s submission of its Proposal, whichever shall occur first.

Offerors are advised that whenever any of the Offeror’s officers, employees, agents or consultants contacts the Department, they must be prepared to provide their name, address, telephone number, place of principal employment, occupation, and whether they were retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regards to this Procurement. To that end and to streamline the process, Offerors are requested to complete and submit IFB, **Attachment 1 - Part 2** entitled, “**Offeror Designated Contact**” for each officer, employee, agent or consultant authorized by the Offeror to appear before or contact the Department in regards to this Procurement before appearing or before or at the time such contact is initiated.

Additionally, at the time a Proposal is submitted to the Department, the Offeror is required to provide a completed “**Offeror’s Certification of Compliance Pursuant to SFL §139-k(5)**” form (see **Exhibit L**) in its Proposal as stipulated in **§4.02.11** of the IFB.

§2.01.3 Submission of Errors or Omissions in this IFB Document

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to this IFB, prospective Offerors and Offerors agree to be bound by its terms, including, but not limited to, this process by which a prospective Offeror may submit errors or omissions for consideration. In the event that a prospective Offeror believes there is an error or omission in this IFB, the

prospective Offeror may raise such issue according to the provisions set forth in [Appendix E](#) entitled, “[Submission of Errors or Omission](#)”

§2.01.4 Notice of Bidding Intention Deadline

Filing of this notice is not mandatory; however, to assist the Department in better managing the procurement process, prospective Offerors, whether they intend to submit a Proposal in response to the IFB or not, are requested to complete [Attachment 2](#) entitled, “[Notice of Bidding Intention Form](#)” and submit it to the Banking Services Procurement Manager on or before the Proposal Due Date and Time as set forth in [§1.04](#) of the IFB. The completed signed form may be submitted either by hardcopy or electronically by email or facsimile, with hard copy to follow, to the address provided in IFB, [§2.01.1](#).

§2.01.5 Submission of Questions

In lieu of a pre-bid conference, the Department will allow for a question/answer period as stated in the Procurement Timetable as set forth in IFB, [§1.04](#). Up until the *Deadline for Submission of Offeror Questions* date as set forth in the timetable, prospective Offerors may submit substantive or procedural questions concerning the content of the IFB, bid proposals or the procurement process in writing, by mail, facsimile or email, to the Banking Services Procurement Manager at the addresses set forth in IFB, [§2.01.1](#). The Department strongly urges prospective Offerors to submit the questions via e-mail. Each question must cite the particular IFB section, page number and paragraph number to which it refers. Only those questions received prior to the Deadline for Submission of Offeror Questions as shown in [§1.04](#) of the IFB, will be accepted. The Department has provided a question template form which prospective Offerors are requested to use in submitting questions regarding the IFB (see IFB, [Attachment 3 - “Question Template”](#)).

§2.01.6 Official Responses to Questions

Written responses to all questions accepted by DCS (“*Official Responses to Questions*”) will be sent all prospective Offerors sent a copy of this IFB, excepting those questions where the asking party claims that the question is proprietary in nature and such claim is upheld by the Department. In responses to questions, the Department will not provide information about processes or information proprietary to any prospective Offeror, including the incumbent contractor.

§2.01.7 Submission of Proposals **(MANDATORY DEADLINE)**

a. Submission Requirements

To facilitate the evaluation process, Offerors must submit four (4) separately bound hard copies [one (1) ORIGINAL and three (3) copies] and one (1) electronic copy (CD) of the Offeror’s Proposal. The ORIGINAL hard copy must be marked “ORIGINAL” and contain the original signature of an official(s) authorized to bind the Offeror to its provisions on all forms submitted that require the Offeror’s signature. The remaining three (3) hard copies may contain a copy of the official’s signature on all forms submitted that require the Offeror’s signature and should be numbered sequentially (e.g. Copy #1,

Copy #2, Copy #3). Please note that the hard copy marked "ORIGINAL" will be deemed controlling by the Department when viewing the Proposal. Failure to comply with the above requirements and the Formatting Requirements set forth in (b) below, may result in the Proposal being deemed non-responsive and may result in rejection of the Proposal.

Proposals should be placed and packaged in sealed boxes/envelopes with a label on the outside containing the information below:

**New York State Department of Civil Service
Invitation for Bids
IFB #2010Banking entitled,
"Banking Services"**

**OFFEROR NAME
OFFEROR ADDRESS**

All Proposals must be mailed or hand-delivered to the Procurement Manager at the address set forth in [§2.01.1](#) of the IFB. For those Offerors who plan to have the Proposal hand delivered to the Department, arrangements for acceptance of the package must be made in accordance with Department security procedures. To make such arrangements, the Department requests that the Offeror notify the Banking Services Procurement Manager forty-eight (48) hours prior to delivery.

Offerors are solely responsible for timely delivery of their Proposal to DCS prior to the stated Proposal Due Date and Time Deadline as set forth in [§1.04](#) of the IFB. All Proposals must be received by 3:00 p.m. ET on the Proposal Due Date and Time as set forth in [§1.04](#) of the IFB. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the State, shall not excuse late bid submissions. If the Proposal is delivered by mail or courier, the Department recommends that it be sent "return receipt requested," so the Offeror obtains proof of timely delivery. Phone, facsimile and e-mail submission of Proposals will not be accepted for this IFB. Proposals accepted in response to this IFB will not be opened publicly. Any Proposal received at the specified location, set forth in IFB, [§2.01.1](#), after the Proposal Due Date and Time Deadline as set forth in IFB, [§1.04](#), will be considered a late bid. No exceptions will be made for late submission or delays in delivery of the Proposal. A late bid shall not be considered for award and may be returned, unopened to the sender.

The Department will accept amendments and/or additions to an Offeror's Proposal if the request is received by the Department prior to 3:00 p.m. ET on the Proposal Due Date and Time. Such a request must be submitted in writing and will be included as part of the Offeror's Proposal, if accepted by the Department as provided above.

Offerors are cautioned to verify the content of their Proposal before submission. Except for material received from an Offeror in response to a request by the Department, the Department will not accept amendments or additions to a Proposal if such material is received after 3:00 p.m. ET on the Proposal Due Date and Time. An Offeror's request to withdraw a Proposal after the Proposal Due Date and Time may be considered at the sole discretion of the Department.

The Offeror agrees not to make any claims for or have a right to damages because of any misrepresentations, or misunderstanding of the IFB requirement, or any lack of information.

b. Formatting Requirements

The Offeror's Proposal must comply with the following formatting requirements:

- (1) **Binding of Proposal:** Proposals must be separately bound. The official name of the organization(s) and "Banking Services" must appear on the outside front cover of each copy of the Offeror's Proposal. If the Proposals are submitted in loose-leaf binders, the official name(s) of the organization(s) and "Banking Services" also must appear on the spine of the binder;
- (2) **Table of Contents:** Each Proposal must include a table of contents;
- (3) **Index Tabs:** Each major section of the Proposal and each exhibit/attachment/appendix must be labeled with an index tab that completely identifies the title of the section, or exhibit, attachment or appendix as named in the table of contents; and
- (4) **Pagination:** Each page of the Offeror's Proposal, must be dated and numbered consecutively from its beginning through all appended material.

§2.01.8 Material Deviations

New York State Law prohibits the State from awarding a contract based upon material deviations from the specifications, terms, and conditions set forth in the IFB. Consequently, each Offeror's Proposal must conform to the specifications, terms, and conditions set forth in this IFB. **Material deviations from the specifications, terms, and conditions set forth in the IFB may render the Proposal non-responsive and may result in rejection of the Proposal.**

In general, a material deviation is one that would (i) impair the interests of the State, (ii) place the successful Offeror in a position of unfair economic advantage, (iii) place other Offerors at a competitive disadvantage, or (iv) which, if it had been included in the original IFB, could have formed a reasonable basis for an otherwise qualified Offeror to change its determination concerning the submission of a Proposal. For example, a deviation that would substantially shift liability (risk) from the Offeror to the State or substantially shift financial responsibility to the State would be considered material.

§2.01.9 Notification of Award

A proposed award notification letter will be sent to the selected Offeror indicating a conditional award subject to successful contract negotiations. The remaining Offerors will be notified of the conditional award. At that time, Offerors will be advised of the opportunity for a debriefing by the Department of the evaluation of that Offeror's Proposal. No public discussion or news releases relating to the IFB or the Agreement shall be made by any Offeror or their agent without the prior approval of the Department.

§2.01.10 Submission of Award Protests

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to the IFB, all Offerors agree to be bound by its terms including, but not limited to, the process by which an Offeror may submit protests of the selection award for consideration. In the event that an Offeror decides to protest the selection decision, the Offeror may raise such issue according to the provisions set forth in [Appendix F](#), entitled "[Submission of Award Protests](#)."

§2.01.11 Reservation of the Department's Rights

In addition to any rights articulated elsewhere in the IFB, the Department reserves the right to:

- a. Prior to the bid opening, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available.
- b. Prior to the bid opening, direct Offerors to submit Proposal modifications addressing subsequent IFB amendments.
- c. Withdraw the IFB at any time, in whole or in part, at its sole discretion.
- d. Reject any and or all Proposal received in response to this IFB.
- e. Waive any requirements that are not material.
- f. Disqualify any Offeror whose conduct and/or Proposal fails to conform to the requirements of the IFB.
- g. Require clarification at any time during the Procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offeror's Proposal and/or to determine an Offeror's compliance with the requirements of this IFB. This clarifying information, if required in writing by the Department, must be submitted by the Offeror, in accordance with formats as prescribed by the Department at the time said information is requested and, if received by the due date set forth in the Department's request for clarification, shall be included as a formal part of the Offeror's Proposal. Clarifying information, if any, whether provided orally, visually or in writing will be considered in the evaluation process. Failure to provide required information by its associated due date may result in rejection of the Offeror's Proposal. Nothing in the foregoing shall mean or imply that it is obligatory upon DCS to seek or allow clarifications as provided for herein.

- h. Make an award under the IFB in whole or in part.
- i. Change any of the scheduled dates stated in this IFB.
- j. Seek clarifications and revisions of Proposals.
- k. Establish programmatic and legal requirements to meet Department's needs, and to modify, correct, and/or clarify such requirements at any time during the Procurement, provided that any such modifications would not materially benefit or disadvantage any particular Offeror.
- l. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Offerors.
- m. For the purpose of ensuring the completeness and comparability of Proposals, analyze submissions and make adjustments or normalize submissions in the Proposal(s), including the Offeror's technical assumptions, and underlying calculations and assumptions used to support the Offeror's computation of costs, or to apply such other methods as it deems necessary to make level comparisons across Proposals.
- n. Use the following in the course of evaluation and selection under the IFB: (i) Proposals; (ii) information obtained through the Department's investigation of Offeror(s), including the Offeror's qualifications, experience and ability; (iii) Offeror's financial standing; (iv) any information pertinent to the bid evaluation which may be obtained or received by the State; (v) any material or information submitted by the Offeror(s) in response to any DCS requests for clarifying information, if any; (vi) Management Interviews of any or all Offerors, if any; and (vii) interview any or all proposed Project Team member(s) of any or all Offerors.
- o. Negotiate with the successful Offeror within the scope of the IFB in the best interests of the state.
- p. Utilize any and all ideas submitted in the Proposals received.
- q. Set aside the original selected Offeror if it is subsequently determined by the Department that the Offeror is non-responsive. The Department may then invite the next Lowest Total Projected Five Year Cost responsible Offeror to enter into negotiations for purposes of executing an agreement.
- r. Set aside the conditional award to the selected Offeror should the Department be unsuccessful in negotiating an agreement with that Offeror within a time frame acceptable to the Department; such time frame is to be determined solely by the Department based on the best interest of the Department and the State. If the Department determines that contract negotiations between the Department and the selected Offeror are unsuccessful, the Department may then invite the next Lowest Total Projected Five Year Cost responsible Offeror to enter into negotiations for purposes of executing an agreement.

§2.01.12 Limitation of Liability

The Department is not liable for any cost incurred by any Offeror prior to approval of the Agreement by OSC. Additionally, no cost will be incurred by the Department for any prospective Offeror or Offeror's participation in any procurement related activities.

§2.02 COMPLIANCE WITH APPLICABLE RULES, LAWS, REGULATIONS & EXECUTIVE ORDERS

This Procurement is being conducted in accordance with, and is subject to, the competitive bidding laws of the State of New York (New York State Finance Law, Article 11) and it is governed by, at a minimum, the legal authorities referenced below. All Offerors must fully comply with the provisions set forth in this [§2.02](#) of the IFB. The Department will consider for evaluation and selection purposes only those Offerors who agree to comply with these provisions and whose Proposal contains the submission required hereunder.

§2.02.1 Public Officers Law

All Offerors and Offerors' employees and agents must be aware of and comply with the requirements of the New York State Public Officers Law ("POL"), particularly POL Sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishing ethical standards for current and former State employees. In signing its Proposal, each Offeror guarantees knowledge and full compliance with such provisions for purposes of the IFB and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification from the procurement process, termination, suspension or cancellation of the Agreement and criminal proceedings as may be required by law.

Per IFB [§4.02.3](#), Offerors must submit an affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror because of prior, current, or proposed contracts, engagements, or affiliations, by submitting a completed [Exhibit C](#) entitled "[Compliance with Public Officers Law Requirements](#)" as part of the Offeror's Proposal.

§2.02.2 Omnibus Procurement Act

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. The Omnibus Procurement Act of 1992 requires that an Offeror by signing its Proposal (and if selected, the Agreement), certify that whenever the total bid amount is greater than \$1 million:

- (a) The Offeror/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 Offeror/Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Offeror/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 Offeror/Contractor agrees to

document these efforts and to provide said documentation to the State upon request; and

- (d) The Offeror/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.

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

To these ends, per IFB [§4.02.5](#), the Offeror must complete and submit as part of its Proposal the form set forth in [Exhibit E](#) entitled "[Omnibus Procurement Act of 1992](#)".

§2.02.3 Minority and Women-Owned Business Enterprises ("MWBE") Act and Federal Equal Employment Opportunities Act ("EEO")

a. General Obligations

The State of New York and the Department actively support and encourage the participation of certified minority and women-owned business enterprises and equal employment opportunities for minorities and women on State contracts. The Agreement will contain provisions regarding the participation of MWBEs in the performance of the Agreement. Those provisions are set forth below. Generally, the provisions state the Contractor's obligations under Article 15-A of the Executive Law and its implementing regulations, including clauses dealing with equal employment opportunities, organized labor cooperation and advertisements for employees.

b. Minority and Women-Owned Business Enterprises ("MWBEs")

The Department has established a zero percent (0%) combined goal for the participation of MBEs and WBEs as subcontractors under the Agreement. The Offeror is encouraged to use its best efforts to solicit and obtain the participation of MBEs and WBEs as subcontractors on the Agreement. In furtherance of this goal, per IFB [§4.02.9](#), a completed [Exhibit J](#) entitled, "[Article 15-A of the Executive Law](#)" must be submitted as part of the Offeror's Proposal.

c. Equal Employment Opportunity Obligations

The Offeror shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal

employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotions, upgradings, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation.

The Offeror's EEO Policy Requirements under this IFB shall contain, but not necessarily be limited to, the following:

- (1) The Offeror must demonstrate its compliance with the Equal Employment Opportunity ("EEO") Act by affirming to the Department that the Offeror's EEO Policy Statement contains, at a minimum, language consistent with the provisions set forth in [Exhibit F](#) entitled "[EEO Obligations - Offeror Certification of Compliance](#)". During the performance of the Agreement, the Contractor shall agree to comply with such EEO Policy Statement. The Offeror's EEO Policy Statement shall contain, but not necessarily be limited to, the services under the Agreement. However, the Offeror is encouraged to use its best efforts to solicit and obtain the participation of MWBEs on the Agreement. Offerors must affirm their ability to comply with this requirement by submitting, as required per IFB [§4.02.6](#), a completed [Exhibit F](#) as part of the Offeror's Proposal.
- (2) Per IFB [§4.02.10](#), as part of its Proposal, the Offeror must submit a completed [Exhibit K](#) entitled "[Work Force Employment Utilization Report](#)" to be utilized on the Agreement or, where required, information on the Offeror's total workforce, including apprentices, broken down by specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories specified by the Department.
- (3) During the term of the Agreement, on a periodic schedule to be provided by the Department, the Contractor may be required to submit to the Department a workforce utilization report, on a form to be supplied by the Department, of the workforce actually utilized on the Agreement, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the Department.
- (4) The Offeror shall include in every subcontract in connection with the Agreement, if any, the requirement that Key Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal Occupational Categories of the employees to be utilized on the Agreement.

§2.02.4 American With Disabilities Act

The Contractor must assure its compliance with the Americans With Disabilities Act (42 USC§12101 et. seq.), in that any services and programs provided during the course of performance of the Agreement shall be accessible under Title II of the Americans With Disabilities Act, and as otherwise may be required under the Americans With Disabilities Act by submitting, as required per IFB [0](#), a completed

[Exhibit G](#) entitled, “[Compliance with Americans with Disabilities Act](#)” form as part of the Offeror’s Proposal.

§2.02.5 MacBride Fair Employment Principles Act & Non-Collusive Bidding Certification

In accordance with Chapter 807 of the Laws of 1992, Offerors must certify whether they or any individual or legal entity in which the Offeror holds a ten percent (10%) or greater ownership interest, or any individual or legal entity that holds a ten percent (10%) or greater ownership in the Offeror have business operations in Northern Ireland. If an Offeror does have business operations in Northern Ireland, they must certify that they are taking lawful steps in good faith to conduct such business operations in accordance with the MacBride Fair Employment Opportunity Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such principles.

The Department also requires that Offerors certify that prices in their Proposal have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition with any other Offeror or competitor. In addition, that unless required by law, the prices quoted in the Offeror’s Proposal have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, directly, indirectly, to any other Offeror or to any competitor. Offerors must also certify that no attempt has been made or will be made by the Offeror to induce any person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition. Per IFB [§4.02.7](#), an executed copy of [Exhibit H](#) entitled, “[MacBride and Non-Collusive Bidding Certification](#)” form must be submitted as part of the Offeror’s Proposal.

§2.02.6 Vendor Responsibility Requirements - State Finance Law §163

New York State Finance Law §163 requires contracts for services and commodities be awarded on the basis of lowest price or best value “to a responsive and responsible Offeror.” Furthermore, §163(9)f requires the Department to make a determination of responsibility of the proposed contractor prior to making an award.

To assist the Department in evaluating the responsibility of Offerors, per IFB [§4.02.8](#), a completed [Exhibit I](#) entitled; “[New York State Standard Vendor Responsibility Questionnaire](#)” must be submitted as part of the Offeror’s Proposal. A person legally authorized to represent the Offeror must execute the questionnaire. To the extent that the Contractor is proposing the use of Key Subcontractor, the Offeror must also submit a completed [Exhibit I](#) for each Key Subcontractor executed by a person legally authorized to represent the Key Subcontractor.

§2.02.7 Procurement Lobbying Compliance

It is **Mandatory** that all potential Offerors complete [Attachment 1](#) entitled, “[Offeror’s Affirmation of Understanding and Agreement](#)”, affirming their understanding of and agreement to comply with the procurement lobbying requirements set forth in State Finance Law §139-k and §139-j. A completed [Attachment 1](#) must be submitted to the Banking Services Procurement Manager

prior to a prospective Offeror making its initial contact with the Department (e.g., submission of a Notice of Bidding Intention Form, submission of questions, etc.) or concurrent with an Offeror's submission of its Proposal, whichever shall occur first.

Additionally, at the time of Proposal submission, the Offeror is required to complete and must submit, per IFB [§4.02.11](#), [Exhibit L](#) entitled, "[Offeror's Certification of Compliance Pursuant to SFL §139-k\(5\)](#)" as part of the Offeror's Proposal.

§2.02.8 Disclosure of Proposal Contents - Freedom of Information Law ("FOIL")

All materials submitted by an Offeror in response to the IFB shall become the property of the Department and may be returned to the Offeror at the sole discretion of the Department. Proposals may be reviewed or evaluated by any person, other than one associated with a competing Offeror, designated by the Department. The Department has the right to adopt, modify, or reject any or all ideas presented in any material submitted in response to the IFB.

To request that materials be protected from FOIL disclosure, the Offeror must follow the procedures below regarding the New York State Freedom of Information Law ("FOIL"). If an Offeror believes that any information in its Proposal or subsequent communication constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law, the Offeror must make that assertion by completing [Exhibit M](#) entitled "[Freedom of Information Law - Request for Redactions Chart](#)". The Offeror must complete the form specifically identifying by page number, line, or other appropriate designation, the specific information requested to be protected from FOIL disclosure and the specific reason why such information should not be disclosed. Page 2 of [Exhibit M](#) contains information regarding appropriate justification for protection from FOIL disclosure. (Note: Offerors are advised that [Exhibit M](#) is, as a component part of the Offeror's Proposal, subject to disclosure under FOIL.) Vague, non-specific, summary allegations that material is proprietary or trade-secret are inadequate and will not result in protection from FOIL disclosure.

Per IFB [§4.02.12](#), the completed [Exhibit M](#) must be submitted as part of the Offeror's Proposal both as hard copy and on CD in Microsoft Word or Excel. In addition, at the time of Proposal submission, the Offeror must submit an electronic copy on CD in Microsoft Word or Excel of the Offeror's Proposal, including [Exhibit M](#) noting the specific portions of each item requested to be protected from FOIL disclosure by highlighting that material in yellow (the Department's preference), underlining, or otherwise marking such sections in a manner such that the material remains visible. Such copies shall be clearly labeled "Requested Redactions." These materials will not be considered part of the Offeror's Proposal and will not be reviewed as a part of the Procurement's evaluation process.

After the Proposal Due Date and Time, if the Offeror makes any submissions during the procurement process that it wishes to protect from FOIL disclosure, the Offeror must submit such submissions with a completed [Exhibit M](#) in hardcopy and on a CD in Microsoft Word or Excel noting the specific portions of each item requested to be protected from FOIL disclosure by highlighting that material in yellow (the Department's preference), underlining or otherwise marking such sections in a

manner such that the material remains visible. These FOIL-related materials will not be considered part of the Offeror's proposal and will not be reviewed as a part of the procurement's evaluation process.

The Offeror must also submit a second CD with the requested redactions electronically highlighted in black ("blacked out") of the Proposal. Upon completion of the procurement process, a copy of the redacted contract and a redacted copy of each Offeror's proposal will be posted to the Department's Contracts and Procurement website at <http://www.cs.state.ny.us/nyship/procurements/>.

If the Offeror chooses not to assert that any proposal material or subsequent correspondence should be protected from FOIL disclosure, the Offeror must so advise the Department by checking the applicable box on [Exhibit M](#) and including the completed form in the Offeror's Proposal.

In the event any material is requested pursuant to FOIL, the Department will address each party's interests fully in accordance with the procedures required by Article 6 of the Public Officers Law.

§2.02.9 Tax Law Section 5-a Certification Regarding Sales and Compensating Use Taxes

Section 5-a of the New York Tax Law requires that any contract valued at more than \$100,000 entered into by a State agency shall not be valid, effective, or binding against the agency unless the Contractor certifies to the Tax Department that it is registered to collect New York State and local sales and compensating use taxes, if the contractor 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, the contractor must certify to the Tax Department that each affiliate and subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. For the purpose of this requirement, "affiliate" means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent. The contractor also must certify to the procuring state entity that it filed the certification with the Tax Department and that the certification is correct and complete. Accordingly, in the event the value of the Agreement exceeds \$100,000, the Contractor must file a properly completed [Appendix G](#) entitled, "[ST-220-CA - Contractor Certification to Covered Agency](#)" with the Department and a properly completed [Appendix H](#) entitled, "[ST-220-TD - Contractor Certification Pursuant to Section 5-a of the Tax Law](#)" with the Department of Taxation & Finance before the Agreement may take effect. In addition, after the Agreement has taken effect, the Contractor must file a properly completed Form ST-220-CA with the Department if the Agreement's term is renewed. Further, a new Form ST-220-TD must be filed with the Department of Taxation & Finance if no ST-220-TD has been filed by the Contractor or if a previously filed Form ST-220-TD is no longer correct and complete.

Submission of these forms (ST-220CA and ST-220TD) is **not** required at time of Proposal submission, however, the selected Offeror will be required to complete

and submit these forms as a condition of contract award. These forms may also be found at:

www.tax.state.ny.us/forms/sales_cur_forms.htm#Other%20Sales%20Tax%20Forms

§2.02.10 Workers' Compensation Law

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that DCS shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with DCS, the selected Offeror will be required to verify for DCS, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed in IFB, [Appendix I](#) entitled, "[Compliance With NYS Workers' Compensation Law](#)". Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at 1(866)298-7830. You may also find useful information at their website <http://www.wcb.state.ny.us>. Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the Agreement is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

SECTION 3 SCOPE**§3.01 PROJECT SERVICES**

During the term of the Agreement, the Contractor will be responsible for the performance of all of those services/tasks as set forth herein this [§3.01](#) of the IFB (“Project Services”)

§3.01.1 Project Implementation

During the Implementation Phase of the Project, the Contractor must:

- (a) designate a Contract Officer to serve as the primary contact between the Parties during the entire term of the Agreement. This individual shall be responsible for 1) overseeing the Contractor’s and the Contractor’s Project Teams performance under the Agreement, 2) serving as the Contractor’s liaison with the Department in order to resolve day-to-day operational difficulties; and 3) providing timely responses (one Business Day) to administrative concerns and inquiries posed by the Department;
- (b) maintain an organization of sufficient size with the skills and experience necessary to administer, manage and oversee all aspects of the Project during the Implementation Phase, as well as during Ongoing Operations;
- (c) undertake and complete all Project implementation activities no later than September 30, 2010, such that the Ongoing Operation Phase of the Project commences on October 1, 2010;
- (d) establish and maintain throughout the term of the Agreement, at least two (2) lockboxes with the United States Postal Service (USPS) in New York State, preferably in Albany, NY (one lockbox is for the collections of enrollee payments the second lockbox is for the collection of agency payments); and
- (e) if selected, supply the Department with the addresses of the lockboxes no later than August 15, 2010.

§3.01.2 Ongoing Operations - Project Administration

Throughout the term of the Agreement, the Contractor must

- (a) be in compliance with applicable federal and New York State statute, rules and regulations for banking institutions;
- (b) keep DCS informed of pending State/Federal legislation affecting banking services and in a timely manner;
- (c) provide advice and recommendations regarding Project Services, including but not limited to technological improvements and innovation, with the understanding that DCS is under no obligation to act on such advice or recommendations;
- (d) have quality control procedures in place to assure accuracy and timeliness in processing receipts;

- (e) be able and willing to modify existing procedures/reports and/or develop new procedures/reports in cooperation with DCS; and
- (f) with regard to, the electronic transfer of data:
 - i. be capable of receiving and transmitting data in a secure electronic format and on a schedule mutually agreed upon by the Contractor and the Department;
 - ii. be able to transmit data in the formats required by the file layouts presented in IFB, Appendices P through S);
 - iii. maintain a HIPAA compliant level of security to protect the confidentiality of information on the Contractor's computer system and in the Contractor's physical work environment; and
 - iv. have a disaster recovery plan in place to reasonably ensure the continued delivery of Project Services in the case of an unforeseen event, including but not limited to a disaster or emergency.

§3.01.3 Ongoing Operations - Lockbox Services

Throughout the Ongoing Operational Phase of the Project, the Contractor:

- (a) will be solely responsible for the timely and accurate processing of items received through the lockboxes;
- (b) must retrieve all of the items in the lockboxes by 12:00 pm (noon) on each Business Day;
- (c) must process all lockbox items on the Business Day they are retrieved from the lockbox;
- (d) must be capable of processing and depositing an anticipated monthly volume of 11,000 receipts per month on the same Business Day as they are retrieved from the lockbox. (Note: [Appendix M](#) provides an average of the daily receipts for the most recent fiscal year and a two month count of transactions for the two lockboxes that are currently utilized.); and
- (e) must adhere to Lockbox Processing Procedures Guidelines as outlined in IFB, [Appendix L](#).

§3.01.4 Ongoing Operations Non-Lockbox Services

Throughout the Ongoing Operational Phase of the Project, the Contractor:

- (a) shall on each Business Day, between the hours of 10:00 a.m. and 1:00 p.m. ET, using a courier service provided by the Contractor or overnight delivery (at the discretion of DCS):
 - pick-up non-lockbox deposits from the Department; and
 - deliver to EBD the following items:

- all items that are deemed Unprocessable; and
 - deposit slip for the prior Business Day's non-lockbox deposits; and
- (b) shall accurately process and deposit all of the non-lockbox deposits picked up from the Department on the day they are picked up.
- (c) if during the term of the Agreement, the Department decides to adopt and implement Remote Deposit practices, the Offeror must work with the Department to provide such functionality.

§3.01.5 Ongoing Operations Check Processing

Throughout the Ongoing Operational Phase of the Project, the Contractor:

- (a) shall post all deposits on the Business Day retrieved/received and make funds available within one (1) Business Day of deposit;
- (b) must cooperate with the Department and any other contractor if the Department, during the term of the Agreement, decides to accept premium payments online, e.g., credit cards. (Offerors are advised that during the term of the Agreement, the Department may wish to offer NYSHIP enrollees and agencies the option to pay premiums via various online services.);
- (c) be able to accept and accurately process wire transfers from PAs/PEs; and
- (d) be able to process checks that arrive at the lockbox without remittance advice documents but with an account number on the check.

§3.01.6 Ongoing Operations Reporting Functions

Throughout the Ongoing Operational Phase of the Project, the Contractor must:

- (a) make available various reports of payment transaction deposits as required by DCS for its use in the review, management, and analysis of the payment transactions;
- (b) verify the accuracy of all reports produced, regardless of the medium;
- (c) make reports available in an electronic format, mutually agreed upon between the Contractor and the Department and in a format that allows DCS to load the reports to its mainframe or PC based computer system and to print the reports, as needed;
- (d) must make available separate data files for each of the two (2) lockboxes; and
- (e) must make available the following reports/files as specified below:
- (1) Daily Reports/Files:
- i. Payment Detail Transaction File - The Contractor must provide, in a format acceptable to the Department, a Payment Detail Transaction File for lockbox and non-lockbox payments combined for each of the

payment types (enrollee and agency). The Payment Detail Transaction File must be electronically transmitted to DCS, or be available to retrieve from the Contractor using a secure internet connection by 8:00 p.m. ET on the day of the deposit. Refer to [Appendix P](#) - Enrollee Cash Lock Box Definition and [Appendix Q](#) Agency Cash Lock Box Definition.

- ii. Payment Detail Transaction Report - The Contractor must provide, in a format acceptable to the Department, a Payment Detail Transaction Report for lockbox and non-lockbox payments combined for each payment type (enrollee and agency). The Payment Detail Transaction Report must be made available within one (1) Business Day of deposit. The reports can be made available through a secure internet connection or transmitted electronically in a secure format to DCS. Preference is for the reports to be Microsoft Excel format. The report should include functionality to allow the sorting/searching on the unique fields of each transaction. Refer to Section 7Appendix [RAppendix R](#) for report specifications.
- iii. Daily Balance Report - The Office of State Comptroller (OSC), Cash Management Unit requires on-line access using a secure internet connection to the account for previous day balance reporting and funds transfer capabilities. Balance reporting must include ledger balance, available balance, and previous day detailed activity; the reporting must be available in BAI2 format. The report must be available by 10 a.m. ET the Business Day following the day of deposit.
- iv. Imaged Payment Remittance Forms, Checks and Correspondence File - The Contractor must image and store each individual payment remittance form, check and any correspondence, including envelopes (where an address change is indicated). The Contractor must make available to DCS the capability to search and download online using a secure internet connection for specific individual payment remittance forms/payments/correspondence, view and print the imaged payment remittance form/check/correspondence. Imaged documents must be available to retrieve online for the entire duration of the Agreement plus one (1) full year after the termination of the Agreement. The images must be made available the day after they are imaged.

(2) Monthly Reports/Files:

- i. Transaction Summary Report - The Contractor must provide, in a format acceptable to the Department, a Transaction Summary Report of daily deposits for each lockbox within five (5) Business Days following the end of the month. The report can be made available using a secure internet connection or transmitted electronically in a secure format to DCS. Preference is for the report to be Microsoft Excel format. The report should include

functionality to allow the sorting/searching on the unique fields of each transaction. Refer to [Appendix S](#) for report specifications.

- ii. Account Analysis Statement - The Office of State Comptroller (OSC), Cash Management Unit requires on-line access to a monthly account analysis statement using a secure internet connection itemizing all charges with volume and detailed unit costs; the statement must be provided in an 822 electronic account analysis format. The statement must be available by 15th day of the month following the month for which the statement is created.

(3) Quarterly Reports/Files:

Quarterly Performance Guarantee Report - The Contractor must provide, in a format acceptable to the Department, quarterly Performance Guarantee reports that detail the Contractor's compliance with each of the Performance Guarantees stated in [§3.02](#) of this RFP. Statistical documentation of compliance should be included in these reports. The reports are due fifteen (15) Business Days after the end of the quarter for which the reports are being generated.

Quarterly Workforce Utilization Reports - The Contractor must provide, on a quarterly basis throughout the term of the Agreement, a workforce utilization report, utilizing the form set forth in IFB, [Exhibit K](#), a breakdown of the workforce actually utilized on the Agreement, broken down by specified ethnic background, gender, and Federal Occupational Categories. The report is due fifteen (15) Business Days after the end of the quarter for which the report is being generated.

§3.02 PERFORMANCE GUARANTEES

During the term of the Agreement, the Contractor will be responsible for the performance of those services/tasks as described in IFB, [§3.01](#) above. In the performance of these services/tasks, the Contractor must meet each of the performance guarantees herein this section [§3.02](#) as set forth below (*Note: Offerors are advised that during the term of the Agreement, if the Department determines that circumstances outside the Contractor's control may have affected the Contractor's ability to meet any of the above requirements, the Department may waive any or all penalties which have accrued. Following such review, the Department, at its sole discretion, may waive any or all penalties which have accrued.*):

§3.02.1 Implementation Guarantee

The Contractor must guarantee that all implementation activities will be completed no later than September 30, 2010, and agree that the Contractor shall pay to the DCS a penalty of \$1,250 per day, as well as, the sum of the penalty amounts established for Performance Guarantees [§3.02.2](#) through [§3.02.7](#), below, for each day after September 30, 2010, that all implementation activities are not completed.

§3.02.2 Lockbox Retrieval Guarantee

The Contractor must guarantee that by 12:00 pm (noon) of each Business Day all of the items (Receipts) in the DCS's lockboxes will be retrieved from the lockboxes and agree that the Contractor shall pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Contractor must further agree that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantees [§3.02.3](#), [§3.02.5](#), and [§3.02.6](#), below.

§3.02.3 Lockbox Processing Guarantee

The Contractor must guarantee that all items retrieved from the lockboxes will be processed on the Business Day that they are retrieved and agree that the Contractor shall pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Contractor must further agree that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantees [§3.02.5](#) and [§3.02.6](#), below.

§3.02.4 Courier Pickup Guarantee

The Contractor must guarantee that each Business Day deposits from EBD will be picked up between the hours of 10:00 a.m. and 2:00 p.m. ET and agree that the Contractor shall pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Contractor must further agree that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantees [§3.02.5](#) and [§3.02.6](#), below.

§3.02.5 Deposit Guarantee

The Contractor must guarantee that all deposits retrieved by 12:00 pm (noon) from the lockboxes and all deposits received from EBD via courier will be posted on the Business Day retrieved or received, as applicable and agree that the Contractor shall pay to the DCS a penalty of \$125 each day the Contractor fails to fully meet this guarantee. The Contractor must further agree that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantee [§3.02.6](#), below.

§3.02.6 Deposited Funds Availability Guarantee

The Contractor must guarantee that all funds deposited are available within one (1) Business Day of deposit for transfer into the State treasury and agree that the Contractor shall pay to the DCS a penalty of \$125 each time the Contractor fails to fully meet this guarantee.

§3.02.7 Electronic Files Availability Guarantee

The Contractor must guarantee the availability of daily Business Day electronic files for retrieval by 6:30 pm ET for each lockbox and non-lockbox deposit giving daily item counts and monetary totals in an EDP format that enables DCS to load information to its mainframe or PC based computer system and agree that the

Contractor shall pay to the DCS a penalty of \$125 for each time the Contractor fails to fully meet this guarantee.

§3.03 OPTIONAL SERVICES

In addition to and separate from what the Offeror is proposing to provide in fulfillment of its obligations to deliver Program Services, the Offeror may propose Optional Services above and beyond what is required of the IFB (e.g., Credit Card processing, Remote Deposit, etc.). The Department will not consider such services in its evaluation of Proposals received in response to the IFB but may, during the term of the Agreement, chose to implement one or more of such optional service(s) at the rates/fees quoted by the Offeror in its [Exhibit R](#), Schedule 3 submission.

SECTION 4 PROPOSAL SUBMISSION REQUIREMENTS**§4.01 OVERVIEW**

The Department will accept Proposals only from qualified Offerors and will consider for evaluation only those Proposals that it determines to be in compliance with the submission requirements set forth in the IFB and the Proposal Submission Requirements set forth in this [Section 4](#) of the IFB.

Each Offeror's Proposal must be submitted in hard copy in accordance with the instructions in IFB, [Section 2](#) and may not be submitted by phone, e-mail or facsimile. The Proposal must contain three (3) distinct parts as follows:

Administrative	(IFB §4.02 , below)
Technical	(IFB §4.03 , below)
Financial	(IFB §4.04 , below)

§4.02 ADMINISTRATIVE PART**SUBMISSION INSTRUCTIONS:**

The Administrative part of the Proposal must contain responses to all of the following sections as set forth below (i.e., [§4.02.1](#) through [§4.02.12](#)) and in the order and format specified, using the forms set forth in IFB, [Exhibit A](#) through [Exhibit M](#). (Note: A person legally authorized to represent the Offeror must execute the affirmations and/or certifications as required on the various exhibits.)

§4.02.1 Formal Offer Letter

The Offeror must submit a formal offer in the form of the "[Formal Offer Letter](#)" as set forth in IFB, [Exhibit A](#). The formal offer must be signed and executed by an individual with the capacity and legal authority to bind the Offeror in its offer to the State. The Offeror must accept substantially the terms and conditions as set forth in IFB, [Section 6](#); as well as the terms and conditions set forth in IFB, Appendices A, B and C and agree to enter into a contractual agreement containing, at a minimum, the terms and conditions identified in the section and appendices as cited herein. (Note: [Appendix A](#) entitled, "[Standard Clauses for NYS Contracts](#)" is a compilation of statutory requirements applicable to all persons and entities contracting with the State and therefore has been deemed to be non-negotiable by the Offices of the Attorney General and the State Comptroller. [Appendix B](#) entitled, "[Standard Clauses for All Department Contracts](#)", and [Appendix C](#) entitled, "[Third Party Connection and Data Exchange Agreement](#)" are compilations of standard clauses for DCS contracts and they too are non-negotiable.) If an Offeror proposes to include the services of a Key Subcontractor(s), the Offeror shall be required to assume responsibility for those services as "Prime Contractor." DCS will consider only the Prime Contractor in regard to contractual matters.

§4.02.2 Offeror Qualification Certification

The Offeror must complete and submit an executed copy of IFB, [Exhibit B](#) entitled “[Offeror Qualification Certification](#)”, demonstrating that it meets or exceeds the criteria for eligibility to bid as set forth in [§1.03](#) of the IFB.

§4.02.3 Compliance with Public Officers Law Requirements

The Offeror must submit an executed copy of IFB, [Exhibit C](#), entitled “[Compliance with Public Officers Law Requirements](#)”.

§4.02.4 Proposal Submission Requirements Checklist

The Offeror must complete and submit IFB, [Exhibit D](#) entitled “[Proposal Submission Requirements Checklist](#)”.

§4.02.5 Omnibus Procurement Act of 1992

The Offeror must submit an executed copy of IFB, [Exhibit E](#), entitled “[Omnibus Procurement Act of 1992](#)”.

§4.02.6 Equal Employment Opportunity Obligations - Offeror Certification of Compliance

The Offeror must submit an executed copy of IFB, [Exhibit F](#), entitled “[EEO Obligations - Offeror Certification of Compliance](#)”. Compliance with Americans with Disabilities Act

The Offeror must submit an executed copy of IFB, [Exhibit G](#), entitled “[Compliance with Americans with Disabilities Act](#)”.

§4.02.7 MacBride and Non-Collusive Bidding Certification

The Offeror must complete and submit an executed copy of IFB, [Exhibit H](#), entitled “[MacBride and Non-Collusive Bidding Certification](#)”.

§4.02.8 New York State Standard Vendor Responsibility Questionnaire

The Offeror must complete and submit an executed copy of IFB, [Exhibit I](#), entitled “[New York State Standard Vendor Responsibility Questionnaire](#)”. (For the Offerors convenience, two versions of the questionnaire have been provided; a Word Template version and an Adobe pdf version.) Regardless of which electronic version of the questionnaire the Offeror chooses to complete, the executed questionnaire must contain the handwritten signature of said person and his/her signature must be notarized. To the extent that the Contractor is proposing the use of Key Subcontractor, the Offeror must submit a completed [Exhibit I](#) form for each Key Subcontractor executed by a person legally authorized to represent the Key Subcontractor with that individual's signature notarized.

§4.02.9 Article 15-A of the Executive Law

The Offeror must complete and submit IFB, [Exhibit J](#), entitled “[Article 15-A of the Executive Law](#)”.

§4.02.10 Work Force Employment Utilization Report

The Offeror must complete and submit IFB, [Exhibit K](#), entitled “[Work Force Employment Utilization Report](#)”.

§4.02.11 Offeror's Certification of Compliance Pursuant to State Finance Law §139-k(5)

The Offeror must complete and submit IFB, [Exhibit L](#), entitled "[Offeror's Certification of Compliance Pursuant to SFL §139-k\(5\)](#)". A person legally authorized to represent the Offeror must execute this affirmation. (NOTE: If not already provided to the Department by time of Proposal submission, the Offeror must also enclose a completed [Attachment 1](#) entitled "[Offeror's Affirmation of Understanding and Agreement.](#)")

§4.02.12 Freedom of Information Law - Request for Redactions Chart

The Offeror must complete and submit IFB, [Exhibit M](#), entitled "[Freedom of Information Law - Request for Redactions Chart](#)".

If an Offeror believes that any information in its Proposal constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law, the Offeror must make that assertion by completing IFB, [Exhibit M](#). The Offeror must specifically identify by page number, line, or other appropriate designation, the specific information requested to be protected from FOIL disclosure and the appropriate justification as to why such information should not be disclosed. Page 2 of [Exhibit M](#) contains information regarding appropriate justification for protection from FOIL disclosure.

If the Offeror chooses not to assert that any information in its Proposal should be protected from FOIL disclosure, the Offeror must so advise the Department by checking the applicable box on IFB, [Exhibit M](#).

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§4.03 TECHNICAL PART

SUBMISSION INSTRUCTIONS:

The Technical part of the Offeror's Proposal should contain responses to all of the following sections as set forth below (i.e., [§4.03.1](#) through [§4.03.6](#)) in the formats as specified and, as applicable, using the forms set forth in IFB, [Exhibit N](#) through [Exhibit Q](#).

The Technical part of the Offeror's Proposal must contain the following information, in the order enumerated below:

§4.03.1 Organizational Overview

The Offeror must possess the administrative and organizational capacity, experience and expertise to provide the required Project Services. To demonstrate that it meets or exceeds these requirements the Offeror should submit an Executive Summary¹ that includes:

- (a) A concise description of the Offeror's understanding of the requirements presented in the IFB, the Department's needs, approach, and how the Offeror can assist the Department in accomplishing its objectives;
- (b) A succinct statement outlining corporate/business history including a general mission statement, the overall number of employees per position/specialty, and other general information about the firm in support of the Offeror's representations that it 1) possesses adequate staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified herein this IFB, and 2) has maintained an organization capable of performing the work specified herein this IFB, as applicable to that aspect of Project Services to be rendered by the Offeror or Key Subcontractor, in continuous operation for at least the past three (3) years²; and
- (c) A succinct statement explaining previous experience providing services similar in scope to that as set forth in the IFB, during the last three (3) years for the benefit of, at a minimum, three (3) entities and detail how that experience, in general and specifically as regard to the entities given as Client References in response to IFB, [§4.03.3](#) below, qualifies the Offeror and, if applicable, the Key Subcontractor(s), to perform the required Project Services³.

§4.03.2 Key Subcontractors

The Offeror must identify all Key Subcontractors, if any, that the Offeror will be subcontracting with to provide Project Services. For each Key Subcontractor

¹ The IFB does not dictate or impose a length restriction to the Executive Summary in terms of not exceeding a certain number of pages.

² To the extent that the Offeror is proposing to utilize the services of a Key Subcontractor to perform a portion of the Project Services, the Offeror must also provide the information required as it regards the proposed Key Subcontractor and as applicable to that portion of Project Services the Offeror is proposing the Key Subcontractor provide.

³ Id.

identified, the Offeror should complete and submit IFB, [Exhibit N](#), entitled “[Key Subcontractors](#)”. Any subcontract by which the Contractor arranges for specified portions of the Project Services to be performed by a Key Subcontractor must be executed by the Contractor and the Key Subcontractor in writing no later than the date the Contractor executes the Agreement and said subcontract must include terms that are identical and consistent with the contract provisions contained in [Section 6](#) of this IFB, including Appendices A and B. If a subcontract has been executed between the Offeror and any Key Subcontractor(s) at the time of Proposal submission, append a copy of the executed unredacted subcontract to the Offeror’s [Exhibit N](#) submission for that Key Subcontractor. In those cases where an executed subcontract does not exist at the time of Proposal submission, provide a copy of the unexecuted subcontract and represent that the subcontract will be executed in the form submitted to perform the services set forth in the Proposal in compliance with the IFB, assuming selection as a result of this IFB.

If the Offeror will not be subcontracting with any Key Subcontractor(s) to provide Project Services, the Offeror should provide a statement to that effect at this part of its Proposal.

§4.03.3 Client References

The Offeror must provide information regarding three (3) references (“Client References”) comprised of preferably a combination of current and former clients of the Offeror to substantiate that the Offeror has performed, in an acceptable manner, services similar in scope to those as set forth in this IFB as regards that portion of Project Services that the Offeror is proposing it shall perform under the Agreement. (At a minimum, one (1) of the Client References should be a current client of the Offeror.)

If the Offeror is proposing to use the services of a Key Subcontractor to perform a portion of the required Project Services, then, the Offeror must provide information regarding three Client References comprised of preferably a combination of current and former clients of the Key Subcontractor to substantiate that the Key Subcontractor has performed, in an acceptable manner, services similar in scope to those as set forth in this IFB as regards that portion of Project Services that the Offeror is proposing the Key Subcontractor shall perform under the Agreement. (At a minimum, one (1) of the Client References should be a current client of the Key Subcontractor.)

To these ends, for each Client Reference provided, the Offeror should complete and submit IFB, [Exhibit O](#), entitled “[Client References](#)”. (Note: The Offeror shall be solely responsible for providing contact names and phone numbers for each Client Reference that are readily available to be contacted by the State.)

§4.03.4 Project Services

The Offeror must, in the order presented, 1) submit IFB, [Exhibit P](#), entitled “[Project Services](#)” and 2) provide the information requested below as regards the Offeror’s proposed approach(es) to deliver those Project Service as described in IFB, [§3.01](#).

(a) Offeror's Exhibit P - Project Services submission:

At this subsection of the Offeror's Proposal, the Offeror must:

- (1) Submit a completed Exhibit P acknowledging the Offeror's responsibilities as regards Project Services and agreement to meet the requirements as stipulated therein the exhibit.

(b) Project Implementation

In addition to what is required of the Offeror in terms of Project Implementation in the Offeror's Exhibit P - Project Services submission, at this subsection of the Offeror's Proposal, the Offeror must:

- (1) Identify the Contract Officer who will serve as the primary contact between the Parties during the entire term of the Agreement in fulfillment of the responsibilities and duties set forth in IFB, §3.01.1 and describe his/her experience/education which qualifies him/her to serve in this capacity.
- (2) Provide an organizational chart that identifies the key professional personnel assigned to undertake and accomplish implementation efforts, include reporting relationships and describe the individual's duties/responsibilities.
- (3) Provide a fully detailed description of the Offeror's overall implementation plan to deliver the Project Services on October 1, 2010. This information must include but not be limited to:
 - a. Detailed descriptions of the tasks to be completed, their respective completion dates and the party responsible for each task (i.e., Offeror, DCS); and
 - b. A plan to test the electronic transmission of data/reports to the Department and OSC.

(c) Ongoing Operations - Project Administration

In addition to what is required of the Offeror in terms of Ongoing Operations - Project Administration in the Offeror's Exhibit P - Project Services submission, at this subsection of the Offeror's Proposal, the Offeror must:

- (1) Provide an organizational chart that includes reporting relationships and describes the duties/responsibilities of the individuals/units assigned to undertake and accomplish the Contractor's Ongoing Operational responsibilities.
- (2) Detail the Offeror's compliance with applicable federal and New York State statutes, rules and regulations for banking institutions.
- (3) Describe how the Offeror proposes to track pending changes in State/federal legislation and the manner in which these pending changes would be communicated to the Department.

- (4) Describe the quality control procedures the Offeror has in place and proposes to follow to assure accuracy and timeliness in processing receipts. The following information must be included: the Offeror's existing error rate, how it is measured and how employee turnover affects the quality and quantity of the workflow.
- (5) Describe the Offerors capability to electronically transmit/receive data.
- (6) Describe how the Offeror will provide safeguards against providing access or divulging to third parties any information or material acquired during the performance of Project Services.
- (7) Describe the Offeror's disaster recovery capabilities/plan.

(d) Ongoing Operations - Lockbox Services

In addition to what is required of the Offeror in terms of Ongoing Operations - Lockbox Services in the Offeror's [Exhibit P - Project Services](#) submission, at this subsection of the Offeror's Proposal, the Offeror must:

- (1) Describe the Offeror's proposed activities relative to the timely and accurate processing of items to be received through the lockbox.
- (2) Describe the Offeror's ability to classify and deposit an anticipated monthly volume of 11,000 receipts per month on the same business day as retrieved from the lockbox.

(e) Ongoing Operations - Non-Lockbox Services

In addition to what is required of the Offeror in terms of Ongoing Operations - Non-Lockbox Services in the Offeror's [Exhibit P - Project Services](#) submission, at this subsection of the Offeror's Proposal, the Offeror must:

- (1) Describe the Offeror's proposed courier service to be rendered.
- (2) Describe the Offeror's proposed process to ensure all non-lockbox deposits received from DCS are deposited and accurately processed on the same business day.

(f) Ongoing Operations - Check Processing

In addition to what is required as regards Ongoing Operation - Check Processing in the Offeror's [Exhibit P - Project Services](#) submission, at this subsection of the Offeror's Proposal, the Offeror must:

- (1) Confirm, identify and describe the Offeror's ability to accept payments online, e.g., via credit card.

(g) Ongoing Operations - Reporting Functions

In addition to what is required of the Offeror in terms of Ongoing Operations - Reporting Functions in the Offeror's [Exhibit P - Project Services](#) submission, at this subsection of the Offeror's Proposal, the Offeror must:

- (1) Describe the Offeror's proposed processes/procedure to verify the accuracy of reports and files produced.
- (2) Provide samples of the "reports" the Offeror proposes to provide in satisfaction of the requirements set forth in IFB, [§3.01.6](#) as regards:

Daily Reports/Files:

- Payment Detail Transaction File
- Payment Detail Transaction Report
- Daily Balance Report
- Imaged Payment Remittance Forms, Checks and Correspondence

Monthly Reports/Files:

- Transaction Summary Report
- Account Analysis Statement

Quarterly Reports/Files:

- Quarterly Performance Guarantee Report
- Workforce Utilization Report

The sample "reports" can be provided as either hardcopy screen dumps or via online

§4.03.5 Performance Guarantees

The Offeror must complete and submit IFB, [Exhibit Q](#) entitled "[Performance Guarantees](#)" agreeing to meet all of the performance guarantees set forth in IFB, [§3.02](#).

§4.03.6 Optional Services

At this subpart of its Proposal, the Offeror should list and describe any Optional Services beyond the Project Services as required by the IFB, that the Offeror is proposing to make available to the Department during the term of the Agreement. For each Optional Service proposed, assign an Identification Number (ID#) to the Optional Service and give it a Header Name which briefly identifies the nature of the Optional Service proposed. The Identification Number and Header Name should match the ID# and Header Name on the Offeror's [Exhibit R](#), **Schedule 3** submission.

If the Offeror is choosing not to propose any Optional Services beyond the Project Services as required by the IFB, the Offeror should so advise the Department by stating "[Not Applicable](#)" as this subpart of its Proposal.

§4.04 FINANCIAL PART

SUBMISSION INSTRUCTIONS:

The Financial part of the Proposal must respond to all of the following mandatory sections as set forth below (i.e. [§4.04.1](#) through [§4.04.3](#)) in the formats as specified and using the forms set forth in IFB, [Exhibit R](#), [Schedule 1](#) and [Schedule 2](#), and if applicable [Schedule 3](#).

§4.04.1 Project Services Pricing Schedules (Schedule 1 and Schedule 2):

The State of New York will pay the Contract for Project Services rendered by either a “**Direct Fee**” or “**Compensating Balance**” payments.

As a result, at this part of its Proposal, it is mandatory that the Offeror complete and submit two “**Schedule of Fees and Expenses**” worksheets; one detailing the cost to provide Project Services assuming the State elects to compensate the Contractor on a “**Direct Fee**” basis (i.e., [Exhibit R](#), [Schedule 1](#)), and the other detailing the cost to provide Project Services assuming the State elects to compensate the Contractor on a “**Compensating Balance**” basis (i.e., [Exhibit R](#), [Schedule 2](#)).

The Offeror’s proposed fees/rates must be based upon the assumptions set forth in [§4.04.2](#) below and instructions as set forth herein this [§4.04](#) and associated [Exhibit R](#), [Schedule 1](#) and [Schedule 2](#).

§4.04.2 Assumptions/Instructions:

Offerors, in developing their proposed fees/rates as contained in its [Schedule 1](#) and [Schedule 2](#) submissions, are to assume the following:

- a) The State reserves the right to determine the compensation methodology used to compensate the Contractor for Project Services. The method may include, but is not limited to, “**Direct Fee**”, “**Compensating Balance**”, or a combination of both. It is the State’s intent that the method of compensation used shall be that method which is expected, as determined solely by the State, to result in the lowest cost to the State for Project Services rendered.
- b) During the term of the Agreement, the State reserves the right to change the compensation methodology used to compensate the Contractor, with appropriate prior notice provided to the Contractor. The State agrees not to change the method of compensation at a frequency greater than once annually, except in extraordinary circumstances, as solely determined by the State. The State shall provide the Contractor with at least ninety (90) days written notice of such a change in compensation methodology.
- c) For Project Services rendered during the term of the Agreement, the sole and exclusive fees/rates chargeable to and payable by the State under the Agreement will be those as quoted by the Offeror in the Offeror’s IFB, [Exhibit R](#), entitled, “**Schedule of Fees and Expenses**”, [Schedule 1](#) entitled,

“Direct Fee” and Schedule 2 entitled, “Compensation Balances”, as applicable, submissions. All costs associated with the delivery of Project Services in accordance with requirements of this IFB must be incorporated into the categories shown in the Schedule 1 and Schedule 2 worksheets. No other add on costs are permitted. The Department may, by amendment to the Agreement, entertain changes in fees under the following circumstances:

- Billings for additional, enhanced or modified services requested by the Department.
 - Other extraordinary cost increases which are beyond the control of the Contractor.
- d) The volumes shown on the Schedule 1 and Schedule 2 worksheets will be used only to compare prices bid by Offerors responding to this IFB. Payments will be based on the actual monthly volumes and the Contractor will be reimbursed monthly for these services based on items processed for the preceding month.
- e) Prices quoted must not include any FDIC fees. The Department may elect to pay for FDIC fees as an add on to the Agreement or include the fees in the overall existing relationship with the Contractor and pay for them by compensating balance.
- f) All fees/rates shall be expressed, and all payments shall be made, in United States Dollars (\$ US). Fees/rates as quoted should be expressed in decimals, not to exceed two (2) places.
- g) OSC shall render payment for invoices under the Agreement in accordance with ordinary State procedures and practices. The Contractor shall certify the accuracy of all Contractor invoices prior to their submission to the Department and the Department will make best efforts to process all acceptable invoices within thirty (30) days of their receipt; however, failure to make payment within said timeframe shall not be considered a breach of contract. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article XI-A of the State Finance Law.
- h) Submission of an invoice and payment thereof shall not preclude the Department from reimbursement or demanding a price adjustment in any case where Project Services as delivered is found to deviate from the terms and conditions of the Agreement.
- i) Depending upon the method of compensation chosen, the following procedures will be used to determine the compensation:
- Payment by *Direct Fee*
If the State elects to compensate the Contractor on a *Direct Fee* basis, the State may choose to either offset the fee payment with Earnings Credits (as hereinafter defined) or request Earning Credits from the Contractor. All excess Earnings Credits on a monthly basis must be carried forward to offset future payments throughout the

term of the Agreement. Earnings Credits are to be calculated using the following formula:

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

Where:

RR = Federal Reserve Bank Reserve Requirement percentage (currently 10%)

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

Time = number of days in period/365

The Earnings Credit Rate is the monthly average investment yield on the three-month Treasury Bill, as determined at the weekly auction and published in the New York Times. The Earnings Credit Rate shall be determined by OSC and confirmed with the Contractor. Payment for services rendered made on a **Direct Fee** basis should be billed by the Contractor to the Department and will be paid in accordance with the voucher and audit procedures established by OSC.

- Payment by **Compensating Balance**

If the State elects to compensate the Contractor on a **Compensating Balance** basis, the value of the compensating balance shall be calculated using the same formula as shown above under “Payment by **Direct Fee**”, provided, however, that the Earnings Credit Rate shall be determined based on an OSC computation which factors a three year average spread between the State’s short term investment pool rate and the monthly average investment rate on the three-month Treasury Bill as determined at the weekly auction (currently 55 basis points) and published in the New York Times. The Earnings Credit Rate shall be determined by the Office of the State Comptroller and confirmed with the Contractor. If payment is made on a **Compensating Balance** basis, the Contractor must provide a monthly bank account analysis electronically to OSC. This analysis must include the monthly volume and total costs associated with the Account. All excess Earnings Credits on a monthly basis must be carried forward to offset future payments throughout the term of the Agreement.

§4.04.3 Optional Services (Schedule 3)

Although Offerors are not mandated to propose Optional Services (see IFB, [§3.03](#)), if the Offeror is proposing to make available Optional Services beyond the Project Services as required by the IFB, then the Offeror should also complete and submit [Exhibit R, Schedule 3](#) detailing any and all its pricing assumptions and proposed fees/rates and other cost, both direct and indirect, chargeable to the Department should the Department chose to implement any or all of the Offeror’s proposed Optional Services. Optional Services proposed fees/rates and costs will not be used to calculate the Offeror’s “**Total Projected Five Year Cost**” amount. If the Offeror chooses not to propose any Optional Services beyond the Project Services as required by the IFB, the Offeror should so advise the Department by checking the appropriate box on IFB, [Exhibit R, Schedule 3](#).

SECTION 5 METHOD OF EVALUATION

§5.01 EVALUATION/SELECTION PROCESS

The Department will evaluate Offerors' Proposals in accordance with the evaluation methods, procedures, and criteria as set forth in this [Section 5](#) of the IFB. Pursuant to Article XI of the State Finance Law, the basis for award shall be on a "Best Value" basis. As defined in New York State Finance Law, Article 11, "Best Value" means the basis for awarding contracts to a responsible and responsive Offeror whose offer optimizes quality, cost and efficiency, and which is consistent with the best interests of the State of New York. For the purposes of this IFB an award made to that responsive and responsible Offeror whose Proposal meets all of the terms and conditions of this IFB and represents the lowest price to the Department.

The Department shall evaluate Proposals in an objective, comprehensive manner designed to benefit both the State and participating Offerors. The Department intends that all Proposals will be evaluated uniformly and consistently, providing Offerors an equal opportunity to be considered. For the purpose of its evaluation, the Department may seek assistance from any person, other than one associated with a competing Offeror.

During the evaluation process, the Department may require clarifying information from an Offeror for the purpose of assuring the Department's full understanding of the Offeror's responsiveness to the IFB requirements. This clarifying information must be submitted in writing in accordance with the formats set forth in [Section 2](#) of the IFB and shall be included as a formal part of the Offeror's Proposal. Failure to provide any required information by the due date set forth in the Department's request for clarification may result in rejection of the Offeror's Proposal. Nothing in the foregoing shall mean or imply that it is obligatory upon the Department to seek or allow clarifications provided for herein.

On or after the Proposal Due Date and Time as set forth in IFB, [§1.04](#), all timely Proposals as accepted by the Department will be opened and recorded. After which, the Department will verify that the apparent lowest price Proposal (i.e., the Proposal with the Lowest Total Projected Five Year Cost over the potential five year term of the resultant contract) is responsive and the Offeror is responsible. Responsive means that the Proposal meets all mandatory requirements and specifications of the IFB. If the apparent lowest price Proposal/Offeror is not found to be responsive or responsible, that Offeror's Proposal will be rejected and the next lowest price Proposal will be reviewed to determine responsiveness and responsibility.

Since the method of payment selected by the Department will be the one that provides the lowest cost to the State, each Offeror's Total Projected Five Year Cost the Department will use the Offeror's [Exhibit R](#) submission (either **Schedule 1** entitled, "Direct Fee" or **Schedule 2** entitled, "Compensation Balances") that provides the lower cost to the Department. If the contract is awarded to an Offeror that submits the same Total Projected Five Year Cost assuming both methods, the method of payment will be at the discretion of the Department. In the event of a tie, the decision to award a contract to one Offeror over the other(s) shall be made by the Commissioner whose decision shall be final and the basis for determining the award shall be documented in the procurement record.

SECTION 6 DRAFT CONTRACTUAL PROVISIONS

(Note: items herein this section that are **highlighted in bold italics** need to be updated after contract award)

AGREEMENT NO. C000593

THIS AGREEMENT entered into by and between New York State Department of Civil Service (“Department” or “DCS”), having its principal office at the Alfred E. Smith Office Building, Albany, NY, 12239 and ***[enter firm’s name]*** (“Contractor”), a corporation authorized to do business in the State of New York with a principal place of business located at ***[enter address]***, and collectively hereinafter referred to as “the Parties.”

WITNESSETH

WHEREAS, New York State, through the Department, oversees the New York State Health Insurance Program for New York State employees and retirees and their dependents; and

WHEREAS, the New York State Health Insurance Program is administered by the President of the New York State Civil Service Commission, who also serves as the Commissioner of the Department (“President”), subject to New York State laws and regulations including the Civil Service Law, the State Finance Law Article XI, and their respective implementing regulations; and

WHEREAS, on May 3, 2010, the Department of Civil Service issued an Invitation for Bids entitled, “Banking Services” (collectively, the Invitation for Bids and all amendments and clarification thereto shall hereinafter be referred to as the “IFB,” or “Exhibit 1” which is annexed to this Agreement and made a part hereof) to secure the services of a qualified consulting firm to perform the Project Activities set forth in the IFB (hereinafter collectively referred to as “Project Services”); and

WHEREAS, after thorough review and evaluation by the Department of Proposals accepted in response to the IFB, the Contractor’s Proposal (collectively, the Proposal and all amendments and clarification thereto shall hereinafter be referred to as the “Proposal,” or “Exhibit 2” which is annexed to this Agreement and made a part hereof) was selected as representing the “best value” to the State; and

WHEREAS, the Department, in reliance upon the expertise of the Contractor, desires to engage the Contractor to deliver Project Services, in the manner set forth in the IFB and the Contractor’s Proposal, pursuant to the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and provisions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I: CONTRACTOR RESPONSIBILITIES AND QUALIFICATIONS**1.1.0 Contractor Responsibilities:**

The Contractor shall be solely and fully responsible for providing Project Services, in such a manner so as to be in compliance with the requirements as set forth in this Agreement and the IFB and for meeting all contractual obligations set forth in this Agreement, including all exhibits and any subsequent amendments mutually agreed to in writing between the Parties.

The Contractor shall be solely and fully responsible for the performance of all work and the successful delivery of all contracted deliverables/services, including efforts by its staff and by its Key Subcontractors and their staff.

Throughout the contract term of this Agreement, including any extensions thereto, in addition to the requirements of the State Finance Law § 138 (requiring the State's approval of Key Subcontractors), in the event that there is a substantial or material change, as defined below, in the ownership or financial viability of the Contractor, its corporate affiliates, subsidiaries or divisions, the Contractor is required to provide notice and details of any such change to the State in writing immediately when such is first known by Contractor, its corporate affiliates, subsidiaries or divisions, or Key Subcontractors.

"Substantial" or "material" change shall be defined to include, but not be limited to, sale, acquisitions, mergers or takeovers involving the Contractor, its corporate affiliates, subsidiaries or divisions or partners which result in a change in the controlling ownership or assets of such entity after the submission of the Proposal; or entry of an order for relief under Title 11 of the United States Code; the making of a general assignment for the benefit of creditors; the appointment of a general receiver or trustee in bankruptcy of Contractor's, its corporate affiliates, subsidiaries or divisions, or partners' business or property; or action by Contractor, its corporate affiliates, subsidiaries or divisions, or partners under any state insolvency or similar law for the purposes of its bankruptcy, reorganization or liquidation; or court ordered liquidation against Contractor, its corporate affiliates, subsidiaries or divisions, or partners.

Upon the State's receipt of such notice, the State shall have thirty (30) Business Days from the date of written notice to review the information. The Contractor may not transfer this Agreement among corporate affiliates, subsidiaries or divisions or partners without the consent of the State. In addition to any other remedies available at law or equity, the State shall have the right to prospectively cancel this Agreement, in whole or in part for cause if it finds that such change materially and adversely affects the delivery of Project Services solely determined with reference to the best interests of the State.

1.2.0 Contract Qualifications:

Contractor acknowledges that this Agreement is being entered into by the State in reliance on Contractor's representations concerning the particular qualifications, experience, financial standing, management expertise and technical expertise of the Contractor and its staff assigned and Key Subcontractors, if any, engaged to provide Project Services under this Agreement.

Throughout the term of this Agreement, the Contractor shall:

- 1.2.1 be authorized to conduct business in New York State;
- 1.2.2 complete, obtain and/or perform all registrations, filings, approvals, authorizations, consents and examinations required by any governmental authority for the provision of the delivery of Project Services and comply with any requirements imposed upon it by law;
- 1.2.3 possesses adequate qualified staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified herein this Agreement;

- 1.2.4 not perform Project Services in a state that penalizes New York State vendors;
- 1.2.5 maintain a principal office or branch office in Albany, New York;
- 1.2.6 remain a bank or trust company chartered under Article III of New York Banking Law, or a national bank; must possess the authority to accept deposits held in the name of the State of New York and must agree to pledge securities as collateral for New York State deposits at the State's Fiscal Agent in accordance with Section 105 of NYS Finance Law, satisfactory in form and amount to the State of New York for the repayment of such deposits;
- 1.2.7 maintain a LACE (Liquidity Asset Quality Capital Earnings) rating of at least a C;
- 1.2.8 make all deposited funds available immediately upon deposit for transfer into the State treasury;
- 1.2.9 maintain on file with the Office of the State Comptroller (OSC) a "State of New York Undertaking for Bank Deposits and Assignment of Securities"; and
- 1.2.10 acknowledge that all data, materials and/or information provided by Enrollees, PA's, PE's and/or the Department or the Department's agents and/or contractors is being provided to the Contractor solely for the purposes of allowing the Contractor to fulfill its duties and responsibilities under this Agreement; acknowledge that said materials are the sole property of the State; and agree that it will not, in perpetuity, share, sell, release, or make the data, materials and/or information available to third parties in any manner without the written consent of the Department, except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law. This provision shall survive the expiration or termination of this Agreement.
- 1.2.11 provide a copy of all bank agreements that may be necessary to perform the Project Services outlined in the IFB and agree to negotiate the terms of the(se) agreement(s) with the State.

Failure to comply with any or all of the requirements set forth in sections 1.2.1 through 1.2.11 above may result in termination, suspension or cancellation of this Agreement, in whole or in part, or the Department taking any other action deemed necessary by the Department.

ARTICLE II: AGREEMENT DURATION AND AMENDMENTS

- 2.1.0 This Agreement shall be subject to the approval of the NYS Attorney General's Office ("AG") and the NYS Office of the State Comptroller ("OSC"). This Agreement shall commence upon the approval of the Agreement by OSC, with the Implementation Phase of the Project to be completed no later than September 30, 2010, and the Operational Phase to commence on October 1, 2010, and shall continue through and include September 30, 2013, with up to two (2) one (1) year optional extension periods. Said optional extensions are exercisable at the sole discretion of the Department subject to the approval of the AG and the OSC. Pricing during said extension shall be in accordance with the rates provided in this Agreement. The

Department shall provide the Contractor notice of at least thirty (30) days prior to the end of the then current term of this Agreement of any such election to extend this Agreement.

- 2.2.0 This Agreement is subject to amendment(s) only upon consent of the Parties, reduced to writing and approval by the AG and OSC.

ARTICLE III: DOCUMENT INCORPORATION AND ORDER OF PRECEDENCE

- 3.1.0 This Agreement shall be composed solely of the following documents which, in the event of an inconsistency or conflicting terms, shall be given precedence in the order indicated:
- 3.1.1. Appendix A (Standard Clauses for All New York State Contracts);
 - 3.1.2. Appendix B and Appendix C of the IFB;
 - 3.1.3. Any Amendments to the body of this Agreement;
 - 3.1.4. The body of this Agreement;
 - 3.1.5. Exhibit 1, the IFB, other than Appendices A, B, and C, as amended via the Department's Official Responses to Offerors' Questions dated [enter official responses release date(s)]; and
 - 3.1.6. Exhibit 2, the Contractor's Proposal dated [enter proposal date] [if any clarifications responses are provided add reference to them here].
- 3.2.0 Only documents expressly enumerated above shall be deemed a part of this Agreement, and references contained in those documents to additional Contractor documents not enumerated above shall be of no force and effect.
- 3.3.0 All prior agreements, representations, statements, negotiations and undertakings are superseded. All statements made by the Department shall be deemed to be representations and not warranties.
- 3.4.0 Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, corporation, or other entity, other than the Parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of this Agreement.
- 3.5.0 The terms, provisions, representations, and warranties contained in this Agreement shall survive performance hereunder.

ARTICLE IV: LEGAL AUTHORITY TO PERFORM

- 4.1.0 The Contractor represents that the Contractor possesses the legal authority to perform Project Services in accordance with the terms and conditions of this Agreement.
- 4.2.0 The Contractor shall maintain appropriate corporate and/or legal authority, which shall include but is not limited to the maintenance of an administrative organization capable of delivering Project Services in accordance with this Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which the Project Services are to be delivered.
- 4.3.0 The Contractor shall provide the Department with immediate notice in writing of the initiation of any legal action or suit which relates in any way to this Agreement or which may affect performance of the Contractor's duties under this Agreement.

ARTICLE V: PROJECT SERVICES

- 5.1.0 During the term of this Agreement, the Contractor will be responsible for the performance of those services/tasks as described herein this Article V, "Project Services", of this Agreement and any and all other Project Services as referenced in the IFB.
- 5.2.0 During the Implementation Phase of the Project, the Contractor must:
- 5.2.1 designate a Contract Officer to serve as the primary contact between the Parties during the entire term of the Agreement. This individual shall be responsible for 1) overseeing the Contractor's and the Contractor's Project Teams performance under the Agreement, 2) serving as the Contractor's liaison with the Department in order to resolve day-to-day operational difficulties; and 3) providing timely responses (one Business Day) to administrative concerns and inquiries posed by the Department;
 - 5.2.2 maintain an organization of sufficient size with the skills and experience necessary to administer, manage and oversee all aspects of the Project during the Implementation Phase, as well as during Ongoing Operations;
 - 5.2.3 undertake and complete all Project implementation activities no later than September 30, 2010, such that the Ongoing Operation Phase of the Project commences on October 1, 2010;
 - 5.2.4 establish and maintain throughout the term of the Agreement, at least two (2) lockboxes with the United States Postal Service (USPS) in New York State, preferably in Albany, NY (one lockbox is for the collections of enrollee payments the second lockbox is for the collection of agency payments); and
 - 5.2.5 if selected, supply the Department with the addresses of the lockboxes no later than August 15, 2010.
- 5.3.0 Throughout the term of the Agreement, the Contractor must
- 5.3.1 be in compliance with applicable federal and New York State statute, rules and regulations for banking institutions;
 - 5.3.2 keep DCS informed of pending State/Federal legislation affecting banking services in a timely manner;
 - 5.3.3 provide advice and recommendations regarding Project Services, including but not limited to technological improvements and innovation, with the understanding that DCS is under no obligation to act on such advice or recommendations;
 - 5.3.4 have quality control procedures in place to assure accuracy and timeliness in processing receipts;
 - 5.3.5 be able and willing to modify existing procedures/reports and/or develop new procedures/reports in cooperation with DCS; and
 - 5.3.6 with regard to, the electronic transfer of data:

- i. be capable of receiving and transmitting data in a secure electronic format and on a schedule mutually agreed upon by the Contractor and the Department;
- ii. be able to transmit data in the formats required by the file layouts presented in IFB, Appendices P through S;
- iii. maintain a HIPAA compliant level of security to protect the confidentiality of information on the Contractor's computer system and in the Contractor's physical work environment; and
- iv. have a disaster recovery plan in place to reasonably ensure the continued delivery of Project Services in the case of an unforeseen event, including but not limited to a disaster or emergency.

5.4.0 Throughout the Ongoing Operational Phase of the Project, the Contractor:

- 5.4.1 will be solely responsible for the timely and accurate processing of items received through the lockboxes;
- 5.4.2 must retrieve all of the items in the lockboxes by 12:00 pm (noon) on each Business Day;
- 5.4.3 must process all lockbox items on the Business Day they are retrieved from the lockbox;
- 5.4.4 must be capable of processing and depositing an anticipated monthly volume of 11,000 receipts per month on the same Business Day as they are retrieved from the lockbox. (Note: [Appendix M](#) provides an average of the daily receipts for the most recent fiscal year and a two month count of transactions for the two lockboxes that are currently utilized.); and
- 5.4.5 must adhere to Lockbox Processing Procedures Guidelines as outlined in IFB, [Appendix L](#).

5.5.0 Throughout the Ongoing Operational Phase of the Project, the Contractor:

- 5.5.1 shall on each Business Day, between the hours of 10:00 a.m. and 1:00 p.m. ET, using a courier service provided by the Contractor or overnight delivery (at the discretion of DCS):
 - pick-up non-lockbox deposits from the Department; and
 - deliver to EBD the following items:
 - all items that are deemed Unprocessable; and
 - deposit slip for the prior Business Day's non-lockbox deposits;
- 5.5.2 shall accurately process and deposit all of the non-lockbox deposits picked up from the Department on the day they are picked up; and
- 5.5.3 shall a work with the Department to provide Remote Deposit functionality, if during the term of the Agreement, the Department decides to adopt and implement such practices.

5.6.0 Throughout the Ongoing Operational Phase of the Project, the Contractor:

- 5.6.1 shall post all deposits on the Business Day retrieved/received and make funds available within one (1) Business Day of deposit;
- 5.6.2 must cooperate with the Department and any other contractor if the Department, during the term of the Agreement, decides to accept premium payments online. (Offerors are advised that during the term of the Agreement, the Department may wish to offer NYSHIP enrollees and agencies the option to pay premiums via various online services.);
- 5.6.3 be able to accept and accurately process wire transfers from PAs/PEs (Occasionally an Agency makes payment via wire transfer vs. by check, the Department anticipates that this will continue during the term of the Agreement, the anticipated volume is less than 200 per year);
- 5.6.4 be able to process checks that arrive at the lockbox without remittance advice documents but with an account number on the check; and

5.7.0 Throughout the Ongoing Operational Phase of the Project, the Contractor must:

- 5.7.1 make available various reports of payment transaction deposits as required by DCS for its use in the review, management, and analysis of the payment transactions;
- 5.7.2 verify the accuracy of all reports produced, regardless of the medium;
- 5.7.3 make available reports available in an electronic format, mutually agreed upon between the Contractor and the Department and in a format that allows DCS to load the reports to its mainframe or PC based computer system and to print the reports, as needed;
- 5.7.4 must make available separate files for each of the two (2) lockboxes; and
- 5.7.5 must make available the following daily and monthly reports/files as specified below:
 - (a) Daily Reports/Files:
 - i. Payment Detail Transaction File - The Contractor must provide, in a format acceptable to the Department, a Payment Detail Transaction File for lockbox and non-lockbox payments combined for each of the payment types (enrollee and agency). The Payment Detail Transaction File must be electronically transmitted to DCS, or be available to retrieve from the Contractor using a secure internet connection by 8:00 p.m. ET on the day of the deposit. Refer to [Appendix P](#) - Enrollee Lockbox Reporting Specifications and [Appendix Q](#) - Agency Lockbox Reporting Specifications.
 - ii. Payment Detail Transaction Report - The Contractor must provide, in a format acceptable to the Department, a Payment Detail Transaction Report for lockbox and non-lockbox payments combined for each of payment types (enrollee and agency). The Payment Detail Transaction Report must be provided within one (1) Business Day of deposit. The reports can be made

available through a secure internet connection or transmitted electronically in a secure format to DCS. Preference is for the reports to be Microsoft Excel format. The report should include functionality to allow the sorting/searching on the unique fields of each transaction. Refer to [Appendix R](#) for report specifications.

- iii. Daily Balance Report - The Office of State Comptroller (OSC), Cash Management Unit requires on-line access using a secure internet connection to the account for previous day balance reporting and funds transfer capabilities. Balance reporting must include ledger balance, available balance, and previous day detailed activity; the reporting must be available in BAI2 format. The report must be available by 10 a.m. ET the Business Day following the day of deposit.
 - iv. Imaged Payment Remittance Forms, Checks and Correspondence File - The Contractor must image and store each individual payment remittance form, check and any correspondence, including envelopes (where an address change is indicated). The Contractor must make available to DCS the capability to search and download online using a secure internet connection for specific individual payment remittance forms/payments/correspondence, view and print the imaged payment remittance form/check/correspondence. Imaged documents must be available to retrieve online for the entire duration of the Agreement plus one (1) full year after the termination of the Agreement. The images must be made available the day after they are imaged.
- (b). Monthly Reports
- i. Transaction Summary Report - The Contractor must provide, in a format acceptable to the Department, a Transaction Summary Report of daily deposits for each lockbox within five (5) Business Days from the end of the month. The reports can be made available using a secure internet connection or transmitted electronically in a secure format to DCS. Preference is for the reports to be Microsoft Excel format. The report should include functionality to allow the sorting/searching on the unique fields of each transaction. Refer to [Appendix S](#) for report specifications.
 - ii. Account Analysis Statement - The Office of State Comptroller (OSC), Cash Management Unit requires on-line access to a monthly account analysis statement using a secure internet connection itemizing all charges with volume and detailed unit costs; the statement must be provided in an 822 electronic account analysis format.

5.5.0 Performance Guarantees

5.5.1 Implementation Guarantee

The Contractor guarantees that all implementation activities will be completed no later than September 30, 2010 and agrees to pay to the DCS a penalty of \$1,250 per day and further agrees to pay the sum of the penalty amounts established for Performance Guarantees 5.5.2 through 5.5.7, below, for each day after September 30, 2010 that all implementation activities are not completed.

5.5.2 Lockbox Retrieval Guarantee

The Contractor guarantees that by 12:00 pm (noon) of each Business Day all of the items in the DCS's lockboxes will be retrieved from the lockboxes and agrees to pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Contractor also agrees that failure to meet this performance guarantee does not relieve the Contractor of its responsibility to satisfy the associated Business Day's performance guarantees 5.5.3, 5.5.5, and 5.5.6, below.

5.5.3 Lockbox Processing Guarantee

The Contractor guarantees that all items retrieved from the lockboxes will be processed on the Business Day that they are retrieved and agrees to pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Contractor also agrees that failure to meet this performance guarantee does not relieve the Contractor of its responsibility to satisfy the associated Business Day's performance guarantees 5.5.5 and 5.5.6, below.

5.5.4 Courier Pickup Guarantee

The Contractor guarantees that each Business Day deposits from EBD will be picked up between the hours of 10:00 a.m. and 2:00 p.m. ET and agrees to pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Contractor also agrees that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantees 5.5.5 and 5.5.6, below.

5.5.5 Deposit Guarantee

The Contractor guarantees that all deposits retrieved by 12:00 pm (noon) from the lockboxes and all deposits received from EBD via courier will be posted on the Business Day retrieved or received, as applicable and agrees to pay to the DCS a penalty of \$125 each time the Contractor fails to fully meet this guarantee. The Contractor also agree that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantee 5.5.6, below.

5.5.6 Deposited Funds Availability Guarantee

The Contractor guarantees that all funds deposited are available within 24 hours of deposit for transfer into the State treasury and agree that the Contractor shall pay to the DCS a penalty of \$125 each day the Contractor fails to fully meet this guarantee.

5.5.7 Electronic Files Availability Guarantee

The Contractor guarantees the availability of daily Business Day electronic files for retrieval by 6:30 pm ET for each lockbox and non-lockbox deposit giving daily item counts and monetary totals in an EDP format that enables DCS to load information to its mainframe or PC based computer system and agrees to pay to the DCS a penalty of \$125 for each time the Contractor fails to fully meet this guarantee.

ARTICLE VI PUBLICITY

- 6.1.0 Neither the Contractor nor any of its officers, directors, employees, subsidiaries affiliates, partners, agents or Key Subcontractors, shall at any time, either during the term of or after completion or termination of this Agreement, make any statement to the press or issue any

material for publication through any media of communication bearing on the services performed or data collected under this Agreement, without prior written approval of the Department, unless otherwise required by law.

- 6.2.0 If pursuant to this Article VI, "Publicity", of this Agreement, the Contractor publishes a work related to any aspect of performance under this Agreement, or the results and accomplishments attained in such performance, the Department shall have, in addition to any rights and remedies it may have under this Agreement and at no additional cost to the State, a perpetual, royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication.
- 6.3.0 Neither Party grants the other the right to use any of its trademarks, trade names, logos, seals, or other designations, whether in any promotion, publication, or otherwise, without the other Party's prior written consent.

ARTICLE VII: PAYMENT FOR SERVICES

- 7.1.0 The DCS agrees to reimburse the Contractor in accordance with the provisions of the IFB, in particular IFB, [§4.04](#), IFB, [Appendix B](#), Article 41, and IFB, [Exhibit R](#), at the fees/rates as proposed by the Contractor in its Proposal for Project Services as rendered and, assuming the Department chose to implement one or more of the Optional Service as proposed by the Contractor in its Proposal, such Optional Service(s) as rendered.
- 7.2.0 The State of New York is not liable for any cost incurred by the Contractor in preparation for or prior to the approval of an executed contract by the Comptroller of the State of New York.

ARTICLE VIII: NOTICES

- 8.1.0 All notices permitted or required hereunder shall be in writing and shall be transmitted either:
- (a) via certified or registered United States mail, return receipt requested;
 - (b) by facsimile transmission;
 - (c) by personal delivery;
 - (d) by expedited delivery service; or
 - (e) by e-mail.

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

State of New York Department of Civil Service

Name: (TBD)
Title: (TBD)
Address: (TBD)
Telephone Number: (TBD)
Facsimile Number: (TBD)
E-Mail Address: (TBD)

Contractor

Name: (TBD)
Title: (TBD)
Address: (TBD)

Telephone Number: (TBD)
Facsimile Number: (TBD)
E-Mail Address: (TBD)

- 8.2.0 Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- 8.3.0 The Parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other Party sent in accordance herewith. The Parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the Parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

ARTICLE IX: MODIFICATION OF REQUIRED SERVICES

- 9.1.0 In the event that laws or regulations enacted by the federal government and/or the State of New York have an impact upon the conduct of this Agreement in such a manner that the DCS determines that any requirements of this Agreement must be revised, the DCS shall notify the Contractor of any such revisions and shall provide the Contractor with a reasonable time within which to implement such revisions.
- 9.2.0 In the event that the State and its public employee unions enter into collective bargaining agreements that have an impact upon the conduct of this Agreement in such a manner that the DCS determines that any requirements of this Agreement must be revised, the DCS shall notify the Contractor of any such revisions and shall provide the Contractor with a reasonable time within which to implement such revisions.
- 9.3.0 To the extent that any of the events as set forth in this Article IX, "Modification Of Required Services" of this Agreement shall take place and constitute a material and substantial change in the scope of Project Services which the Contractor is required to perform or deliver under this Agreement, the Contractor may submit a written request to the DCS to initiate review of the fee(s) received by the Contractor for Project Services provided under the terms of this Agreement, accompanied by appropriate documentation as may be required by the DCS. The DCS reserves the right to review such request within a reasonable period of time and in its sole discretion make a written determination as to whether such request shall be approved or rejected. Should the DCS approve the Contractor's request to modify the fee(s), such approval shall be subject to written amendment and approval by the Office of the State Comptroller.

ARTICLE X: USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

- 10.1.0 For purposes of this Article X, "Use And Disclosure Of Protected Health Information" of this Agreement, the term "Protected Health Information" ("PHI") means any information, including demographic information collected from an individual, that relates to the past, present, or future physical or mental health or condition of an individual, to the provision of health care to an individual, or to the past, present, or future payment for the provision of health care to an individual, that identifies the individual, or with respect to which there is a

reasonable basis to believe that the information can be used to identify the individual. Within the context of this Agreement, PHI may be received by the Contractor from DCS or may be created or received by the Contractor on behalf of DCS. All PHI received or created by the Contractor as a consequence of its performance under this Agreement is referred to herein as “DCS’ PHI.”

- 10.2.0 The Contractor acknowledges that the DCS administers on behalf of New York State several “group health plans” as that term is defined in HIPAA’s implementing regulations at 45 CFR 160.103, and that each of those group health plans consequently is a “covered entity” under HIPAA. These group health plans include NYSHIP, which encompasses the Empire Plan as well as participating health maintenance organizations; the Dental Plan, the Vision Plan, and NYPERL, the long term care insurance plan. In this capacity, DCS is responsible for the administration of these “covered entities” under HIPAA. The Contractor further acknowledges that the Contractor is a HIPAA “business associate” of DCS as a consequence of the Contractor’s provision of services to and/or on behalf of DCS within the context of the Contractor’s performance under this Agreement, and that the Contractor’s provision of services may involve the disclosure to the Contractor of individually identifiable health information from DCS or from other parties on behalf of DCS, and also may involve the Contractor’s disclosure to DCS of individually identifiable health information as a consequence of the services performed under this Agreement.
- 10.3.0 Permitted Uses and Disclosures of DCS’ PHI. The Contractor may use and/or disclose DCS’ PHI solely in accordance with the terms of this Agreement. [45 CFR §164.504(e)(2)(i)]. In addition, the Contractor may use DCS’ PHI to provide data aggregation services relating to the health care operations of DCS. [45 CFR §164.504(e)(2)(i)(B)].
- 10.4.0 Nondisclosure of DCS’ PHI. The Contractor shall not use or further disclose DCS’ PHI otherwise than as permitted or required by this Agreement or as otherwise required by law. [45 CFR §164.504(e)(2)(ii)(A)].
- 10.5.0 Safeguards. The Contractor shall use appropriate, documented safeguards to prevent the use or disclosure of DCS’ PHI otherwise than as provided for by this Agreement. [45 CFR §164.504(e)(2)(ii)(B)]. The Contractor shall maintain a comprehensive written information security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor’s operations and the nature and scope of its activities, to reasonably and appropriately protect the confidentiality, integrity and availability of any electronic PHI that it creates, receives, maintains, or that it transmits on behalf of the DCS pursuant to this Agreement and shall provide said program to the State, if requested by the State.
- 10.6.0 Reporting of Disclosures. The Contractor shall report to DCS any use or disclosure of DCS’ PHI otherwise than as provided for by this Agreement of which the Contractor becomes aware. [45 CFR §164.504 (e)(2)(ii)(C)]. Further, the Contractor shall report to DCS any security incident of which it becomes aware. “Security incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, or interference with system operations in an information system.
- 10.7.0 Associate’s Agents. The Contractor shall ensure that any agents or subcontractors to whom it provides DCS’ PHI, whether received from DCS or created or received by the Contractor on behalf of DCS, agree to the same restrictions and conditions that apply to the Contractor with respect to DCS’ PHI under this Agreement. [45 CFR §164.504(e)(2)(ii)(D)].

- 10.8.0 Availability of Information to DCS. The Contractor shall make available to DCS such information as DCS may require to fulfill DCS' obligations to provide access to, to provide a copy of, and to account for disclosures with respect to DCS' PHI in accordance with HIPAA and its implementing regulations, including, but not limited to, 45 CFR Sections 164.524 and 164.528. [45 CFR §164.504(e)(2)(ii)(E) and (G)].
- 10.9.0 Amendment of DCS' PHI. The Contractor shall make DCS' PHI available to DCS as DCS may require to fulfill DCS' obligations to amend individuals' PHI pursuant to HIPAA and its implementing regulations, including, but not limited to, 45 CFR Section 164.526. The Contractor shall, as directed by DCS, incorporate any amendments to DCS PHI into copies of such DCS PHI maintained by the Contractor. [45 CFR §164.504(e)(2)(ii)(F)].
- 10.10.0 Internal Practices. The Contractor shall make its internal practices, books, and records relating to the use and disclosure of DCS' PHI, whether received from DCS or created or received by the Contractor on behalf of DCS, available to DCS and to the Secretary of the U.S. Department of Health and Human Services for purposes of determining the Contractor's compliance with HIPAA and its implementing regulations. [45 CFR §164.504(e)(2)(ii)(H)].
- 10.11.0 Disposition of DCS' PHI. At the time this Agreement is terminated, the Contractor shall, if feasible, return or destroy all of DCS' PHI, whether received from DCS or created or received by the Contractor on behalf of DCS, that the Contractor still maintains in any form and retain no copies of such information. Alternatively, if such return or destruction is not feasible, the Contractor shall extend indefinitely the protections of this Agreement to the information and shall limit further uses and disclosures to those purposes that make the return or destruction of the DCS PHI infeasible. [45 CFR §164.504(e)(2)(ii)(I)].
- 10.12.0 Termination under HIPAA. This Agreement shall be terminated at the Department's discretion if DCS determines that the Contractor has violated a material term of this Article X, "Use and Disclosure of Protected Health Information" of this Agreement with respect to the Contractor's obligations under this Article X, "Use And Disclosure Of Protected Health Information" of this Agreement. [45 CFR §164.504(e)(2)(iii)].

ARTICLE XI: NOTICE TO STATE

- 11.1.0 The Contractor shall immediately notify the State upon learning of any situation that can reasonably be expected to adversely affect the delivery of Project Services under this Agreement. If such notification is verbal, the Contractor shall submit to the State a written description of the situation and a recommendation for its resolution within seven (7) Business Days of learning of the situation. Notice shall be provided consistent with Article 9 of Appendix B.

ARTICLE XII: SUSPENSION OF WORK

- 12.1.0 Notwithstanding any other provision of this Agreement, DCS reserves the unconditional right to suspend any or all activities under this Agreement, at any time, with or without cause and in the best interests of the State or DCS. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze on State spending, declaration of emergency, or other such circumstances. Upon issuance of such notice, the Contractor shall comply with the suspension order. Activity may resume at such time as DCS

issues a formal written notice either authorizing a resumption of work or providing notice of the Department's intent to pursue the DCS's rights pursuant to Article XVII, "Termination" of this Agreement.

ARTICLE XIII: GENERAL PROVISION AS TO REMEDIES

13.1.0 The Parties may exercise their respective rights and remedies at any time, in any order, to any extent, and as often as deemed advisable, without regard to whether the exercise of one right or remedy precedes, concurs with or succeeds the exercise of another. A single or partial exercise of a remedy shall not preclude a further exercise of the right or remedy or the exercise of another right or remedy from time to time. No delay or omission in exercising a right or remedy, or delay, inaction, or waiver of any event of default, shall exhaust or impair the right or remedy or constitute a waiver of, or acquiescence to, an event otherwise constituting a breach or default under this Agreement.

13.2.0 In addition to any other remedies available to DCS under this Agreement, DCS has the following additional remedies which may include, but are not limited to, the following:

13.2.1 The right for DCS to withhold payment of some or all of the amounts due and owed under this Agreement until Contractor's performance is brought within the specified parameters.

13.2.2 The application of credits against amounts due and owed by DCS under this Agreement.

ARTICLE XIV: COOPERATION WITH INVESTIGATIONS AND AUDITS

14.1.0 In addition to the Audit Authority requirements specified in Appendices A and B to this Agreement, the Contractor agrees to cooperate with DCS, any other authorized State or Federal Department, and any law enforcement authority, in the investigation, documentation and litigation of any alleged illegal act, misconduct or unethical behavior related to the IFB and/or Agreement, or in connection with any audit.

ARTICLE XV: WARRANTIES

15.1.0 Where Contractor generally offers additional or more advantageous warranties than set forth below, Contractor shall offer or pass through any such warranties to the State. A breach of any provision of this Article XV, "Warranties" of this Agreement shall be deemed a "material breach" for purposes of default under this Agreement. Contractor hereby warrants and represents:

15.1.1 Representations and Warranties. That Contractor assumes responsibility for the cost and timely accomplishment of all obligations and duties required by this Agreement whether or not the Contractor, or Key Subcontractors, performs such obligations or duties. Project Services rendered by the Contractor shall be performed in accordance with all the terms and conditions, covenants, statements and representations contained in this Agreement, including all appendices.

15.1.2 Workmanship Warranty. That during the term of this Agreement, Contractor will provide the necessary levels of qualified personnel to ensure proper performance by Contractor of its obligations and responsibilities under this Agreement. Contractor

warrants that it performs Project Services using a professional and workmanlike manner, in accordance with highest applicable industry standards. For purposes of this Agreement, “highest applicable industry standards” shall be defined as the degree of care, skill, efficiency, and diligence that a prudent person possessing expertise in the subject area and acting in a like capacity would exercise in similar circumstances.

- 15.1.3 Contractor Compliance. To pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees and give all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under this Agreement. Prior to award and during this Agreement term and any extension thereof, Contractor must establish to the satisfaction of DCS that it meets or exceeds all requirements of this Agreement and any applicable laws, including but not limited to, permits, insurance coverage, licensing, proof of coverage for workman’s compensation (see IFB, [Appendix I](#)), and shall provide such proof as required by DCS. Failure to do so may constitute grounds for DCS to cancel or suspend this Agreement, in whole or in part, or to take any other action deemed necessary by DCS.

- 15.2.0 Survival of Warranties. All warranties contained in this Agreement shall survive the termination of this Agreement.

ARTICLE XVI: DATA SHARING AND OWNERSHIP

- 16.1.0 All information, materials and other data (i.e., data) provided to the Contractor by the Department or the Department’s agents and/or contractors is being provided to the Contractor solely for the purposes of allowing the Contractor to fulfill its duties and responsibilities under the Agreement and said materials are the sole property of the State. Except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law, the Contractor shall not share, sell, release, or make the materials available to third parties in any manner without the prior consent of the Department. This provision shall survive the expiration or termination of the Agreement.
- 16.2.0 Within thirty (30) days after the termination or expiration of the Contract for any reason, the Contractor agrees to return to the Department all data provided to the Contractor by the Department or the Department’s data providers or, if return is not feasible, destroy any and all such data. In the event returning or destroying such data is not feasible, the Contractor shall provide written notification to the Department of the conditions that make the return or destruction not feasible, in which case, the Contractor must continue to protect such data in perpetuity.

ARTICLE XVII: TERMINATION

In addition to the termination provisions specified in Appendices A and B to this Agreement, the following provisions shall apply:

- 17.1.0 The State retains the right to cancel this Agreement without cause and in its sole discretion, provided that the Department shall give written notice to the Contractor not less than thirty (30) Days prior to the date upon which termination shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand delivered. The date of

such notice shall be deemed to be the date of postmark in the case of mail or the date of hand delivery. This provision should not be understood as waiving the State's right to terminate this Agreement for cause or to stop work immediately for unsatisfactory work, but is supplementary to that provision.

- 17.2.0 If the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the State, in its sole discretion, may terminate this Agreement for cause or may exercise such other remedies as shall be available under this Agreement, at law and/or equity.
- 17.3.0 No delay or omission to exercise any right, power or remedy accruing to the State or DCS upon breach or default by the Contractor under this Agreement shall impair any such right, power or remedy, or shall be construed as a waiver of any such breach or default, or any similar breach or default thereafter occurring, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.
- 17.4.0 In the event of the Contractor's default, in addition to availing itself of specific remedies set forth in this Agreement, the State may pursue all legal and equitable remedies for breach. In addition to pursuing any other legal or equitable remedies, the State shall have the right to take one or more of the following actions:
- 1) terminate this Agreement in whole or in part;
 - 2) suspend, in whole or in part, payments due Contractor under this Agreement; and
 - 3) pursue equitable remedies to compel Contractor to perform.

The Contractor shall be liable for any and all excess costs for remedies pursued by the State, and for costs incurred by the State in procuring alternate Services.

- 17.5.0 For Violation of Procurement Lobbying Law. DCS reserves the right to terminate this Agreement for cause in the event it is determined by DCS in its sole discretion that the certification filed by the Contractor in accordance with §139-j and/or §139-k of the New York State Finance Law was intentionally false or intentionally incomplete. Upon such finding, DCS may, at its sole option, exercise its termination right by providing 10 days written notification to the Contractor, or providing notice in accordance with other written notification terms in this Agreement.
- 17.6.0 For Violation of Section 5-a of the Tax Law. DCS reserves the right to terminate this Agreement for cause in the event that Contractor fails to file a certification pursuant to section 5-a of the Tax Law or the Tax Department or OFT discovers that the certification(s) filed by the Contractor pursuant to section 5-a of the Tax Law is/are false. Upon such finding(s), DCS may exercise its termination right by providing written notification to the Contractor.
- 17.7.0 Termination Notice. Notices required by this section shall be provided consistent with Article 9 of Appendix B.

17.8.0 Mitigation of Costs. The Contractor shall not undertake any additional or new contractual obligations on or after the date of return receipt notice without the prior written approval of the State. On or after the date of return receipt notice and during the termination notice period, the Contractor shall take all commercially reasonable and prudent actions to close out unnecessary outstanding, existing obligations as economically as possible for the State.

ARTICLE XVIII: MERGERS/ACQUISITIONS

18.1.0 The Contractor's obligations to perform under this Agreement shall not be affected or impaired by any reorganization, consolidation or merger to which the Contractor is, or may become, a party. In any such event, the Contractor shall continue to be bound by, and shall perform under, all terms and conditions set forth herein.

ARTICLE XIX: TRANSITION

19.1.0 The State may require the Contractor to provide uninterrupted Project Services after Agreement termination/expiration as the State deems reasonable and necessary and/or as necessary for the State to comply with all legal requirements for establishing a new contract to continue the provision of Project Services ("Transition Period"). Transition Services, as defined below, shall be governed as follows:

19.1.1 Transition Period. The transition period shall be determined by the State, and Contractor will be notified of the period in writing. The State shall consult with the Contractor prior to making such determination. The State reserves the right to subsequently amend the transition period upon thirty (30) days advance written notice to the Contractor.

19.1.2 No Interruption in Service. At all times during the transition period and unless directed otherwise in writing by the State, the Contractor shall continue all contractual obligations set forth in the Agreement until such time as the State (i) has approved the Contractor's proposed transition plan, and (ii) an orderly transition to the State, a third party, or the successor contractor has been completed pursuant to the approved transition plan. The Contractor shall be required to meet its contractual obligations pursuant to this paragraph notwithstanding the issuance of a termination for cause or convenience by the State.

19.1.3 Transition Plan. Within fifteen (15) days of receipt of a notice of termination or three (3) months prior to the end of the term of the Agreement, whichever event occurs first, the Contractor shall provide for approval by the State a detailed written plan for Transition ("Transition Plan") which outlines, at a minimum, the tasks, milestones and deliverables associated with the smooth transition of Services to the State, a third party or the successor contractor. Contractor agrees to amend the Transition Plan to include all other information deemed necessary by the State.

19.1.4 Contractor Transition Services. "Transition Services" shall be deemed to include Contractor's responsibility for all tasks and services outlined in the Agreement and for transferring in a planned manner specified in the Transition Plan all tasks and services to the State, a third party or the successor contractor. It is expressly agreed between the Parties that the level of service during the transition period shall be maintained in accordance with and shall be subject to all the terms and conditions of

the Agreement, provided, however, that where, during the Transition Period, tasks or services are transitioned to or assumed by the State, a third party or the successor contractor, Contractor shall not be held responsible for the negligent acts or negligent omissions of the State, a third party or the successor contractor or for service degradation resulting from the negligent acts or negligent omissions of the State, a third party or the successor contractor.

- 19.1.5 Compensation for Transition Services. Contractor shall be reimbursed for Transition Services performed during the Transition Period at the rates set forth in the Agreement.
- 19.1.6 State Responsibilities for Transition. The State shall assume responsibility for Transition project management. A project manager responsible for coordinating Transition activities, maintaining the transition task schedule, and approving transition deliverables shall be appointed.

ARTICLE XX: SECURITY RESPONSIBILITIES AND FEDERAL OR STATE DISCLOSURE PROHIBITIONS

20.1.0 The Contractor shall maintain the security, nondisclosure and confidentiality of all information in accordance with the following clauses in performance of its activities under this Agreement. Contractor shall ensure that its personnel, agents, officers and Key Subcontractors, if any are fully aware of the obligations arising under this section and shall take all commercially reasonable steps to ensure compliance. This Agreement may be terminated by the State for cause for a material breach of this Article XX.

20.1.1 Security Responsibilities:

Contractor warrants, covenants and represents that it shall comply fully with all security procedures and policies of the State, which procedures and policies are communicated to the Contractor by DCS during the performance of this Agreement, including but not limited to Article X, "Use And Disclosure Of Protected Health Information" of this Agreement and Department's Information Security Policy (See IFB, [Appendix J](#)). Contractor shall hold the State harmless from any loss or damage to the State resulting from the violation by the Contractor, its officers, agents, employees, and subcontractors, if any of such security procedures or policies resulting from any criminal acts committed by such officers, agents, employees, and subcontractors, while performing services under this Agreement.

20.1.2 Federal or State Disclosure Prohibitions:

In the event that it becomes necessary for Contractor to receive Confidential Information, which Federal or State statute or regulation prohibits from disclosure, Contractor hereby agrees to return or destroy all such Confidential Information that has been received from the State when the purpose that necessitated its receipt by Contractor has been completed. In addition, Contractor agrees not to retain any Confidential Information which Federal or State statute or regulation prohibits from disclosure after termination of this Agreement.

Notwithstanding the foregoing, if the return or destruction of the Confidential Information is not feasible, Contractor agrees to extend the protections of this Agreement for as long as necessary to protect the Confidential Information and to limit any further use of disclosure of that Confidential Information. If Contractor

elects to destroy Confidential Information, it shall use reasonable efforts to achieve the same and notify the State accordingly. Contractor agrees that it will use all appropriate safeguards to prevent any unauthorized use or unauthorized disclosure of Confidential Information, which Federal or State statute or regulation prohibits from disclosure.

Contractor agrees that it shall immediately report to the Department the discovery of any unauthorized use or unauthorized disclosure of such Confidential Information. The State may terminate this Agreement for cause if it determines that Contractor has violated a material term of this Article XX, "Security Responsibilities and Federal or State Disclosure Prohibitions" of this Agreement. The terms of this Article XX, "Security Responsibilities and Federal or State Disclosure Prohibitions" of this Agreement shall apply equally to Contractor, its agents and subcontractors, if any. Contractor agrees that all subcontractors, if any and agents shall be made aware of and shall agree to the terms of this Article XX, "Security Responsibilities and Federal or State Disclosure Prohibitions" of this Agreement.

ARTICLE XXI: RESPONSIBILITY TERMS

- 21.1.0 The Contractor covenants and represents that it has, to the best of its knowledge, truthfully and thoroughly completed Contractor's Vendor Responsibility Questionnaire (hereinafter "Vendor Responsibility Questionnaire") provided to the Contractor by the Department prior to execution of this Agreement. The Contractor further covenants and represents that as of the date of execution of this Agreement, there are no material events, omissions, changes, or corrections to such document requiring an amendment to the Vendor Responsibility Questionnaire.
- 21.2.0 The Contractor shall provide to the Department updates to the Vendor Responsibility Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Vendor Responsibility Questionnaire becomes available.
- 21.3.0 Notwithstanding 21.2.0 hereinabove, the Department reserves the right, in its sole discretion, at any time during the term of this Agreement, (i) to require updates or clarifications to the Vendor Responsibility Questionnaire upon written request, (ii) to inquire about information included in or require information omitted from the Vendor Responsibility Questionnaire, and (iii) to require Contractor to provide such information to the Department within a reasonable timeframe.
- 21.4.0 The Department reserves the right to make a final determination of Contractor's non-responsibility (hereinafter "Determination of Non-responsibility") at any time during the term of this Agreement based on (i) any information provided in the Vendor Responsibility Questionnaire and/or in any updates, clarifications, or amendments thereof; or (iii) the Department's discovery of any other material information which pertains to Contractor's responsibility.
- 21.5.0 If the Department preliminarily determines Contractor to be non-responsible, the Department shall provide written notice to Contractor detailing the reason(s) for the preliminary determination, and shall provide Contractor with an opportunity to be heard.

21.6.0 Upon a Determination of Non-responsibility of Contractor, the Department reserves the right to terminate this Agreement for cause in accordance with the provisions of Article XVII, "Termination" of this Agreement.

ARTICLE XXII: CONFLICTS OF INTEREST

22.1.0 In addition to the Conflict of Interest provision contained in Appendix B to this Agreement, if the Contractor has a conflict of interest based upon its other business relationships which would render the Contractor unable to legally perform the work required under this Agreement, the Department may require that the contractual or employment relationship be terminated. The Contractor shall notify the Department of any such conflict upon becoming aware of such conflict.

22.2.0 The Contractor shall avoid having the provision of services under this Agreement by the Contractor, its employees, subsidiaries, affiliates, partners, agents or Key Subcontractors result in such a conflict of interest, or in the appearance of such a conflict of interest.

22.3.0 The Contractor represents and covenants that it has, and will maintain during the term of this Agreement, quality control systems to prevent such a conflict of interest from occurring, and that it maintains, and will maintain during the term of this Agreement, adequate safeguards to comply with this requirement.

22.4.0 If the Department terminates this Agreement, pursuant to 22.1.0 hereinabove, as a result of the Contractor establishing a new relationship with a third party, the Contractor shall compensate the Department for any and all reasonable, documented, direct costs that the Department incurs to re-procure a new contractor to perform the portion of the services not yet performed by the Contractor as of the effective date of termination and costs attributable to any delays suffered by the Department in the project, in each case to the extent resulting from such termination and re-procurement.

ARTICLE XXIII: ALL LEGAL PROVISIONS DEEMED INCLUDED

23.1.0 It is the intent and understanding of the Parties to this Agreement that each and every provision of law required to be inserted in this Agreement shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is to be deemed to be inserted herein, and if, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this Agreement shall forthwith upon the application of either Party be amended by such insertion so as to comply strictly with the law without prejudice to the rights of either Party hereunder.

ARTICLE XXIV: ENTIRE AGREEMENT

24.1.0 This Agreement and the appendices, exhibits and attachments hereto constitute the entire agreement between the Parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. This Agreement shall not be changed, modified, or altered in any manner except by an instrument in writing executed by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have hereunto signed this Agreement on the day and year appearing opposite their respective signatures.

Agency Code: 08000
Contract Number: _____

Agency Certification: "In addition to the acceptance of this Agreement, I also certify that original copies of this signature page will be attached to all exact copies of this Agreement."

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

Nancy G. Groenwegen
COMMISSIONER

(CONTRACTOR)

By: _____

By: _____

Date: _____

Name: _____

Title: _____

Date: _____

INDIVIDUAL, CORPORATE OR PARTNERSHIP 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:

[Check One, as applicable]

(**If a corporation**): he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(**If a partnership**): he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

Approved as to form: Approved:

Andrew M. Cuomo
ATTORNEY GENERAL

Thomas P. DiNapoli
STATE COMPTROLLER

By: _____

By: _____

Date: _____

Date: _____

SECTION 7 GLOSSARY

Term	Definition
§	means Section.
AG	means the New York State Attorney General's Office.
Agreement or Contract	means the agreement entered into between the Parties resultant from this IFB.
Benefits Option Transfer Period	means the period of time (usually November) of each year when employees and retirees are allowed to change from one health insurance option to another.
Best Value	means the basis for awarding a contract for services to a responsible and responsive Offeror, who can best <i>optimize quality, cost and efficiency</i> .
Business Day	means Monday through Friday, excluding those days which have been designated as NYS Holidays by the Contractor and approved as such by DCS prior to each January 1.
Cash Number	means BATES or other type of numbering system employed to identify individual items within a deposit.
Contract Effective Date	means the date that the Agreement is approved by the New York State Office of the State Comptroller.
Commissioner	means the Commissioner of the New York State Department of Civil Service.
Contractor	means the successful Offeror selected as a result of the evaluation of Offerors' Proposals submitted in response to this IFB and who executes a contract with the Department to provide Project Services.
CSL	means New York State Civil Service Law.
Daily Cash Reports	mean summary of total deposits processed each Business Day.
Day(s)	means calendar days unless otherwise noted.
Department or DCS	means the New York State Department of Civil Service.
Deposit Advice	means notification to EBD of the total amount of checks processed and deposited.
Division	means EBD
DOB	means the New York State Division of the Budget.
EEO	means the Federal Equal Employment Opportunities Act.
Empire Plan	means the experience-rated health plan administered by the NYS Department of Civil Service to provide health insurance benefits for the employees, retirees and eligible dependents of New York State and NYSHIP Participating Agencies and Participating Employers. It has four components, the Medical Program, the Hospital Program, the Managed Mental Health and Substance Abuse Program, and the Prescription Drug Program.
Employee	means Employee, Retiree, Vestee, or Dependent Survivor of a Deceased Employee or Retiree defined as an employee in the regulations of the President of the Civil Service Commission, as amended from time to time.
Employee Benefits Division (EBD)	means the division of the New York State Department of Civil Service responsible for administering the New York State Health Insurance Program (NYSHIP).
Employee ID (EMPLID)	means the unique identifying code of an enrollee (i.e., Enrollee's account number).
Enrollee	means an employee, retiree, former employee, or dependent who elects to participate in one or some of the benefit programs administered by the Department of Civil Service.
ET	means prevailing Eastern Time.
GOER	means the New York State Governor's Office of Employee Relations.
HMO	means one of the health maintenance organizations which participate in the New York State Health Insurance Program.

Term	Definition
Key Subcontractor(s)	means those vendors with whom the Contractor subcontracts to provide all or part of the Project Services set forth in IFB §3.01 .
Lockbox	means a post office box assigned to receive payments.
MWBE	means Minority- and Women-Owned Business Enterprises.
New York State Health Insurance Program (NYSHIP)	means the health insurance program established by NYS to provide health insurance protection to employees, retirees and eligible dependents of New York State and participating agencies and participating employers. The program is administered by the NYS Department of Civil Service. NYSHIP provides health insurance coverage through the Empire Plan, Health Maintenance Organizations (HMOs); and the Student Employee Health Plan (SEHP).
Normal Business Hours	means Monday - Friday between the hours of 7:00 a.m. and 5:00 p.m. ET, excepting NYS Holidays that fall on a weekday.
NYBEAS	means the New York Benefits Eligibility & Accounting System, a computerized enrollment system utilized by the Department for the administration of employee benefits.
NYS or State	means the State of New York (including the New York State Department of Civil Service).
NYS Holidays	means: <ul style="list-style-type: none"> • Christmas Day; • Columbus Day; • Election Day; • Independence Day; • Labor Day; • Lincoln's Birthday; • Martin Luther King Day; • Memorial Day; • New Year's Day; • President's Day; • Thanksgiving Day; and • Veteran's Day.
Offeror	means any responsible and eligible entity submitting a responsive Proposal to this IFB. It shall be understood that references in the IFB to "Offeror" shall include said entity's proposed Key Subcontractor, if any.
OSC	means the New York State Office of the State Comptroller.
Participating Agency (PA)	means any unit of local government such as school districts, special districts, or district or municipal corporations that elects with the approval of the President of the Civil Service Commission, to participate in the New York State Health Insurance Program. Examples of PAs are: Clinton County; East Meadow Public Library; and the Central Islip Union Free School District.
Participating Employer (PE)	means any public authority, public benefit corporation, or other agency subdivision or quasi-public organization of the State that elects, with the approval of the President of the Civil Service Commission, to participate in the New York State Health Insurance Program. Examples of PEs are: the NYS Thruway Authority and the Dormitory Authority.
Payment	means check or money order.
Pay Period	means the day that employees receive biweekly salary checks from their employer, either a state agency or other governmental unit. The majority of State employees are paid every other Wednesday.
Pending Account	means the checking account for the Health Insurance Program and the Life Insurance Program, as applicable. Funds of this account must be available within twenty-four (24) hours for transfer into the State Treasury.
Plan	means the Empire Plan.

Term	Definition
Plan Year	means the period from January 1 to December 31 of each year, unless specified otherwise by the Department.
President	means the President of the Civil Service Commission and the Commissioner of the Department.
Processable	means any check or money order received in the lockbox that can be deposited per the provisions of the Agreement.
Project or Project Services	means the entire scope of services to be provided by the Contractor pursuant to the terms and conditions of the Agreement.
Proposal or Submissions	means the Offeror's Proposal, submitted in response to the IFB including all responses to supplemental requests for clarification, information, and documentation.
Regulations of the President of the Civil Service Commission	means those regulations promulgated by the President of the Civil Service Commission under the authority of Civil Service Law, Article XI, as amended, and including but not limited to those regulations found at 4 New York Code of Rules and Regulations (NYCRR) Part 73, as amended.
Rejected Checks	means checks that cannot be deposited.
Remittance Form	means document or billing invoice accompanying the payment.
Restrictively Endorsed	means payment that may only be deposited into the EBD checking account.
IFB or Procurement	means the Invitation for Proposals entitled "Banking Services", dated May 3, 2010
Scan Line	means numeric identification on the bottom of the check.
Student Employee Health Plan (SEHP)	means a health insurance plan for graduate student employees of the New York State University and the New York City University systems that provides benefits through the various Empire Plan Insurance Contracts.
Third Party Check	means the payee is other than an EBD pending account.
Unprocessable	means any check or money order received in the lockbox that can not be deposited per the provisions of the Agreement.

Attachment 1 OFFEROR'S AFFIRMATION OF UNDERSTANDING AND AGREEMENT**Attachment 1 – Page 1 of 3**

Part 1 of this Attachment 1, as contained on the following page, should be completed by the Offeror and emailed, faxed and/or mailed to the Banking Services Procurement Manager as set forth in IFB, [\\$2.01.1](#).

Part 2 of this Attachment should, prior to initiating any contact with the Department, be completed for each Offeror officer, employee, agent or consultant retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regards to this Procurement and submit it to the Banking Services Procurement Manager specified in IFB, [\\$2.01.1](#).

Attachment 1 – Part 1**Offeror's Affirmation of Understanding and Agreement****Instructions:**

Pursuant to State Finance Law §§139-j and 139-k, this solicitation imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the procurement's "Restricted Period" (from the issuance of the solicitation document until the date of the contract's final approval by the State Comptroller) to other than designated staff, unless the contact falls within certain statutory exceptions ("permissible contacts"). DCS employees are required to obtain certain information from Offerors and others whenever there is a contact about the procurement during the Restricted Period, and are required to make a determination of the Offeror's responsibility that addresses the Offeror's compliance with the statutes' requirements. Findings of non-responsibility result in rejection for contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding. Further information about these requirements can be found at:

<http://www.ogs.state.ny.us/aboutOGS/regulations/defaultAdvisoryCouncil.html>.

As a prerequisite for participating in this procurement, an Offeror must provide the following Affirmation of Understanding and agreement to comply with these procurement lobbying restrictions in accordance with State Finance Law §§139-j and 139-k.

Offeror Affirmation and Agreement

The Offeror affirms that it understands the procurement lobbying requirements set forth in State Finance Law §§139-j and 139-k, and agrees to comply with the DCS' procedures regarding permissible contacts as required thereby.

Name of
Offeror:

By:

(Signature)

Name:

Title:

Address:

Date:

Attachment 1 – Part 2

Offeror Designated Contact	
First Name	
Last Name	
Company Name	
Company Address:	
Street Address	
City	
State	
Zip	
Individual's Business Telephone # (xxx) xxx-xxxx	
Principal Place of Business (1)	
Individual's Occupation	

(1) Enter the location of the individual's Principal Place of Business (e.g. Albany, NY)

Complete the table above for each Offeror officer, employee, agent or consultant retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regards to this Procurement, prior to the individual initiates any contact with the Department, and submit it to the Banking Services Procurement Manager specified in [§2.01.1](#) of the IFB.

Attachment 2 NOTICE OF BIDDING INTENTION FORM**Attachment 2 – Page 1 of 1**

**NYS Department of Civil Service
IFB No. 2010Banking,
"Banking SERVICES"**

Notice of Bidding Intention Form

--

(Please PRINT Firm's Name Above)

With regard to this IFB, (check one of the following):

☐ We **ARE INTERESTED & MAY** submit a bid response.

☐ We **ARE NOT INTERESTED & WILL NOT** be submitting a bid response because:

Name of Contact at Firm

Title

_____/_____/_____
Date

Complete the table above and submit it to the Banking Services Procurement Manager specified in IFB, [§2.01.1](#). The completed table may be emailed, faxed and/or mailed (see addresses provided in IFB, [§2.01.1](#)).

Attachment 3 QUESTION TEMPLATE**Attachment 3 – Page 1 of 1**

**NYS Department of Civil Service
IFB No. 2010Banking,
“Banking SERVICES”**

Questions Template

Question Number	IFB Page #	Section and Sub-Section Reference	Question

Offerors are requested to use the Question Template table above in submitting questions. Offerors' questions must be submitted to the Banking Services Procurement Manager at the address specified in IFB, [§2.01.1](#), with an electronic copy of the Offeror's questions sent to the Banking Services Procurement Manager's attention at the email address provided therein.

APPENDIX A Standard Clauses for NYS Contracts**TABLE OF CONTENTS**

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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 previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

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

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State

citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

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

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

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State

department or Department, 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 Department, 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 Department or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

(2) The personal information is requested by the purchasing unit of the Department contracting to purchase the goods or services or lease the real or personal property covered by this contract or

lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting Department 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 Department; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting Department is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

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

(b) at the request of the contracting Department, the Contractor shall request each employment Department, 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 Department, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

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

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

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

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

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

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

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

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

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

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles

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

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

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

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

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

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

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

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS.

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

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

APPENDIX B Standard Clauses for All Department Contracts**STANDARD CLAUSES FOR ALL DEPARTMENT CONTRACTS****TABLE OF CONTENTS**

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41.	CONTRACT PAYMENT

1. INTEGRATION

The contract executed between the Department and the Contractor (or Purchase Order issued by the Department) is hereinafter referred to as this Agreement. This Agreement, including all Exhibits and Appendices, copies of which are attached hereto, and incorporated herein by reference, constitutes the entire agreement between the Parties. All prior agreements, representations, statements, negotiations and undertakings are superseded hereby.

All statements made by the Department shall be deemed to be representations and not warranties.

2. EXECUTORY PROVISION

Section 112 of the State Finance Law requires that any contract made by a State department which exceeds fifty thousand dollars (\$50,000) in amount be first approved by the Comptroller of the State of New York before becoming effective. The Parties recognize that, if this Agreement is for fifty thousand dollars or more, it is wholly executory until and unless approved by the Comptroller of the State of New York.

3. CHOICE OF LAW

The Parties agree that this Agreement shall be interpreted according to the laws of the State of New York, except where the federal supremacy clause requires otherwise. The Contractor shall be required to bring any legal proceeding against the Department arising from this Agreement in New York State courts located in Albany County.

4. DISPUTE RESOLUTION

Except as otherwise provided in this Agreement, any dispute raised by the Contractor concerning any question of fact or law arising under this Agreement which is not disposed of by mutual agreement of the Parties shall be decided initially by the designee of the President of the Civil Service Commission (President). A copy of the written decision shall be furnished to the Contractor. The Parties shall proceed diligently with the performance of this Agreement and shall comply with the provisions of such decision and continue to comply pending further resolution of any such dispute as provided herein. The decision of the designee of the President shall be final and conclusive unless, within ten (10) Days from the receipt of such decision, the Contractor furnishes the President a written appeal. In the event of an appeal, the President shall promptly review the initial decision, and confirm, annul, or modify it. The decision of the President shall be final and conclusive unless, as determined by a court of competent jurisdiction, it violates one of the provisions of Section 7803 of the Civil Practice Law and Rules. Pending final decision of any Article 78 proceeding hereunder, both Parties shall proceed diligently with the performance of this Agreement in accordance with the President's decision.

5. WAIVER OF BREACH

No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. No consent by a Party to, or waiver of, a breach under this Agreement shall constitute a consent to, a waiver of, or excuse for any other, different or subsequent breach.

6. NEW YORK STATE REQUIREMENTS

The Contractor acknowledges that it is bound by the terms of Appendix A, Standard Clauses For All New York State Contracts, which is attached and incorporated by reference to this Agreement.

7. OUTSIDE OF SCOPE

The Contractor agrees that any and all work performed outside the scope of this Agreement shall be deemed to be gratuitous and not subject to any charge, cost or payment of any kind.

8. NON-ASSIGNABILITY

Neither the rights nor the obligations of the Contractor under this Agreement may be conveyed, assigned, delegated, or otherwise transferred in any manner whatsoever by the Contractor, either in whole or in part, without the prior written approval of the Department.

9. NOTIFICATION

All notices permitted or required by this Agreement to be given by one Party to the other shall be in writing and shall be transmitted either (1) via certified or registered mail, return receipt requested; (2) by facsimile transmission; (3) by personal delivery; (4) by expedited delivery service; or (5) by e-mail.

10. INDEMNIFICATION

The Contractor agrees to indemnify, defend and save harmless the Department, the State, its officers, agents and employees, for any claims or losses the Department, the State or any individuals may suffer when such claims or losses result from the claims of any person or organization for any and all injuries or damages caused by the negligent acts or omissions of the Contractor, its officers, employees, agents, consultants and/or sub-contractors in performance of this Agreement. Furthermore, the Contractor agrees to indemnify, defend and save harmless the Department and the State, its officers, agents, and employees from any and all claims or losses caused by the acts or omissions of any and all contractors, sub-contractors, consultants and any other persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement and from all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement, and against any loss, damages or actions, including, but not limited to, costs and expenses, for violation of proprietary rights, copyrights, patents, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any material, information or data furnished under this Agreement, or based on any libelous or otherwise unlawful matter contained in such material, information or data, except as otherwise provided in the Article entitled "Patent Copyright or Proprietary Rights Infringement".

The Contractor also shall provide indemnification against all losses, and/or cost expenses (including reasonable counsel fees) that may be incurred by reason of the Contractor's breach of any term, provision, covenant, warranty, or representation contained herein and/or in connection with the enforcement of this Agreement or any provision hereof.

The Department does not agree to any indemnification provisions in any documents attached hereto that require the Department or the State of New York to indemnify or save harmless the Contractor or third parties.

Notwithstanding anything to the contrary in this Agreement, neither the Department nor The Contractor shall be liable to the other for any special, consequential, or punitive damages, or loss of profits or revenues, whether such damages are alleged as a result of tort (including strict liability), contract, warranty, or otherwise, arising out of or relating to either Party's acts or omissions under this Agreement.

11. PATENT, COPYRIGHT OR PROPRIETARY RIGHTS INFRINGEMENT

The Contractor, solely at its expense, shall defend any claim or suit which may be brought against the Department or the State for the infringement of United States patents, copyrights

or proprietary rights arising from the Contractor's or the Department's use of any software, equipment, data, materials and/or information of any kind prepared, developed or furnished by the Contractor in connection with performance of this Agreement and, in any such suit, shall satisfy any final judgment for such infringement. The Department shall give the Contractor written notice for such claim or suit and full right and opportunity to conduct the defense thereof, together with full information and all reasonable cooperation.

If principles of governmental or public law are involved, the State of New York may participate in the defense of any action identified under this Article, but no costs or expenses shall be incurred upon the account of the Contractor without the Contractor's written consent.

If, in the Contractor's opinion, any software, equipment, data, materials and/or information prepared, developed or furnished by the Contractor is likely to or does become the subject of a claim of infringement of a United States patent, copyright or proprietary right, then, without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the Department's prior written approval, substitute other equally suitable software, equipment, materials, data and/or information. In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any software, equipment, materials and/or information under this Agreement infringes on any patent, copyright, or proprietary right, such action shall be forwarded by the Department to the Contractor for defense and indemnification under this Article and to the Office of the Attorney General of the State of New York together with a copy of this Agreement. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the defense and indemnification set forth herein, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York, in writing, and shall specify to what extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of this Agreement. The Contractor shall in such event protect the interests of the State of New York and shall take the steps necessary to secure a continuance to permit the State of New York to appear and defend its interest in cooperation with the Contractor, as is appropriate, including any jurisdictional defenses which the State shall have.

12. DATE/TIME WARRANTY

The Contractor warrants that products furnished pursuant to this Agreement shall be able to accurately process, date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific products and/or services must perform as a package or system, this warranty shall apply to the products and/or services as a system.

Where the Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g. billing, invoicing, claim processing), the Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure, or error due to the inaccuracy of the Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. The Contractor shall be responsible for damages resulting from any delays, errors, or untimely performance resulting there from, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of this Agreement through a) ninety (90) days or b) the Contractor's or product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be

construed to limit any rights or remedies otherwise available under this Agreement for breach of warranty.

13. VIRUS WARRANTY

Licensed Product contains no viruses, either known to the Contractor or which reasonably should have been known to the Contractor exercising due diligence. The Contractor is not responsible for viruses introduced at Licensee's site.

14. TITLE AND OWNERSHIP WARRANTY

The Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Products transferred to the Department under this Agreement. The Contractor shall be solely liable for any costs of acquisition associated therewith. The Department may require the Contractor to furnish appropriate written documentation establishing the above rights and interests as a condition of payment. The Department's request or failure to request such documentation shall not relieve the Contractor of liability under this warranty.

15. USE RESTRICTIONS AND INTELLECTUAL PROPERTY

The Parties agree that all work by the Contractor for the Department is intended as work for hire. The Parties agree that the Contractor's work is specifically ordered and commissioned for use as contributions to a collective work, or is other such work as specified by Section 101(2) of the U.S. Copyright Act [17 U.S.C. 101(2)], and is intended to be a work for hire that is made for the use and ownership of the State of New York and the Department. Furthermore, the Department and the Contractor agree that the State of New York and the Department are the owners of all copyrights regarding the work. The Contractor warrants to the State of New York and the Department that the Contractor, and all of its subcontractors and their employees, who have been, or may be used in regard to this Agreement, forfeits all past or future claims of title or ownership to the work produced.

Materials such as forms and publications used by the Contractor in the course of its performance under this Agreement which have been agreed upon by the Parties as generic materials are specifically excluded from this provision.

16. OWNERSHIP/TITLE TO PRODUCT DELIVERABLES

For purposes of this section, the term "Department" is understood to mean the Department acting on behalf of the State.

(A) Definitions

1. Products:

A deliverable furnished under this Agreement by or through the Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment; b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); c) third party software; d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

2. Existing Products:

Tangible Products and intangible licensed Products which exist prior to the commencement of work under this Agreement. The Contractor retains the burden of proving that a particular product existed before commencement of the Agreement.

3. Custom Products:

Products, preliminary, final or otherwise, which are created or developed by The Contractor, or its subcontractors, partners, employees, or agents under this Agreement for the benefit of the Department.

(B) Title to Project Deliverables

The Contractor acknowledges that it is commissioned by the Department to perform services detailed in this Agreement. Unless otherwise specified in writing in this Agreement, the Department shall have ownership and/or license rights as follows:

1. Existing Products:

a) Hardware - Title and ownership of Existing Hardware Product shall pass to Department upon acceptance.

b) Software - Title and ownership to Existing Software Product(s) delivered by The Contractor under this Agreement which is normally commercially distributed on a license basis by the Contractor or other independent software vendor/proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with the Contractor or other independent software vendor/proprietary owner ("ISV"). Effective upon acceptance, such Product shall be licensed to the Department in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant the Department a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless the Contractor advises the Department as part of the Contractor's bid proposal that adaptation will violate existing agreements or statutes and the Contractor demonstrates such to the Department's satisfaction) and distribute Existing Licensed Product to the Department up to the license capacity stated in the work order with all license rights necessary to fully effect the general business purpose(s) stated in this Agreement and (b) recognize the State of New York as the licensee. Where these rights are not otherwise covered by the ISV's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Department shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph.

2. Custom Products:

Effective upon creation of Custom Products, the Contractor hereby conveys, assigns and transfers to State the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through the Contractor, its agents, employees, or subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under this Agreement in the course of the Contractor's business.

Where payment for Custom Product does not involve COPS or other third party financing, the Department may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of State taking exclusive ownership and title to such Products. In such case, the Department shall be granted a non-exclusive perpetual

license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated herein.

In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value as determined by the Parties at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the State which complies with the terms of this paragraph.

3. Documentation, Data & Reports

The Department shall own title to all documentation, drawings, (e.g., engineering drawings, system diagrams, logic/schematics, plans, reports, training, maintenance or operating manuals), including network design, equipment configurations and other documentation prepared or developed pursuant to this Agreement, whether preliminary, final or otherwise. The Contractor shall deliver to the possession of the Department all work-in-progress documentation as it becomes available, but in no case longer than thirty (30) days after creation.

17. FORCE MAJEURE

Neither Party to this Agreement shall be liable or deemed to be in default for any delay or failure in performance under this Agreement resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, wars, riots, civil disturbances, insurrections, accident, fire, explosions, earthquakes, floods, the elements, acts or omissions of public utilities or strikes, work stoppages, slow downs or other labor interruptions due to labor/management disputes involving entities other than the Parties to this Agreement, or any other causes not reasonably foreseeable or beyond the control of a Party. The Parties are required to use best efforts to eliminate or minimize the effect of such events during performance of this Agreement and to resume performance of this Agreement upon termination or cessation of such events.

18. TIME OF THE ESSENCE

The Department and the Contractor acknowledge and agree that time is of the essence for the Contractor's performance under this Agreement.

19. RIGHTS AND REMEDIES

The rights, duties and remedies set forth in this Agreement shall be in addition to, and not in limitation of, rights and obligations otherwise available at law.

20. FEDERAL AND STATE COMPLIANCE

The Contractor shall ensure that its employment practices comply with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended.

The Contractor shall ensure compliance with the Americans With Disabilities Act (42 USC §2101 et. seq.) such that programs and services provided during the course of performance of this Agreement shall be accessible under Title II of the Americans With Disabilities Act and as otherwise applicable under the Americans With Disabilities Act.

21. TAXES

It shall be understood that the Department, as an agency of the State of New York, is not liable for the payment of any sales, use, excise, or other form of tax however designated, levied or imposed, and shall agree to reimburse the Contractor for same only if taxes would have been incurred through the Department's normal business operations.

22. INDEPENDENT CONTRACTOR

The Parties agree that the Contractor is an independent contractor, and the Contractor, its officers, employees, agents, consultants and/or sub-contractors in the performance of this Agreement shall act in an independent capacity and not as agents, officers or employees of the State or the Department. Neither the Contractor nor any sub-contractor shall thereby be deemed an agent, officer, or employee of the State. The Contractor agrees, during the term of this Agreement, to maintain at the Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Department with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, State, and local taxes, and all FICA contributions.

23. NO THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, corporation, other than the Parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of this Agreement.

24. HEADINGS OR CAPTIONS

The headings or captions contained within this Agreement are intended solely for convenience and reference purposes and shall in no way be deemed to define, limit or describe the scope or intent of this Agreement or any provisions thereof.

25. PARTIAL INVALIDITY

Each Party agrees that it shall perform its obligations under this Agreement in accordance with all applicable federal and State laws, rules, and regulations, policies and/or guidelines now or hereafter in effect. If any term or provision of this Agreement shall be found to be illegal or unenforceable, then, notwithstanding such term or provision, this Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken.

26. CONFLICT OF INTEREST

The Contractor shall ensure that its officers, employees, agents, consultants and/or sub-contractors comply with the requirements of the New York State Public Officers Law ("POL"), as amended, including but not limited to Sections 73 and 74, as amended, with regard to ethical standards applicable to State employees, and particularly POL sections 73(8)(a)(i) and (ii) regarding post-employment restrictions affecting former State employees. Additionally, the Contractor shall ensure that no violation of these provisions will occur by reason of the Contractor's proposal for or negotiation and execution of this Agreement or in its delivery of services pursuant to this Agreement. If, during the term of this Agreement, the Contractor becomes aware of a relationship, actual or potential, which may be considered a violation of the POL or which may otherwise be considered a conflict of interest, the Contractor shall notify the Department in writing immediately. Should the Department thereafter determine that such employment is inconsistent with State law; the Department shall so advise the Contractor in writing, specifying its basis for so determining, and may require that the contractual or employment relationship be canceled. Failure to comply with these provisions may result in suspension or cancellation of this Agreement and criminal proceedings as may be required by law.

The Contractor is required to make full disclosure of any circumstances that could affect its ability to perform in complete compliance with the POL. Any questions as to the applicability of these provisions should be addressed by the Contractor to the New York State Ethics Commission, 540 Broadway, Albany, NY 12207 (518) 408-3976.

27. AUDIT AUTHORITY

The Contractor acknowledges that the Department and the Office of the State Comptroller have the authority to conduct financial and performance audits of the Contractor's delivery of Program Services in accordance with this Agreement and any applicable State and federal statutory and regulatory authorities. Such audit activity may include, but not necessarily be limited to, the review of documentary evidence to determine the accuracy and fairness of all items on the Contractor's submission of claims for payment under this Agreement, and the review of any and all activities relating to the Contractor's administration of this Agreement.

The Contractor shall make available documentary evidence necessary to perform such reviews. Documentation made available by the Contractor may include, but is not limited to, source documents, books of account, subsidiary records and supporting work papers, claim documentation and pertinent contracts and correspondence.

The audit provisions contained herein shall in no way be construed to limit the audit authority or audit scope of the Office of the State Comptroller as set forth in Appendix A of this Agreement - Standards Clauses for All New York State Contracts.

28. CONFIDENTIALITY

All records maintained by the Contractor and relating to this Agreement are confidential and shall be used by the Contractor and its officers, employees, and subcontractors or agents solely for the purpose of carrying out its obligations under this Agreement. Except as directed by a court of competent jurisdiction or as may be permitted or required by applicable New York State or federal law or regulations, no such records may be otherwise used or released to any person by the Contractor, its employees, subcontractors or agents, either during the term of this Agreement or in perpetuity thereafter. Deliberate or repeated accidental breach of this provision may, at the sole discretion of the Department, be grounds for termination of this Agreement.

The Contractor shall promptly advise the Department of all requests made to the Contractor for information regarding the performance of services under this Agreement, including any information provided by the Department, except as required by subcontractors or agents solely for the purpose of carrying out obligations under this Agreement or as required by law.

The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its officers, agents and employees or applicable subcontractors contains a provision that conforms strictly to the provisions of this article.

29. INFORMATION SECURITY REQUIREMENTS

In accordance with the Information Security Breach and Notification Act (ISBNA) (General Business Law §889-aa, State Technology Law §208), Contractor shall be responsible for complying with provisions of the ISBNA and the following terms contained herein with respect to any private information (as defined in ISBNA) received by Contractor under this Project (Private Information) that is within the control of the Contractor either on the Department's information security systems or the Contractor's information security system (System). In the event of a breach of the security of the System (as defined by ISBNA), Contractor shall immediately commence an investigation, in cooperation with the Department, to determine the scope of the breach and restore security of the System to prevent any further breaches. Contractor shall also notify the Department of any breach of the security of the System immediately following discovery of such breach.

Except as otherwise instructed by the Department, Contractor shall, to the fullest extent possible, first consult with and receive authorization from the Department prior to notifying

any individuals, the State Office of Cyber Security and Critical Infrastructure Coordination (CSCIC), the State Consumer Protection Board and the Office of the Attorney General (OAG) or any consumer reporting agencies of a breach of the security of the System or concerning any determination to delay notification due to law enforcement investigations. Contractor shall be responsible for providing the notice to all such required recipients and for all the costs associated with providing such notice. Contractor shall be liable for any other costs associated with noncompliance of ISBNA if caused by the Contractor or Contractor's agents, officers, employees, or subcontractors. Nothing herein shall in any way impair the authority of the OAG to bring an action against the Contractor to enforce the provisions of ISBNA or limit Contractor's liability for any violation of the ISBNA. Additional information relative to the law and the notification process is available at:

<http://www.cscic.state.ny.us/security/securitybreach>

Contemporaneous with the execution of this Agreement, the Contractor and its designees shall execute the Department's Third Party Connection and Data Exchange Agreement and any other protocol required by the Department, and shall ensure its employees, agents and designees complete the related Third Party Acceptable Use Policy and Agreement if applicable, to ensure the security of data transmissions and other information related to the administration of this Agreement. This request may be waived by the Department in its sole discretion.

30. NONDISCLOSURE OF CONFIDENTIAL INFORMATION

Except as may be required by applicable law or a court of competent jurisdiction, the Contractor, its officers, agents, employees, and subcontractors shall maintain strict confidence with respect to any Confidential Information to which the Contractor, its officers, agents, employees, and subcontractors have access in the course of The Contractor's performance under this Agreement. For purposes of this Agreement, all State information of which The Contractor, its officers, agents, employees and subcontractors becomes aware during the course of performing services for the Department shall be deemed to be Confidential Information (oral, visual or written). Notwithstanding the foregoing, information that falls into any of the following categories shall not be considered Confidential Information:

- (a) information that is previously rightfully known to the receiving party without restriction on disclosure;
- (b) information that becomes, from no act or failure to act on the part of the receiving party, generally known in the relevant industry or is in the public domain; and
- (c) information that is independently developed by The Contractor without use of confidential information of the State.

The Contractor shall hold the State and the Department harmless from any loss or damage to the State or the Department resulting from the disclosure by the Contractor, its officers, agents, employees, and subcontractors of such Confidential Information.

The Contractor shall provide for its officers, agents, employees, and subcontractors to acknowledge and execute a nondisclosure agreement containing substantially the terms described in this section, if requested to do so by the Department or the State.

This representation shall survive termination of this Agreement.

31. FREEDOM OF INFORMATION LAW

Disclosure of information and material provided to the Department by the Contractor in the course of the Contractor's performance under this Agreement shall be permitted consistent with the laws of the State of New York, and specifically the Freedom of Information Law

(FOIL), Article 6 of the Public Officers Law. The Department shall take reasonable steps to protect from public disclosure any of the records relating to the Contractor's performance under this Agreement that otherwise are exempt from disclosure under FOIL.

If the Contractor believes that any information or material provided to the Department constitutes trade secret information that should be exempted from FOIL disclosure, the Contractor must, at the time of the materials' submission, request the exemption in writing, specifically identifying the material by page number, line, or other appropriate designation, and provide a particularized explanation as to why the material constitutes trade secret information and how the disclosure of the identified information would cause substantial injury to the Contractor's competitive position. The material sought to be protected from disclosure must be clearly marked in yellow highlighter on a duplicate copy of the submission and may be provided in hardcopy or on a CD. Generically marking all material as "Confidential" will not be considered adequate for the purpose of this section.

The Department's receipt of the Contractor's submission of material and the Contractor's request for protection of the material from FOIL disclosure does not constitute a determination that the information is exempt from disclosure under FOIL. In the event any information or material is requested pursuant to FOIL, the Department will address each party's interests fully in accordance with the procedures required by Article 6 of the Public Officers Law.

32. TERMINATION OF AGREEMENT

In addition to any termination provisions specified elsewhere in this Agreement, the following provisions also shall apply:

The Agreement may be terminated by mutual written agreement of the Parties.

The Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including any exhibits incorporated herein, provided that the Department shall give the Contractor written notice via registered or certified mail, return receipt requested, or hand delivery, such written notice to specify the Contractor's failure and the termination of this Agreement. Termination shall be effective ten (10) Business Days after receipt of such notice unless the Contractor, in the opinion of the Department, has cured such failure. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination. Upon termination for cause, the Department shall have the right to award a new contract to another contractor. Termination for cause shall create a liability upon the Contractor for actual damages incurred and for all reasonable additional costs incurred in reassigning this Agreement.

The Agreement may be terminated if the Department deems that termination would be in the best interest of the State provided that the Department shall give written notice to the Contractor not less than thirty (30) Days prior to the date upon which termination shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand delivered. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of hand delivery.

The Agreement may be terminated immediately in the event the Department determines that funds are unavailable. The Department agrees to provide notice to the Contractor as soon as it becomes aware that funds are unavailable in the event of termination under this paragraph. If the initial notice is via oral notification, the Department shall provide written notice immediately thereafter. The Department shall be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination or received either orally or in writing by the Contractor from the Department.

In the event of termination for any reason, the Contractor shall not incur new obligations for the terminated portion. The Contractor agrees, after consultation with the Department, to cancel such outstanding obligations as the Contractor deems appropriate in the exercise of sound business judgment.

Upon termination of this Agreement each Party shall, if applicable, return to the other all papers, materials, and other properties of the other Party held by each for purposes of performance under this Agreement. In addition, each Party shall assist the other Party in orderly termination of this Agreement and the transfer of all aspects hereof, tangible, and intangible, as may be necessary to ensure the orderly administration of the State program.

33. CONTRACTOR PERSONNEL

The Contractor shall designate an Account Executive, who shall be the contact person for all matters arising under this Agreement.

The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries, and management of its personnel. These functions shall be carried out by the Contractor in accordance with the provisions of this Agreement and with all applicable federal and State laws and regulations.

The Contractor is required to commit key personnel for the administration of all aspects of this Agreement. In the event that any of the key personnel will be or are unavailable for the performance of their duties, the Contractor will designate and propose to the Department an equally qualified alternate with full authority to act for the unavailable key person.

The Contractor shall notify the Department in writing of any changes in the key personnel designated for performance of this Agreement. This shall include any changes in the personnel designated to bind the Contractor.

The Department reserves the right to demand the reassignment or cancellation of assignment to duties under this Agreement of any Contractor personnel so assigned. The Department shall not exercise the authority unreasonably. The Contractor agrees to replace any employees so reassigned or canceled with an employee of equal or better qualifications. If the Department exercises its right under this provision, it agrees to provide written notice to the Contractor setting forth its reasons with specificity.

34. OPERATIONAL CONTACTS

The Contractor shall maintain appropriate corporate and/or legal authority, which shall include, but not be limited to, the maintenance of an administrative organization capable of delivering Program Services in accordance with this Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which these Services are to be delivered pursuant to this Agreement. The Contractor also shall maintain operations, financial and legal staff that shall be directly available to the Department's operations, financial and legal staff, respectively. For purposes of this Agreement, maintenance of such staff and staff availability by the Contractor shall in no way create any agency relationship between the Department and the Contractor.

The Contractor acknowledges and agrees that no aspect of the Contractor's performance under this Agreement is contingent upon Department personnel or the availability of Department resources, with the exception of all proposed actions of the Contractor specifically identified in this Agreement as requiring the Department approval. With respect to such approval, the Department shall act promptly and in good faith.

The Contractor must cooperate fully with any other contractors who may be engaged by the Department relative to the State program and this Agreement.

The Contractor must ensure that all contacts by the Contractor personnel with other New York State agencies, external organizations (Federal Agencies, Unions, etc.) which result in any charge, cost or payment of any kind, must receive prior written authorization from the Department's Contract Manager.

35. SUB-CONTRACTORS

The Contractor may arrange for specified portions of its responsibilities under this Agreement to be subcontracted to a qualified organization. In such situations, said sub-contractors must be clearly identified and the nature and extent of their involvement in and/or proposed performance under this Agreement must be fully explained by the Contractor to the Department. The Contractor retains the ultimate responsibility for all services performed under this Agreement. The Department reserves the right to approve any subcontracts entered into by the Contractor for the delivery of Program Services under this Agreement.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this Agreement. Such functionally identical and consistent provisions shall include, but not be limited to, the following provisions of this Agreement: Appendix A - Standard Clauses For All New York State Contracts; Appendix B - Standard Clauses for All Department Contracts; the Articles pertaining to Audit Authority and Confidentiality, and such other Agreement Articles as may be specified by the Department.

A copy of any proposed subcontract relating to the Contractor's performance under this Agreement shall be furnished to the Department before its execution for the Department's review and approval. The Department will review the document(s) and advise the Contractor of its approval or disapproval within 30 days.

The Contractor shall give the Department immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract or which may affect the performance of the Contractor's duties under this Agreement.

The Department's requirement of prior approval of any subcontract under this Agreement shall not make the Department or the State of New York a party to any subcontract or create any right, claim, or interest in the sub-contractor or proposed sub-contractor against the Department.

Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of this Agreement.

36. PUBLICITY AND COMMUNICATIONS

The Contractor shall ensure that all requests for the Contractor's participation in events where the Contractor will be participating on behalf of the Department receive prior written authorization from the Department.

No public discussion or news releases relating to this Agreement shall be made or authorized by the Contractor or the Contractor's agent without the prior written approval of the Department, which written approval shall not be unreasonably withheld or delayed provided, however, that Contractor shall be authorized to provide copies of this Agreement and answer any questions relating thereto to any State or federal regulators or, in connection with its financial activities, to financial institutions for any private or public offering.

37. CONSULTANT DISCLOSURE REQUIREMENTS

Unless directed otherwise by the Department, the Contractor shall demonstrate its compliance with Chapter 10 of the Laws of 2006 throughout the term of this Agreement by submitting to the Department and to the Office of the State Comptroller a "State Consultant Services - Contractor's Annual Employment Report" for each State Fiscal Year. Such report shall be due no later than May 15th of each year following the end of the State Fiscal Year being reported. Such report shall be required of any contract that includes services for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health and mental health services, accounting, auditing, paralegal, legal, or similar services. Such report shall conform with Bulletin No. G-226 – Form B as issued by the Office of the State Comptroller. The report must be submitted to the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th floor, Albany, NY 12236, ATTN: Consultant Reporting; and to the Department's Contract Manager.

38. PROCUREMENT LOBBYING RESTRICTIONS UNDER STATE FINANCE LAW SECTIONS 139-J AND 139-K

The Contractor certifies that all information that it has provided or will provide to the Department pursuant to State Finance Law sections 139-j and 139-k is complete, true, and accurate, including but not limited to information regarding prior determinations of non-responsibility within the past four years based upon (i) impermissible contacts of other violations of SFL section 139-j, and (ii) the intentional provision of false or incomplete information to a governmental entity.

The Department reserves the right to terminate this Agreement in the event it is found that the Contractor's certification of its compliance with SFL sections 139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its right to terminate this Agreement by providing written notification to the Contractor in accordance with Section 9 of this Appendix.

39. VENDOR RESPONSIBILITY

The Contractor is required to provide the Department with an updated Vendor Responsibility Questionnaire when requested to do so by the Department throughout the term of this Agreement. Regardless, the Contractor is required to report to the Department any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

40. TAX LAW SECTION 5-a - CERTIFICATION REGARDING SALES AND COMPENSATING USE TAXES

In the event the value of this Agreement exceeds \$100,000, the Contractor must file a properly completed Form ST-220-CA with the Department and a properly completed Form ST-220-TD with the Department of Taxation & Finance before this Agreement may take effect.

In addition, after this Agreement has taken effect, the Contractor must file a properly completed Form ST-220-CA with the Department if this Agreement's term is renewed; further, a new Form ST-220-TD must be filed with the Department of Taxation & Finance if no ST-220-TD has been filed by the Contractor or if a previously filed Form ST-220-TD is no longer correct and complete.

41. CONTRACT PAYMENT

Contractor shall provide complete and accurate billing invoices to the Department in order to receive payment. Billing invoices submitted to the Department must contain all information and supporting documentation required by the Contract, the Department and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in

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

January 2010

APPENDIX C Third Party Connection and Data Exchange Agreement**Enclosure:**

- **APPENDIX C Third Party Connection and Data Exchange Agreement** (*provided as an embedded pdf – filename: Appendix C.pdf*).

To open the document in Adobe, double click the icon below:



Appendix C.pdf

APPENDIX D Policy on Restrictions on Contacts during the Procurement Process(link [§2.01.2](#))**Enclosure:**

- **Policy on Restrictions on Contacts During the Procurement Process** (*provided as an embedded pdf – filename: Policy on Restrictions on Contacts During the Procurement Process.pdf*)

To open the document in Adobe, double click the icon below:



Policy on Restrictions
on Contacts During the

APPENDIX E Submission of Errors or Omission(link [§2.01.3](#))**Appendix E**
Page 1 of 1**Submission of Errors or Omissions**

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to the IFB, prospective Offerors and Offerors agree to be bound by its terms, including, but not limited to, this process by which a prospective Offeror may submit errors or omissions for consideration. In the event that a prospective Offeror believes there is an error or omission in the IFB, the prospective Offeror may raise such issue according to the following provisions:

a. Process for Submitting Assertions of Errors or Omissions in IFB Document

- (1) **Time Frame:** Assertions of errors or omissions in the procurement process which are or should have been apparent prior to the Proposals Due Date and Time must be received by the Department, in writing, five (5) Business Days after the Issue Date of Official Responses to Offeror Questions as specified solicitation instrument (i.e., IFB or IFB, as applicable).
- (2) **Content:** The submission alleging the error or omission must clearly and fully state the legal and/or factual grounds for the assertion and must include all relevant documentation
- (3) **Format of Submission:** All submissions asserting an error or omission must be in writing and submitted to the Banking Services Procurement Manager at the address set forth in the solicitation instrument.

The envelope or package must clearly and prominently display the following statement:

“Submission of Errors or Omissions for the
New York State Department of Civil Service’s
Procurement entitled, *[Enter Name of IFB or IFB]*,
Reference # *[Enter IFB or IFB Ref. No.]*,
dated *[Enter IFB or IFB date]*”

Any assertion of an error or omission which does not conform to the requirements set forth in herein this [Appendix E](#) shall be deemed waived by the prospective Offeror and the prospective Offeror shall have no further recourse.

b. The Review Process for Assertions of Errors or Omissions in IFB Document

The Department shall conduct the review process for submission of errors or omissions. The Commissioner may appoint a designee who will review the submission and make a recommendation to the Commissioner as to the disposition of the matter. The Commissioner's designee may be an employee of the Department but, in any event, shall be someone who has not participated in the preparation of the solicitation instrument, the evaluation of Proposals, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the prospective Offeror may be given the opportunity to meet with the Commissioner or his designee, as the case may be, to support its submission. The prospective Offeror may, but need not, be represented by counsel at such a meeting. Any and all issues concerning the manner in which the review process is conducted shall be determined solely by the Commissioner or the Commissioner's designee.

The Commissioner, or the Commissioner's designee, shall review the matter, and the Commissioner shall issue a written decision within twenty (20) Business Days after the close of the review process. If additional time for the issuance of the decision is necessary, the prospective Offeror shall be advised of the delay and of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the agency's final determination in the matter.

The Department reserves the right to determine and to act in the best interests of the State in resolving any assertion of error or omission in the IFB document. As a consequence of reviewing the assertion, the Department may elect to extend the Proposal Due Date and Time as may be appropriate. Notice of any such extension will be provided to all organizations who were sent a copy of the IFB.

APPENDIX F Submission of Award Protests(link [§2.01.10](#))**Appendix F**
Page 1 of 1**Submission of Award Protests**

By participating in activities related to the Procurement, and/or by submitting a Proposal in response to the Procurement, all Offerors agree to be bound by its terms including, but not limited to, the process by which an Offeror may submit protests of the selection award for consideration. In the event that an Offeror decides to protest the selection decision, the Offeror may raise such issue according to the following provisions:

a. Process for Submitting Post Award Protests of the Selection Decision

- (1) **Time Frame:** Any protest of the selection decision must be received no later than five (5) Business Days after an Offeror's receipt of written notification by the Department of a conditional award.
- (2) **Content:** The submission of the protest must clearly and fully state the legal and/or factual grounds for the protest and must include all relevant documentation.
- (3) **Format of Submission:** All submissions of protest must be in writing and submitted to the Banking Services Procurement Manager at the address set forth in the solicitation instrument (i.e., IFB or IFB, as applicable).

A protest of the selection decision must have the following statement clearly and prominently displayed on the envelope or package:

**"Submission of Selection Protest for the
New York State Department of Civil Service's
Procurement entitled, [Enter Name of IFB or IFB],
Reference # [Enter IFB or IFB Ref. No.],
dated [Enter IFB or IFB date]"**

Any assertion of protest which does not conform to the requirements set forth in this section shall be deemed waived by the Offeror, and the Offeror shall have no further recourse.

b. The Review Process for Submission of Protests

The Department shall conduct the review process of submitted protests. The Commissioner may appoint a designee to review the submission and to make a recommendation to the Commissioner as to the disposition of the matter. The Commissioner's designee may be an employee of the Department but, in any event, shall be someone who has not participated in the preparation of the solicitation instrument, the evaluation of Proposals, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the Offeror may be given the opportunity to meet with the Commissioner or his designee, as the case may be, to support its submission. The Offeror may, but need not, be represented by counsel at such a meeting. Any and all issues concerning the manner in which the review process is conducted shall be determined solely by the Commissioner, or the Commissioner's designee.

The Commissioner, or the Commissioner's designee, shall review the matter, and the Commissioner shall issue a written decision within twenty (20) Business Days after the close of the review process. If additional time for the issuance of the decision is necessary, the Offeror shall be advised of the delay and of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the agency's final determination in the matter.

In the event that an Offeror protests the selection decision, the Department shall continue working with the selected Offeror pending the outcome of the protest. Any Offeror who's Proposal might become eligible for a conditional award in the event that the intended selection is disqualified may be asked to extend the time for which their Proposal shall remain valid.

The Department reserves the right to determine and to act in the best interests of the State in resolving any post award selection protest.

APPENDIX G ST-220-CA – Contractor Certification to Covered Agency(link [§2.02.9](#))**Enclosure:**

- **ST-220-CA – Contractor Certification to Covered Agency** (*provided as an embedded pdf – filename: ST22CA..pdf*)

To open the document in Adobe, double click the icon below:



ST220CA

APPENDIX H ST-220-TD – Contractor Certification Pursuant to Section 5-a of the Tax Law

(link [§2.02.9](#))

Enclosure:

- **ST-220-TD – Contractor Certification Pursuant to Section 5-a of the Tax Law**
(provided as an embedded pdf – filename: ST22TD.pdf)

To open the document in Adobe, double click the icon below:



ST220TD.pdf

APPENDIX I Compliance With NYS Workers' Compensation Law

(link [§2.02.10](#))

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that DCS shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with DCS, the selected Offeror will be required to verify for DCS, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518)486-6307. The Offeror may also find useful information at their website <http://www.wcb.state.ny.us>. Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the Agreement is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

Workers' Compensation Requirements under WCL § 57:

To comply with coverage provisions of the WCL, businesses must:

- A) be legally exempt from obtaining workers' compensation insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer or participate in an authorized group self-insurance plan.

To assist State and municipal entities in enforcing WCL Section 57, businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the government entity issuing the permit or entering into a contract:

- A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage⁽¹⁾; **OR**
- B) C-105.2 -- Certificate of Workers' Compensation Insurance (the business's insurance carrier will send this form to the government entity upon request) **PLEASE NOTE:** The State Insurance Fund provides its own version of this form, the U-26.3; **OR**
- C) SI-12 -- Certificate of Workers' Compensation Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247), **OR** GSI-105.2 -- Certificate of Participation in Worker's Compensation Group Self-Insurance (the business's Group Self-Insurance Administrator will send this form to the government entity upon request).

Disability Benefits Requirements under Workers' Compensation Law §220(8)

To comply with coverage provisions of the WCL regarding disability benefits, businesses may:

- A) be legally exempt from obtaining disability benefits insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer.

Accordingly, to assist State and municipal entities in enforcing WCL Section 220(8), businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the entity issuing the permit or entering into a contract:

- A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage⁽¹⁾; **OR**
- B) DB-120.1 -- Certificate of Disability Benefits Insurance (the business's insurance carrier will send this form to the government entity upon request); **OR**
- C) DB-155 -- Certificate of Disability Benefits Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247).

⁽¹⁾ Starting December 1, 2008, Form CE-200 can be filled out electronically on the Board's website, www.wcb.state.ny.us, under the heading "Forms." Applicants filing electronically are able to print a finished Form CE-200 immediately upon completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract.

APPENDIX J Department Of Civil Service Information Security Policy

Department of Civil Service Information Security Policy *(provided as an embedded pdf)*

To open the document in Adobe, double click the icon below:



APPENDIX K Overview of the Employee Benefits Division(link [S1.01](#))

The Employee Benefits Division (EBD) is responsible for administering the employee benefits programs described elsewhere in the IFB. There are currently 117 employees within EBD, split between the director's office (3) and four units: Operations (56); Benefit Plan Management (23); Contract Services (31); and Policy/Research (4). The fill level authorized by the Division of the Budget is 138. A description of each follows:

1. **Operations:** The Operations unit is the largest within EBD with staff divided into four primary sections: *Monthly Processing*, which works with local government and direct pay enrollees; *Bi-weekly*, which works with active and disabled NYS employees; *Corrections and Support*, which is responsible for scanning all enrollee correspondence and correcting enrollment and accounting records; and *Accounting*, which handles all financial transactions for NYSHIP. These sections work together to accomplish the following responsibilities:
 - a. Processing, overseeing and correcting enrollment transactions through the customized New York Benefits Eligibility & Accounting Systems (NYBEAS). Annually, Operations processes approximately 53,000 transactions and responds to approximately 72,000 calls and 46,000 pieces of correspondence;
 - b. Acting as a resource to health benefit administrators at each State agency and local governments participating in NYSHIP;
 - c. Billing direct pay enrollees and local government participating employers;
 - d. Collecting, depositing and accounting for premium payments from enrollees and participating local governments;
 - e. Remitting biweekly and monthly payments to NYSHIP contractors; and
 - f. Coordinating Medicare D subsidy accounting.
 - g. Processing premium refunds and Medicare refunds, including Low Income Subsidy and Income Related Medicare Adjustment.
 - h. Processing and maintaining all accounting entries for all EBD administered programs and their corresponding OSC fund accounts.
2. **Benefit Plan Management:** This unit has three sections, each with distinct responsibilities, as follows:
 - a. *Communications:* The Communications section is responsible for coordinating the development, production and distribution of all NYSHIP communication materials, as well as development and design of the NYSHIP Online, the HBA Online websites, and the EBD Online intranet site;
 - b. *Program Services:* The Program Services section handles phone calls and correspondence from enrollees, primarily retirees, and agencies regarding complex eligibility, enrollment and benefit questions. The section also is responsible for reviewing and approving HIPAA release forms and POAs submitted on behalf of enrollees. Additionally staff conducts informational pre-retirement and retiree seminars regarding NYSHIP benefits, as well as individual enrollee consultations. Annually, Program Services handles approximately 50,000 calls, 4,000 letters and 5,000 HIPAA/POAs.
 - c. *Public Employer Liaison:* The Public Employer Liaison section is responsible for providing customer service to over 900 local governments and quasi-State agencies that elect to participate in NYSHIP. The unit also is responsible for marketing the Empire Plan to potential participants and representing

the Empire Plan at local government open enrollment and health fairs, regional meetings and events, such as conferences hosted by the Association of Counties, School Board Association, and Conference of Towns.

3. **Contract Services:** *Contract Services:* This section is primarily responsible for activity that takes place between the Department and the NYSHIP insurance carriers and is composed of three units:
 1. The Contract Management Unit is responsible for contract procurement and overseeing the vendor's performance of its responsibilities under the contract including enforcement of contract provisions. Procurements are undertaken in accordance with State Finance Law, Article 11, Section 163, and as such there are typically several contracts that are put out to bid each year. Contract managers rely heavily on audit unit audit results and analysis in performing their contract oversight function
 2. The Financial Management Unit performs a variety of tasks including annual premium negotiations and rate development, analyze and monitor carrier reports, desk audit the financial experience statements and develop program budget estimates.
 3. The Audit Unit, through access to individual claims received electronically from the carriers each month, performs contract compliance audits of the insurance carriers. In addition, the unit performs data analysis activities in support of the contract management function.
4. **Policy Analysis & Strategic Planning:** This unit is responsible for managing various policy related activities associated with conduct of Benefit Plans administered by EBD, including the following:
 - a. Identifies policy issues affecting programs, clarification of policy and compliance requirements, and communication of policies to participating employers and staff.
 - b. Functions as the Division's liaison to Executive, Judicial and Legislative Branch for benefits administration; coordinates the Department's ongoing relationship with other members of the Council on Employee Health Insurance with regard to benefits establishment and implementation; manages the Division's participation in negotiations between NYS and unions representing employees in both Executive and Judicial Branches coordinates the response to requests for data and analysis from other state agencies and collective bargaining agents; manages implementation of negotiated changes; and manages the Division's participation in ongoing labor management committees.
 - c. Coordinates the Division's relationship with various State and federal regulatory agencies with jurisdiction over EBD-administered programs, including the NYS Insurance Department; State Comptroller, Department of Law, and the Centers for Medicare and Medicaid Services.
 - d. Coordinates the Division's activities to ensure compliance with State and federal requirements affecting State benefit programs, including: the Civil Service Law, State Insurance Law, Public Health Law, Freedom of Information Law, COBRA, HIPAA, FMLA, Medicare Secondary Payer requirements, and the IRS Code regarding Section 125 plans.
 - e. Analyzes and comments on legislative proposals.
 - f. Liaisons with various constituent organizations such as the Personnel Council Benefits Subcommittee; Retiree Organization Council; Participating Agency Advisory Council; GOER; and staff and members of union Joint Committees on Health Benefits. Liaisons with collective bargaining agents to resolve member concerns and communicates outcomes as needed to maintain productive relationships with those constituencies.
 - g. Participates in various training programs and presentations on program policy and related issues provided to numerous groups, including the annual HBA Training Institutes sponsored by Joint

Committees on Health Benefits; annual Participating Agency and Participating Employer Institutes; the Human Resource Academy; the State Personnel Council; and collective bargaining agent groups.

EBD employs several automated systems in order to complete the work of the division. The New York State Benefits Eligibility and Accounting System (NYBEAS) is a customized Peoplesoft 8 application used for all enrollment and accounting transactions for the health insurance, dental insurance, life insurance and vision plans. NYBEAS access is granted to EBD staff, State agency Health Benefits Administrators, all local government participating employers and the insurance carriers to help manage enrollment. The EBD recently implemented MyNYSHIP, which allows registered State and CUNY enrollees to process certain enrollment and account maintenance activities online. The EBD also maintains NYSHIP Online (www.cs.state.ny.us/ebd) and HBA Online (a password protected online benefits resource center), which allow enrollees and health benefit administrators, respectively, to locate health plan information. From NYSHIP Online, Enrollees may link to the health plan carrier websites to access claims details. Calls to the EBD (1-800-833-4344) are routed to the appropriate unit using Avaya Conversant IVR system.

APPENDIX L Lockbox Processing Procedures Guidelines(link [§3.01.3](#))**Lockbox Processing Procedures Guidelines**

The Contractor must adhere to the processing procedure for lockbox receipts as set forth herein this [Appendix L](#).

I. Lockbox Processing Procedures:

1. Lockbox Receipts are to be retrieved at least once each Business Day before 12:00 pm (noon).
2. Lockbox Receipts are to be opened upon retrieval and sorted into the following batch types:
 - a. Processable Checks/Money Orders with:
 - i. No Correspondence Attached - The Contractor processes the check/money order for deposit. The Contractor makes images of the check/money order which is then made available to EBD via a secure internet application.
 - ii. Correspondence Attached - The Contractor records the EMPLID number (Enrollee account number) and the payment amount paid on all of the enclosed correspondence, processes the check/money order for deposit and makes images of the check/money order and the associated correspondence which are then made available to EBD via a secure internet application.
 - iii. Address or Last Name Changes - The Contractor records the EMPLID number and the payment amount paid on all of the enclosed correspondence, processes the check/money order for deposit and makes images of the check/money order and the associated correspondence which are then made available to EBD via a secure internet application.
 - b. Unprocessable Checks/Money Orders - Any item deemed Unprocessable in accordance with the criteria set forth in Section III below.
3. All checks/money order that the Contractor deems Processable, in accordance with the criteria set forth in Section II below, are indexed by the Contractor with a sequential payment identification number in black ink. This number is stamped on the face of each Processable check and associated piece of correspondence received and the check is restrictively endorsed with, "NYS Employees' Insurance Pending Account." If there is no Payee written on the face of the check, the Contractor is stamped the check with the appropriate payee stamp as provided by the Department prior to processing the check for deposit.
4. The Contractor deposits Processable checks on the same Business Day they are retrieved from the lockbox.
5. The Contractor makes all funds available, within 24 hours of deposit, for transfer into the State treasury.
6. No later than 10:00 am on the following Business Day, notification is sent to EBD of the prior Business Days deposits, including electronic access to reports with the deposit totals and item counts detailed along with the sequential payment identification numbers used for the specific payment group or category. These reports also include EBD relevant fields (i.e. agency code and EMPLID) that correspond to itemized payment.

II. Check/Money Orders That Can Be Processed (Processable):

“Processable” checks or money orders include checks or money orders that are not deemed Unprocessable and pass the Contractor’s validity tests, including:

- a. checks or money orders with no date or incomplete date. (In such cases, the Contractor uses the processing date as the check date);
- b. checks or money orders that are post dated, if the post date is within three (3) days of receipt;
- c. checks or money orders whose payment amount differs from the remittance amount. (In such cases the Contractor changes the amount on the remittance form to the check amount, circles and initial the change and process the check for deposit);
- d. if a single check or money order is accompanied by more than one remittance, and the amount of the check equals the total amount of all remittances;
- e. multiple checks or money orders that are accompanied by one remittance, and the total amount of the checks equals the amount of the remittance; and/or
- f. the Payee on the check or money order is the respective pending account or a reasonable facsimile.

III. Checks/Money Orders That Cannot Be Processed (Unprocessable):

The Contractor forwards to EBD all items which the Contractor is unable to be processed, as determined by the criteria set forth in a. through j, below. The Contractor delivers Unprocessable items to EBD by the next Business Day between the hours of 10:00 a.m. and 1:00 p.m. using the Contractor’s courier delivery service or overnight delivery, to the following address:

NYS Department of Civil Service
Employee Benefits Division
Alfred E. Smith State Office Building
Albany, NY 12239
Attention: Cash Receipts Unit

- a. checks or money orders that do not have a written(legal) dollar amount;
- b. checks or money orders post dated more than 3 days from the date of receipt;
- c. checks or money orders dated 6 months or more prior to the date of receipt;
- d. checks or money orders received with no remittance or with no scan line;
- e. foreign negotiable instruments that do not state “payable in U.S. Funds”;
- f. payment documents received are vouchers or drafts;
- g. no legible account number on the remittance form or check;
- h. transaction (envelope) does not include payment (note “no payment included” on remittance);
- i. check is a third party check; and/or
- j. unsigned checks.

APPENDIX M Average Daily Receipts / Monthly Transactions Counts

(link [S1.01](#))

Average Daily Receipts / Monthly Transactions Counts *(provided as an embedded Excel files)*

To open the documents in Excel, double click the icon below:



Average Daily
Receipts.xls



Monthly Detailed
Transactions.xls

APPENDIX N Enrollee Remittance Advice(link [§1.02](#))**Enrollee Remittance Advice** *(provided as an embedded bmp file)*

To open the document, double click the icon below:



Enrollee Remittance
Advice.bmp

APPENDIX O Agency Remittance Advice(link [§1.02](#))**Agency Remittance Advice** *(provided as an embedded bmp file)*

To open the document, double click the icon below:



APPENDIX P Enrollee Cash Lock Box Definition

(link §1.02)

Page 1 of 1

Header Record

Description	Type	Size	Column	Value
Record Type, 1 = Header	Char	1	1	1
Total number of Payments	Num	5	2-6	Bank will supply. Total number of payments for the file.
Total payment amount 999999999999V99	Num	15	7-21	Bank will supply. Must represent the total value of the Batch Transmission.
Transmission Date (MMDDYYYY)	Date	8	22-29	Bank will supply. The date bank transmitted/created the lockbox file.
Transmission Time (HHMMSS)	Time	6	30-35	Bank will supply. Time the file transmitted/created.

Example:

10025200000000824155109152009180540

Detail Record

Description	Type	Size	Column	Value
Record Type, 2 = Detail	Char	1	1	2
EMPLID	Char	11	2-12	Bank will supply. Enrollee Emplid/SSN from Scan Line. Field will be padded on the right with the character 'X' this must be trimmed on input before processing.
TRANS_DT	Date	8	13-20	Bank will supply. Date payment received MMDDCCYY.
Amount_due 99999999V99	Num	10	21-30	Bank will supply. From scanline.
Amount_received 99999999V99	Num	10	31-40	Bank will supply. Payment amount of check.
BEA_PMNT_REC_ID	Char	13	41-53	Bank will supply. Batchnumber concatenated with Batch Item number.
BENEFIT_PROGRAM	Char	3	54-56	Bank will supply. From Scanline.

Examples:

2024849128XX09152009000004911500000491150002100001000C02
 2C000012345X09152009000010548800001054880002100002000A01
 2S000056789X09152009000000473500000047350002100003000A05

APPENDIX Q Agency Cash Lock Box Definition

(link §3.01.6)

Page 1 of 3

Header Record. One record for each transmission file.

Description	Type	Size	Column	Value
Record Type, 1 = Header	Char	1	1	1
Destination ID / lockbox recipient	Char	20	2-21	Default to 'NYSDCSHPEN'
Total number of lockboxes	Num	5	22-26	Bank will supply. Total no of Lock boxes contained in this transmission. Default this value to 00001.
Total payment amount 9999999999999999V99	Num	16	27-42	Bank will supply. Must represent the total value of the Transmission
Transmission Date (MMDDYYYY)	Date	8	43-50	Bank will supply. The date bank transmitted/created the lock box file
Transmission Time (HHMMSS)	Time	6	51-56	Bank will supply. Time the file transmitted/created

Ex:

1NYSDCSHPEN 00001000000000012345602112009121500

Service Record. One record for each transmission file.

Description	Type	Size	Column	Value
Record Type, 2 = service	Char	1	1	2
Destination ID / lockbox recipient	Char	20	2-21	Bank will supply. Default to 'NYSDCSHPEN'.
Bank Transmission ID	Char	20	22-41	Bank will supply. Unique Identifier for each transmission. Sequential Number is fine assigned by the bank to identify the transmission.
Service Type, 400 = lockbox	Char	3	42-44	400
Record Length (080)	Num	3	45-47	080
Characters per block (0080)	Num	4	48-51	0080
Format, 1 = Fixed Field Format	Num	1	52	1

Ex:

2NYSDCSHPEN 1 40008000801

Lockbox Record. One record for each deposit. If the file contains multiple days deposit, you must create one record for each.

Description	Type	Size	Column	Value
Record Type, 3 = Detail	Char	1	1	3
Lockbox ID	Char	15	2-16	Bank will supply. Unique Identifier for each lockbox file. Value should identify the lockbox. Please concatenate the string 'HPND' with a sequential number generated by the bank.
Batch ID, unique within batch	Char	5	17-21	Bank will supply. Must be a unique identifier for each Deposit, each lock box can have multiple batch ID's or deposits. Please assign a unique Id for each day's deposit.
Sequence Num, 0=lockbox record	Num	5	22-26	0
Record Group ID (0000)	Num	4	27-30	0000
Detail Record Type (00)	Char	2	31-32	00
Total number of batches	Num	6	33-38	Bank will supply. Total number of deposits in the file. Typically we would expect to receive one transmission file for each days deposit
Total payment amount 9999999999999999V99	Num	16	39-54	Bank will supply. Total payment amount for the file.
Total number of payments	Num	6	55-60	Bank will supply. Total number of payments included in entire transmission (whole file)
Deposit Business Unit	Char	5	61-65	10
Bank	Char	4	66-69	Bank identifier (code which will be determined by DCS).
Filler	Char	16	70-85	Spaces
Bank Account	Char	4	86-89	HPND

Ex:

3HPND1 1 00000000000000002000000060254610600003210 BANK HPND

Batch Record. One record for each deposit. If the file contains multiple days deposit, you must create one record for each.

Description	Type	Size	Column	Value
Record Type, 3 = Detail	Char	1	1	3
Lockbox ID	Char	15	2-16	Bank will supply. Value must be same as that provided on the Lockbox record. Please see description of Lockbox id on the Lockbox record.
Batch ID	Char	5	17-21	Bank will supply. Value must be same as lockbox record. Please see description of batch id on Lockbox record
Sequence Number, 0 = batch record	Num	5	22-26	00000
Record Group ID (0000)	Num	4	27-30	0000
Detail Record Type (01)	Char	2	31-32	01
Total Batch Amount 9999999999999999Y99	Num	15	33-47	Bank will supply. Total amount for this deposit
Total number of payments	Num	6	48-53	Bank will supply. Total number of payments in this deposit.
Deposit Date (MMDDYYYY)	Date	8	54-61	Bank will supply. Date of the deposit

Ex:
3HPND1 1 0000000000100000000012345600002802112009

:

APPENDIX R Payment Detail Transaction File - Daily(link [§3.01.6](#))**Payment Detail Transaction File - Daily** (*provided as an embedded Microsoft Excel file*)

To open the document, double click the icon below:

Payment Detail
Report- Daily.xlsx

APPENDIX S Payment Detail Transaction File - Monthly(link [§3.01.6](#))**Payment Detail Transaction File - Monthly** *(provided as an embedded Microsoft Excel file)*

To open the document, double click the icon below:

Payment Detail
Report- Monthly.xlsx

EXHIBIT A Formal Offer Letter(Link [§4.02.1](#))**Exhibit A - Page 1 of 2****[TO BE COMPLETED ON OFFEROR'S LETTERHEAD]**

Date:

Banking Services Procurement Manager
NYS Department of Civil Service
Alfred E. Smith State Office Building
Room 803
Albany, New York 12239

**RE: IFB No. 2010Banking, entitled
"Banking Services"
Firm Offer to the State of New York**

[INSERT OFFEROR NAME] hereby submits this firm and binding offer to the State of New York in response to New York State Department of Civil Service (Department) Invitation for Bids' IFB No. 2010Banking, entitled "Banking Services" (IFB). **[INSERT OFFEROR NAME]** warrants that it has carefully reviewed the Department's needs as described in the IFB and otherwise communicated in writing by the Department to the **[INSERT OFFEROR NAME]**, that it has familiarized itself with the Department's specifications, that it can provide the required Project Services as represented in its Proposal, and that its Proposal meets or exceeds all terms, conditions, and requirements set forth in the above-referenced IFB and in the manner set forth in the IFB. The **[INSERT OFFEROR NAME]** further warrants and affirms that the terms of the IFB, and any resultant contract, do not currently and will not, during the term of the resultant contract (the Agreement), violate any contracts or agreements to which **[INSERT OFFEROR NAME]** is a party, and that its other contractual obligations will not adversely influence its capabilities to perform under the Agreement.

[INSERT OFFEROR NAME] accepts the terms and conditions as set forth in IFB, Section 6 Appendices A, B and C, and agrees to satisfy the comprehensive duties and responsibilities outlined in the IFB in the manner set forth in the IFB.

[INSERT OFFEROR NAME] agrees to execute a contractual agreement composed substantially of the terms and conditions set forth Section 6 of the IFB, and accepts as non-negotiable the terms and conditions set forth in Appendices A, B and C of the IFB.

[INSERT OFFEROR NAME] further agrees, if selected as a result of the IFB, to comply with 1) the provisions of Tax Law Section 5-a, Certification Regarding Sales and Compensating Use Tax; and 2) the Workers' Compensation Law as set forth in §2.02.10 of the IFB.

This formal offer will remain firm and non-revocable for a minimum period of 365 days from the Proposal Due Date and Time as set forth in the IFB. In the event that a contract is not approved by the NYS Comptroller within the 365 day period, this offer shall remain firm and binding beyond the 365 day period and until a contract is approved by the NYS Comptroller, unless **[INSERT OFFEROR NAME]** delivers to the Department of Civil Service written notice of withdrawal of its Proposal.

Exhibit A - Page 2 of 2

[INSERT OFFEROR NAME]'s complete offer is set forth as follows:

Proposal: Total of four (4) hard copy volumes [one (1) original and three (3) copies] and one (1) electronic copy on CD.

The undersigned affirms and swears s/he has the legal authority and capacity to sign and make this offer on behalf of, **[INSERT OFFEROR NAME]** and possesses the legal authority and capacity to act on behalf of **[INSERT OFFEROR NAME]** to execute a contract with the State of New York.

The undersigned affirms and swears as to the truth and veracity of all documents included in this offer.

Date: _____

[INSERT OFFEROR NAME]

By: _____
(signature)

(name)

(title)

INDIVIDUAL, CORPORATE OR PARTNERSHIP 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:

[Check One, if Applicable]

(____ **If a corporation**): he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(____ **If a partnership**): he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT B Offeror Qualification Certification(Link [§4.02.2](#))**Exhibit B - Page 1 of 6**

An authorized representative of the Offeror who is legally authorized to certify the information requested in the name of and on behalf of the Offeror is required to complete and sign the Offeror Attestations and provide all requested information. Offeror's authorized representative must certify as to the truth of the representations made by signing where indicated, below.

CERTIFICATION:

The Offeror (1) recognizes that the following representations are submitted for the express purpose of assisting the State of New York in making a determination to award a contract; (2) acknowledges and agrees by submitting the Attestation, that the State may at its discretion, verify the truth and accuracy of all statements made herein; (3) certifies that the information submitted in this certification and any attached documentation is true, accurate and complete.

Name of Business Entity Submitting Bid:		
Entity's Legal Form:		<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other _____
No.	IFB Ref.	IFB Requirement:
1.	§1.03.1 (a)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> is</p> <p><input type="checkbox"/> is not authorized to conduct business in New York State.</p> <p>If not authorized to conduct business in New York State, at time of bid, the Offeror represents and warrants that it:</p> <p><input type="checkbox"/> has</p> <p><input type="checkbox"/> has not filed an application for authority to do business in New York State with the New York State Secretary of State.</p>
No.	IFB Ref.	IFB Requirement:
2.	§1.03.1 (b)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> has</p> <p><input type="checkbox"/> has not completed, obtained or performed all registrations, filings, approvals, authorizations, consents and examinations required by any governmental authority for the provision of the delivery of Project Services and that it will, during the term of the Agreement, comply with any requirements imposed upon it by law; and</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree that it will, during the term of the Agreement, comply with any requirements imposed upon it by law.</p>

Exhibit B - Page 2 of 6

Name of Business Entity Submitting Bid:		
No.	IFB Ref.	IFB Requirement:
3.	<u>§1.03.1</u> (c)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> possesses</p> <p><input type="checkbox"/> does not possess adequate qualified staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified herein this IFB.</p>
No.	IFB Ref.	IFB Requirement:
4.	<u>§1.03.1</u> (d)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> has</p> <p><input type="checkbox"/> has not maintained an organization capable of performing that portion of Project Services to be rendered by the Offeror in continuous operation for at least the past three (3) years.</p> <p>If the Contractor is proposing the use of a Key Subcontractor(s), the Offeror must also represent and warrant the following:</p> <p>Offeror represents and warrants that, at time of bid submission, each of the proposed Key Subcontractors:</p> <p><input type="checkbox"/> have</p> <p><input type="checkbox"/> have not maintained an organization capable of performing that portion of Project Services to be rendered by the Key Subcontractor in continuous operation for at least the past three (3) years.</p>
No.	IFB Ref.	IFB Requirement:
5.	<u>§1.03.1</u> (e)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> has</p> <p><input type="checkbox"/> has not provided or is currently providing services similar in scope to that portion of Project Services to be rendered by the Offeror, during the last three (3) years for the benefit of, at a minimum, (3) entities.</p> <p>If the Contractor is proposing the use of a Key Subcontractor(s), the Offeror must also represent and warrant the following:</p> <p>Offeror represents and warrants that, at time of bid submission, each of the proposed Key Subcontractors:</p> <p><input type="checkbox"/> have</p> <p><input type="checkbox"/> have not provided or is currently providing services similar in scope to that portion of Project Services to be rendered by the Key Subcontractor(s), during the last three (3) years for the benefit of, at a minimum, (3) entities.</p>

Exhibit B - Page 3 of 6

Name of Business Entity Submitting Bid:		
No.	<u>IFB Ref.</u>	IFB Requirement:
6.	<u>§1.03.1</u> (f)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror's principal place of business:</p> <p><input type="checkbox"/> is</p> <p><input type="checkbox"/> is not located in a state that penalizes New York State vendors; and the Offeror:</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree that, if selected, Project Services will not be substantially produced or performed in such as state .</p> <p>In the space below, provide the current address of the Offeror's principal place of business:</p>
No.	<u>IFB Ref.</u>	IFB Requirement:
7.	<u>§1.03.1</u> (g)	<p>The Offeror represents and warrants that, prior to contract award, the Offeror:</p> <p><input type="checkbox"/> has or will have</p> <p><input type="checkbox"/> does not or will not a principal office or branch office in Albany, New York; and, if selected, the Offeror</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not to maintain a principal office or branch office in Albany, New York throughout the term of the Agreement.</p> <p>If the Offeror currently has a principal office or branch office in Albany, New York then, in the space below, provide its address:</p>
No.	<u>IFB Ref.</u>	IFB Requirement:
8.	<u>§1.03.1</u> (h)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> is</p> <p><input type="checkbox"/> is not a bank or trust company chartered under Article III of New York Banking Law, or a national bank; and the Offeror agrees that, if selected, the Offeror:</p> <p><input type="checkbox"/> shall</p> <p><input type="checkbox"/> will not possess and maintain throughout the term of the Agreement the authority to accept deposits held in the name of the State of New York and to pledge securities as collateral for New York State deposits at the State's Fiscal Agent in accordance with Section 105 of NYS Finance Law, satisfactory in form and amount to the State of New York for the repayment of such deposits.</p> <p>If the Offeror is a bank or trust company chartered under Article III of New York Banking Law, or a national bank attach documentation in support of such status.</p>

Exhibit B - Page 4 of 6

Name of Business Entity Submitting Bid:		
No.	<u>IFB Ref.</u>	IFB Requirement:
9.	<u>§1.03.1</u> (i)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> has</p> <p><input type="checkbox"/> has not</p> <p>a LACE (Liquidity Asset Quality Capital Earnings) rating of at least a C; and the Offeror acknowledges and agrees that the Contractor must maintain a LACE rating of at least C throughout the term of the Agreement and that failure to do so may, at the Department's sole discretion, result in termination of the Agreement for cause.</p> <p>If the Offeror represents and warrants that, at time of bid submission it has at least a C rating, attach documentation in support of the rating.</p>
10.	<u>§1.03.1</u> (j)	<p>The Offeror represents and warrants that, if selected, the Offeror:</p> <p><input type="checkbox"/> shall</p> <p><input type="checkbox"/> will not</p> <p>make all deposited funds available immediately upon deposit for transfer into the State treasury.</p>
11.	<u>§1.03.1</u> (k)	<p>The Offeror represents and warrants that, if selected, the Offeror:</p> <p><input type="checkbox"/> acknowledges and agrees</p> <p><input type="checkbox"/> does not agree</p> <p>that at time of contract execution, the Offeror shall have on file with the Office of the State Comptroller (OSC) a "State of New York Undertaking for Bank Deposits and Assignment of Securities"; and:</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to maintain, throughout the term of the Agreement, a "State of New York Undertaking for Bank Deposits and Assignment of Securities" on file with OSC should the Offeror be selected.</p>
12.	<u>§1.03.1</u> (l)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> represents and warrants</p> <p><input type="checkbox"/> does not represent and/or warrant</p> <p>all information, materials and other data (i.e., materials) provided by the Department or the Department's agents and/or contractors to the Contractor will be provided solely for the purposes of allowing the Contractor to fulfill its duties and responsibilities under the Agreement; and said materials are the sole property of the State; and the Offeror:</p> <p><input type="checkbox"/> represents and warrants</p> <p><input type="checkbox"/> does not represent and/or warrant</p> <p>that it will not, in perpetuity, share, sell, release, or make the data available to third parties in any manner without the written consent of the Department, except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law.</p>

Exhibit B - Page 5 of 6

Name of Business Entity Submitting Bid:		
No.	<u>IFB Ref.</u>	IFB Requirement:
13.	<u>§1.03.1</u> (m)	<p>The Offeror:</p> <p><input type="checkbox"/> represents and warrants</p> <p><input type="checkbox"/> does not represent or warrant that all information provided by the Offeror in connection with its Proposal is true and accurate and that none of the IFB Exhibits completed by the Offeror and which are incorporated in its Proposal have been altered in any manner so as to change, in any way, the Department's requirements as originally set forth therein.</p>
No.	<u>IFB Ref.</u>	IFB Requirement:
14	<u>§1.03.1</u> (n)	<p>The Offeror represents and warrants that, at time of bid submission, the Offeror:</p> <p><input type="checkbox"/> is able</p> <p><input type="checkbox"/> is not able to perform all of the Project Services as described in <u>§3.01</u> "Project Services" of this IFB; and the Offeror represents and warrants that, if selected, the Offeror:</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree to perform all of the Project Services as described in <u>§3.01</u> "Project Services" of this IFB.</p>
No.	<u>IFB Ref.</u>	IFB Requirement:
15	<u>§1.03.1</u> (o)	<p>The Offeror represents and warrants that the Offeror:</p> <p><input type="checkbox"/> has</p> <p><input type="checkbox"/> has not provided, as attachments to this the Offeror's Exhibit B submission, copies of all of the bank agreements that are necessary to perform the Project Services outlined in the IFB; and the Offeror :</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree to negotiate the terms of the(se) bank agreement(s) with the State.</p>

Exhibit B - Page 6 of 6

Name of Business Entity Submitting Bid:		
No.	<u>IFB Ref.</u>	IFB Requirement:
16	<u>§1.03.1</u> (p)	<p>The Offeror represents and warrants that, if selected, the Offeror:</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to, prior to contract execution, satisfy all outstanding tax liabilities, including unemployment insurance taxes, if any, due to the State of New York from the Offeror, or from the Offeror's partners, officers, agents or Key Subcontractors.</p> <p>In those cases where the Offeror does not agree to satisfy all such outstanding tax liabilities, if any prior to contract execution, the Offeror represents and warrants that, if selected, the Offeror</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to, prior to contract execution, establish a payment schedule, subject to the approval of the State, for the timely satisfaction of such outstanding liabilities, if any.</p>

Date: _____

Signature
[INSERT OFFEROR NAME]
[INSERT TITLE]
[INSERT COMPANY NAME]

INDIVIDUAL, CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

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

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:

[Check One, If Applicable]

(____ **If a corporation**): he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(____ **If a partnership**): he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT C Compliance with Public Officers Law Requirements(Link [§4.02.3](#))**Exhibit C - Page 1 of 1**

The New York State Public Officers Law ("POL"), particularly POL Sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishing ethical standards for current and former State employees. In submitting its Proposal, the Offeror must guarantee knowledge and full compliance with such provisions for purposes of the IFB and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification from the procurement process, termination, suspension or cancellation of the contract, and criminal proceedings as may be required by law. Offeror affirmatively states that at the time of bid submission, Offeror knows of no factors existing at time of bid submission or which are anticipated to arise thereafter, which would constitute a potential conflict of interest in successfully meeting the contractual obligations set forth in the IFB, including but not limited to:

- (1) No potential for conflict of interest on the part of the Offeror due to prior, current, or proposed contracts, engagements, or affiliations; and
- (2) No potential conflicts in the sequence or timing of the proposed award under the IFB relative to the timeframe for service delivery, or personnel or financial resource commitments of Offeror to other projects.

Date: _____

Signature

[INSERT OFFEROR NAME]**[INSERT TITLE]****[INSERT COMPANY NAME]****INDIVIDUAL, CORPORATE OR PARTNERSHIP 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:

[Check One, If Applicable]

(☐ **If a corporation**): he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(☐ **If a partnership**): he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT D Proposal Submission Requirements Checklist(Link [§4.02.4](#))**Exhibit D – Page 1 of 3**

The following checklist is provided for use of Offerors to help ensure Offeror's compliance with the IFB requirements. Offerors should indicate by checkmark that the Offeror's Proposal meets each of the following submission requirements (Use IFB provided forms as stipulated. If no form is stipulated, submit appropriate documentation as stated in the requirement.)

TIMELY SUBMISSION:

Offerors are reminded that Offerors are solely responsible for timely delivery of their Proposal to DCS prior to the stated Proposal Due Date and Time deadline as set forth in IFB, [§2.01.1](#).

1. PACKAGING AND FORMATTING REQUIREMENTS:

Each part of the Offeror's Proposal (Administrative, Technical and Financial) must comply with the formatting requirements stated in IFB, [§2.01.7](#).

Check (✓) If Included	IFB Section	Required Submission
	§2.01.7	Four (4) separately bound hard copies [one (1) ORIGINAL and three (3) copies] of the Offeror's Proposal.
	§2.01.7	One (1) electronic copy (CD) of the Offeror's Proposal.
	§2.01.7	The ORIGINAL hard copy is marked "ORIGINAL" and contains the original signature of an official(s) authorized to bind the Offeror to its provisions on all forms submitted that require the Offeror's signature.
	§2.01.7	The remaining three (3) hard copies contain either an original signature or a copy of the official's signature on all forms submitted that require the Offeror's signature and they are numbered sequentially (e.g. Copy #1, Copy #2, Copy #3).
	§2.01.7	Proposals are placed and packaged in sealed boxes/envelopes with a label on the outside containing the required labeling information.
The Proposal complies with the formatting requirements set forth in the IFB in terms of:		
	§2.01.7	<u>Binding of Proposal</u> : The official name of the organization(s) and "Banking SERVICES" appears either on the outside front cover of Proposal, or if the Proposals are submitted in loose-leaf binders on the spine of the binders
	§2.01.7	<u>Table of Contents</u> : Each Proposal contains as table of contents.
	§2.01.7	<u>Index Tabs</u> : Each major section of the Proposal and each exhibit/attachment/appendices is labeled with an index tab that completely identifies the title of the section, or exhibit, attachment or appendix as named in the table of contents.
	§2.01.7	<u>Pagination</u> : Each page of the Offeror's Proposal is dated and numbered consecutively from its beginning through all appended material.

Exhibit D – Page 2 of 3

2. ADMINISTRATIVE, TECHNICAL AND FINANCIAL PARTS OF THE PROPOSAL:

The Offeror's Proposal must respond to all of the mandatory sections as set forth in IFB, [§4.02.1](#) through [§4.04.3](#), in the order specified in [§4.02](#) and using the specified forms and formats, as applicable, set forth in IFB, [Exhibit A](#) through [Exhibit R](#). *Sub-sections for which narrative information is to be provided, if any, are not separately listed in the table below, just the Exhibits that are to be included at that section of the Offeror's Proposal. When indicating that a section is included the Offeror should ensure that all required submission associated with a given section and its subsections, if any, have been provided:*

Check (✓) If Included	IFB Section	Required Submission and Associated Exhibits, if any
	§4.02.1	Formal Offer Letter - Exhibit A
	§4.02.2	Offeror Qualification Certification - Exhibit B
	§4.02.3	Compliance with Public Officers Law Requirements - Exhibit C
	§4.02.4	Proposal Submission Requirements Checklist - Exhibit D
	§4.02.5	Omnibus Procurement Act of 1992 - Exhibit E
	§4.02.6	Equal Employment Opportunity Obligations – Offeror Certification of Compliance - Exhibit F
	0	Compliance with Americans with Disabilities Act - Exhibit G
	§4.02.7	MacBride and Non-Collusive Bidding Certification - Exhibit H
	§4.02.8	New York State Standard Vendor Responsibility Questionnaire - Exhibit I
	§4.02.9	Article 15-A of the Executive Law - Exhibit J
	§4.02.10	Work Force Employment Utilization Report - Exhibit K
	§4.02.11	Offeror's Certification of Compliance Pursuant to State Finance Law §139-k(5) - Exhibit L
	§4.02.12	FOIL – Request for Redaction Chart - Exhibit M
	§4.03.1	Organizational Overview (No associated Exhibit)
	§4.03.2	Key Subcontractors - Exhibit N
	§4.03.3	Client References (Minimum of 3) Exhibit O
	§4.03.4	Project Services - Exhibit P
	§4.03.5	Performance Guarantees - Exhibit Q
	§4.03.6	Optional Services (No associated Exhibit)
	§4.04.2	Exhibit R, Schedule 1 – Direct Fees
	§4.04.2	Exhibit R, Schedule 2 – Compensating Balances
	§4.04.3	Exhibit R, Schedule 3 – Optional Service

EXHIBIT E Omnibus Procurement Act of 1992(Link [§4.02.5](#))**Exhibit E – Page 1 of 1**

The Omnibus Procurement Act of 1992 requires that by signing and submitting a proposal (or signing a contract), an Offeror/contractor certify that whenever the total bid amount is greater than \$1 million:

- A.** The Offeror/contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- B.** The Offeror/contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- C.** The Offeror/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 Offeror/contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- D.** The Offeror/contractor acknowledges notice that New York State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

Date: _____

Signature _____

[INSERT OFFEROR NAME]**[INSERT TITLE]****[INSERT COMPANY NAME]****INDIVIDUAL, CORPORATE OR PARTNERSHIP 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:

[Check One, If Applicable]

(☐ **If a corporation**): _____ he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _____ he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(☐ **If a partnership**): _____ he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _____ he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT F EEO Obligations – Offeror Certification of Compliance(Link [§4.02.6](#))**Exhibit F – Page 1 of 1**

The Offeror must demonstrate its compliance with the Equal Employment Opportunity Act (EEO) by affirming to the Department that the Offeror's EEO Policy Statement contains, at a minimum, language consistent with the provisions of numbered paragraphs 1, 2, 3, and 4. Failure to comply with this provision will result in rejection of the Offeror's proposal.

1. The Offeror shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, gender, age, disability, or marital status; shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination; and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on the Agreement.
2. The Offeror shall state in all solicitations or advertisements for employees that, in the performance of the Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, gender, age, disability, or marital status.
3. The Offeror shall not do business with any employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, that discriminates on the basis of race, creed, color, national origin, gender, age, disability, or marital status.
4. At the request of the DCS, the Offeror agrees to require any 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, gender, age, disability, or marital status and that such union or representative will affirmatively cooperate in the implementation of the Offeror's obligation under the Agreement.

The undersigned states that the affirmative statements contained in this certification are true, accurate and complete.

Date: _____

Signature _____

[INSERT OFFEROR NAME]**[INSERT TITLE]****[INSERT COMPANY NAME]****INDIVIDUAL, CORPORATE OR PARTNERSHIP 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:

[Check One, If Applicable]

(☐ **If a corporation**): _____ he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _____ he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(☐ **If a partnership**): _____ he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _____ he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT G Compliance with Americans with Disabilities Act(Link [u](#))**Exhibit G – Page 1 of 1**

The Offeror hereby provides assurance of its compliance with the Americans With Disabilities Act (42 USC§12101 et. seq.), in that any services and programs provided during the course of performance of the contract resultant from the IFB (Agreement) shall be accessible under Title II of the Americans With Disabilities Act, and as otherwise may be required under the Americans With Disabilities Act.

Date: _____

Signature _____

[INSERT OFFEROR NAME]**[INSERT TITLE]****[INSERT COMPANY NAME]****INDIVIDUAL, CORPORATE OR PARTNERSHIP 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:

[Check One, If Applicable]

(☐ **If a corporation**): he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(☐ **If a partnership**): he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT H MacBride and Non-Collusive Bidding Certification(Link [§4.02.7](#))**Exhibit H – Page 1 of 1****NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND
MACBRIDE FAIR EMPLOYMENT PRINCIPLES**

In accordance with Chapter 807 of the Laws of 1992 the Offeror, by submission of this bid, certifies that it or any individual or legal entity in which the Offeror holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Offeror, either (answer "yes" or "no" to one or both of the following, as applicable):

Have business operations in Northern Ireland. Yes _____ or No _____

If yes:

Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles. Yes _____ or No _____

NON-COLLUSIVE BIDDING CERTIFICATION

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

1. The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, directly or indirectly, to any other Offeror or to any competitor; and
3. No attempt has been made or will be made by the Offeror to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Date: _____

Signature

[INSERT OFFEROR NAME]

[INSERT TITLE]

[INSERT COMPANY NAME]

INDIVIDUAL, CORPORATE OR PARTNERSHIP 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:

[Check One, If Applicable]

(**If a corporation**): _____ he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _____ he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(**If a partnership**): _____ he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _____ he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _____ he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT I New York State Standard Vendor Responsibility Questionnaire(Link [§4.02.8](#))**Enclosure:**

- **New York State Standard Vendor Responsibility Questionnaire** (provided as an embedded Word Template – New York State Standard Vendor Responsibility Questionnaire.**.dot** , and an Adobe pdf – New York State Standard Vendor Responsibility Questionnaire.**.pdf**)

To open the document in Word, double click the icon below:



New York State
Standard Vendor Res

To open the document in Adobe, double click the icon below:



New York State
Standard Vendor Res

EXHIBIT J Article 15-A of the Executive Law(Link [§4.02.9](#))**Exhibit J – Page 1 of 1**

Subject to the requirements of Article 15-A of the Executive Law, and based on vendor availability, the Department of Civil Service has developed a combined goal of 0% M&WBE participation for this project. This percentage is not a set aside or quota, but rather only a target.

OFFERORS PLEASE ANSWER THE FOLLOWING QUESTIONS:

1. Are the Offeror a New York State resident business: _____ YES _____ NO

2. Total number of people employed by your business: _____

3. Total number of people employed by your business in New York State: _____

4. Is your company independently owned and operated: _____ YES _____ NO

5. Is your firm at least 51% owned and controlled by women: _____ YES _____ NO

and/or,

51% owned and controlled by minority group members:
(i.e., Black, Hispanic, Asian, Pacific Islander, American
Indian, Alaskan Native)?

_____ YES _____ NO

If yes, have the Offeror been certified or registered?

_____ YES _____ NO

List certification or registration authority:

6. Place(s) where type(s) of service(s) bid are provided:
(Please indicate Yes or No for A and B)

A. All within NYS

_____ YES _____ NO

B. Both within and outside NYS

_____ YES _____ NO

If yes to B above, location (State) where more than
one-half the value of the bid services are provided:

State of _____

7. Offeror's principal place of business:
(i.e., the location of the primary control, direction, and
management of the enterprise.)

State of _____

EXHIBIT K Work Force Employment Utilization Report(Link [§4.02.10](#))

SERVICE and/or CONSULTANT FIRMS

Exhibit K - Page 1 of 1

Agency: _____/Code _____ Reporting period: _____
 Check One: ☐ Quarterly ☐ Semi-Annual Report

Contractor/Firm Name: _____ Address: _____
 City _____ State _____ Zip _____

Type of Report: ☐ Contract Specific Work Force ☐ Total Work Force Check if NOT-For- Profit: ☐

Federal ID/Payee ID No. _____ Contract No. _____ Location of Work _____
 County _____ Zip _____

Check One: ☐ Prime Contractor ☐ Subcontractor

Product/Service Provided: _____

Contract Amount: \$ _____ Contract Start Date: _____ Percent of Job Completed _____

Federal Occupational Category	Number of Employees										Total Percent Minority Employees	Total Percent Female Employees
	Total Number of Employees		Black (Not of Hispanic origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native			
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female		
Officials/Admin.												
Professionals												
Technicians												
Sales Worker												
Office & Clerical												
Craft Workers												
Operatives												
Laborers												
Service Workers												
TOTALS												

Company Official's Name: _____

Company Official's Signature: _____

Telephone Number: () _____

Title: _____

Date: _____

EXHIBIT L Offeror's Certification of Compliance Pursuant to SFL §139-k(5)(Link [§4.02.11](#))**Exhibit L – Page 1 of 1****Instructions:**

New York State Finance Law (SFL) §139-k(5) requires that every contract award subject to the provisions of SFL §§139-k or 139-j shall contain a certification by the Offeror that all information provided to the DCS with respect to SFL §139-k is complete, true and accurate.

At the time an Offer or Bid is submitted to the DCS, the Offeror/Offeror must provide the following certification that the information it has and will provide to the DCS pursuant to SFL §139-k is complete, true and accurate including, but not limited to, disclosures of findings of non-responsibility made within the previous four years by any State governmental entity where such finding of non-responsibility was due to a violation of SFL §139-j or due to the intentional provision of false or incomplete information to a State governmental entity.

Offeror Certification

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

Name of
Offeror: _____

By: _____
(Signature)

Name: _____

Title: _____

Address: _____

Date: _____

EXHIBIT M Freedom of Information Law – Request for Redactions Chart

(Link [§4.02.12](#))

Exhibit M – Page I of 2

(Name of Company)

Proposal Dated:_____

In response to the NYS Department of Civil Service Invitation for Bids IFB No. 2010Banking entitled, "Banking Services"

- ☐ Offeror asserts that the information noted in the table below, as well as the information set forth in the table, constitute proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law.
- ☐ Offeror makes NO assertion that any information in its Proposal, in whole or in part, should be protected from FOIL disclosure.

Proposal		
Requested Redaction Page #’s and Proposal Sections	Description	Offeror Rationale for Proposed Redaction
Insert rows above as necessary		

Exhibit M – Page 2 of 2**REDACTION CHART**

Please provide specific justification for each item for which the Offeror seek protection from FOIL disclosure. An appropriate justification may include any one or more of the following considerations by which to demonstrate reasonably whether the item for which the Offeror seek protection may be excepted from disclosure:

- a. the confidential nature of the specific item, including a description of the nature and extent of the injury to the Offeror's competitive position, such as unfair economic or competitive damage, which would be incurred were the information/record to be disclosed;
- b. whether the specific information/record is treated as confidential by the Offeror, including whether it ever has been made available to any person or entity;
- c. whether any patent, copyright, or similar legal protection exists for the specific item of information;
- d. whether the public disclosure of the information/record is otherwise restricted by law, and the specific source and content of such restriction;
- e. the date upon which the information/record no longer will need to be kept confidential, if applicable;
- f. whether the item of information is known by anyone outside the Offeror's business or organization;
- g. the extent to which the information is known by Offeror's employees and others involved in the Offeror's business;
- h. the value of the specific information/record to the Offeror and to its competitors;
- i. the amount of effort or money expended by the Offeror in developing the information/record;
- j. and the ease or difficulty with which the information could be properly acquired or duplicated (not merely copied) for use by others.

EXHIBIT N Key Subcontractors(Link [§4.03.2](#))**Exhibit N – Page 1 of 1**

INSTRUCTION: Prepare this form for each Key Subcontractor	
Offeror's Name:	
The Offeror: <input type="checkbox"/> is <input type="checkbox"/> is not proposing to utilize the services of a Key Subcontractor(s) to provide Project Services	
Subcontractor's Legal Name:	
Business Address:	
Subcontractor's Legal Form:	<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other _____
As of the date of the Offeror's Proposal, a subcontract <input type="checkbox"/> has <input type="checkbox"/> has not been executed between the Offeror and the Key Subcontractor(s) for services to be provided by such Key Subcontractor(s) relating to the Project.	
In the space provided below, describe the Key Subcontractor's role(s) and responsibilities regarding Project Services to be provided by the Key Subcontractor:	
Relationship between Offeror and Key Subcontractor for Current Engagements: (Complete items 1 through 5 for each client engagement identified)	
1. Client:	
2. Client Reference Name and Phone #	
3. Project Title:	
4. Project Start Date:	
5. Project Status (In the space provided below detail the status of the Project):	
6. In the space provided below, describe the roles and responsibilities of the Offeror and Key Subcontractor in regard to the project identified in 3, above:	

EXHIBIT O Client References(Link [§4.03.3](#))**Exhibit O – Page 1 of 1**(Check as Applicable): ☐ Offeror Reference☐ Key Subcontractor Reference

Key Subcontractor Name: _____

Client Reference #: _____

Project Title: _____

CLIENT NAME:			
Client Status Check applicable box):	<input type="checkbox"/>	Current	<input type="checkbox"/> Former
CLIENT CONTACT NAME:			
CLIENT CONTACT PHONE:			
CLIENT CONTACT EMAIL:			
DESCRIPTION OF SERVICES PROVIDED: In the space provided below, the Offeror should describe the nature of the services in satisfaction of the requirements in IFB, §4.03.3 demonstrating that the Offeror/Subcontractor has provided services similar in scope to that as set forth in the IFB.			

EXHIBIT P Project Services

(Link [§4.03.4](#))

Project Services		Exhibit P Page 1 of 7
Project Implementation		
The Offeror	<input type="checkbox"/> agrees <input type="checkbox"/> does not agree to designate a Contract Officer to serve as the primary contact between the Parties during the entire term of the Agreement. This individual shall be responsible for 1) overseeing the Contractor's and the Contractor's Project Teams performance under the Agreement, 2) serving as the Contractor's liaison with the Department in order to resolve day-to-day operational difficulties; and 3) providing timely responses (one Business Day) to administrative concerns and inquiries posed by the Department.	
The Offeror	<input type="checkbox"/> agrees <input type="checkbox"/> does not agree to maintain an organization of sufficient size with the skills and experience necessary to administer, manage and oversee all aspects of the Project during the Implementation Phase, as well as during Ongoing Operations.	
The Offeror	<input type="checkbox"/> agrees <input type="checkbox"/> does not agree to undertake and complete all Project implementation activities no later than September 30, 2010, such that the Ongoing Operation Phase of the Project commences on October 1, 2010.	
The Offeror	<input type="checkbox"/> agrees <input type="checkbox"/> does not agree during the Implementation Phase of the Project, to establish and, throughout the term of the Agreement, maintain at least two (2) lockboxes with the United States Postal Service (USPS) in New York State, preferably in Albany, NY (one lockbox is for the collections of enrollee payments; the second lockbox is for the collection of agency payments).	
The Offeror	<input type="checkbox"/> agrees <input type="checkbox"/> does not agree to, if selected, supply the Department with the addresses of the lockboxes no later than August 15, 2010.	
If known at time of bid, please provide addresses in space provided below:		

Project Services	Exhibit P Page 2 of 7
Ongoing Operations - Project Administration	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the term of the Agreement, the Contractor shall be in compliance with applicable federal and New York State statute, rules and regulations for banking institutions.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the term of the Agreement, the Contractor to keep DCS informed of pending State/Federal legislation affecting banking services and in a timely manner.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the term of the Agreement, the Contractor shall provide advice and recommendations regarding Project Services, including but not limited to technological improvements and innovation, with the understanding that DCS is under no obligation to act on such advice or recommendations.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the term of the Agreement, the Contractor shall have quality control procedures in place to assure accuracy and timeliness in processing receipts.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the term of the Agreement, the Contractor shall be able and willing to modify existing procedures and/or develop new procedures in cooperation with DCS.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the term of the Agreement, the Contractor shall, with regards to the electronic transfer of data</p> <ol style="list-style-type: none"> i. be capable of receiving and transmitting data in a secure electronic format and on a schedule mutually agreed upon by the Contractor and the Department; ii. be able to transmit data in the format required by the file layouts presented in IFB, Appendices P through S; iii. maintain a HIPAA compliant level of security to protect the confidentiality of information on the Contractor's computer system and in the Contractor's physical work environment; and iv. have a disaster recovery plan in place to reasonably ensure the continued delivery of Project Services in the case of an unforeseen event, including but not limited to a disaster or emergency. 	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>to accept and accurately process wire transfers from PAs/PEs.</p>	

Project Services	Exhibit P Page 3 of 7
Ongoing Operations - Lockbox Services	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor, shall be solely responsible for the timely and accurate processing of items received through the lockboxes.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall retrieve all of the items from the lockboxes by 12:00 pm (noon) on each Business Day.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall process all lockbox items on the Business Day they are retrieved from the lockbox.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall be capable of processing and depositing an anticipated monthly volume of 11,000 receipts per month on the same Business Day they are retrieved from the lockboxes.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor, shall adhere to the Lockbox Processing Procedures Guidelines as outlined in IFB, Appendix N.</p>	
Ongoing Operations - Non-Lockbox Services	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall, on each Business Day, between the hours of 10:00 a.m. and 1:00 p.m. ET, using a courier service provided by the Contractor or overnight delivery (at the discretion of DCS):</p> <ul style="list-style-type: none"> • pick-up non-lockbox deposits, in the form of checks and money orders, from the Department; and • deliver to EBD the following items: <ul style="list-style-type: none"> - all items that are deemed Unprocessable; and - deposit slip for the prior Business Day's non-lockbox deposits. 	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall accurately process and deposit all of the non-lockbox deposits picked up from the Department on the day they are picked up.</p>	

Project Services	Exhibit P Page 4 of 7
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>to, if during the term of the Agreement, the Department decides to adopt and implement Remote Deposit practices, work with the Department to provide such functionality.</p>	
Ongoing Operations Check Processing	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall post all deposits on the Business Day retrieved/received and make funds available within one (1) Business Day of deposit.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>to cooperate with the Department and any other contractor if the Department, during the term of the Agreement, decides to accept premium payments online.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>be able to accept and accurately process wire transfers from PAs/PEs.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>be able to process checks that arrive at the lockbox without remittance advice documents but with an account number on the check</p>	
Ongoing Operations Reporting Functions	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall make available various reports of payment transaction deposits as required by DCS for its use in the review, management, and analysis of the payment transactions.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall verify the accuracy of all reports produced, regardless of the medium.</p>	
<p>The Offeror</p> <ul style="list-style-type: none"> <input type="checkbox"/> agrees <input type="checkbox"/> does not agree <p>that, throughout the Ongoing Operational Phase of the Project, the Contractor shall make available reports in an electronic format, mutually agreed upon between the Contractor and the Department and in a format that allows DCS to load the reports to its mainframe or PC based computer system and to print the reports, as needed.</p>	

Project Services

Exhibit P
Page 5 of 7

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the Ongoing Operational Phase of the Project, the Contractor shall make available separate data files for each of the two (2) lockboxes.

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the Ongoing Operational Phase of the Project, the Contractor shall make available the following reports/files list below as specified in IFB §3.01.6

Daily Reports:

- Payment Detail Transaction File
- Payment Detail Transaction Report
- Daily Balance Report
- Imaged Payment Remittance Forms, Checks and Correspondence

Monthly Reports

- Transaction Summary Report
- Account Analysis Statement

Quarterly Reports

- Quarterly Performance Guarantee Report
- Quarterly Workforce Utilization Report

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the Ongoing Operational Phase of the Project as regards the daily Payment Detail Transaction File, the Contractor shall provide, in a format acceptable to the Department, a Payment Detail Transaction File for lockbox and non-lockbox payments combined for each of the payment types (enrollee and agency) and the Payment Detail Transaction File shall be electronically transmitted to DCS, or be available to retrieve from the Contractor using a secure internet connection by 8:00 p.m. ET on the day of the deposit.

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the Ongoing Operational Phase of the Project as regards the daily Payment Detail Transaction Report, the Contractor shall provide, in a format acceptable to the Department, a Payment Detail Transaction Report for lockbox and non-lockbox payments combined for each payment type (enrollee and agency) and the Payment Detail Transaction Report shall be made available within one (1) Business Day of deposit and shall be made available using a secure internet connection or transmitted electronically in a secure format to DCS, preferably in Microsoft Excel format and the electronic report shall allow the sorting/searching on the unique fields of each transaction.

Project Services

Exhibit P

Page 6 of 7

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the Ongoing Operational Phase of the Project as regards the Daily Balance Report, the Office of State Comptroller (OSC), Cash Management Unit shall be provided with, by 10 a.m. ET of the Business Day following the day of deposit, on-line access using a secure internet connection to the account for previous day balance reporting and funds transfer capabilities and that balance reporting shall include ledger balance, available balance, and previous day detailed activity; and the reporting shall be available in BAI2 format.

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the Ongoing Operational Phase of the Project as regards the daily Imaged Payment Remittance Forms, Checks and Correspondence file, the Contractor shall 1) image and store each individual payment remittance form, check and any correspondence, including envelopes (where an address change is indicated), 2) make available to DCS the capability to search and download the records online using a secure internet connection for specific individual payment remittance forms/payments/correspondence, view and print the imaged payment remittance form/check/correspondence, 3) make the images available the day after they are imaged, and 4) make the images available for retrieval online for the entire duration of the Agreement plus one (1) full year after the termination of the Agreement.

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the Ongoing Operational Phase of the Project as regards the monthly Transaction Summary Report, the Contractor shall provide, in a format acceptable to the Department, a Transaction Summary Report of daily deposits for each lockbox within five (5) Business Days following the end of the month and the reports shall be made available using a secure internet connection or transmitted electronically in a secure format to DCS, preferably in Microsoft Excel format and the electronic reports shall allow for the sorting/searching on the unique fields of each transaction.

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the Ongoing Operational Phase of the Project as regards the monthly Account Analysis Statement, the Office of State Comptroller (OSC), Cash Management Unit shall be provided with on-line access to a monthly account analysis statement using a secure internet connection itemizing all charges with volume and detailed unit costs; and that the statement shall be provided in an 822 electronic account analysis format by the 15th day of the month following the month for which the statement is created.

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the term of the Agreement, the Contractor shall provide, in a format acceptable to the Department, quarterly Performance Guarantee reports that detail the Contractor's compliance with each of the Performance Guarantees stated in §3.02 of the RFP and that the reports are due fifteen (15) Business Days after the end of the quarter for which the reports are being generated.

Project Services**Exhibit P**

Page 7 of 7

The Offeror

- ☐ agrees
- ☐ does not agree

that, throughout the term of the Agreement, the Contractor shall provide, on a quarterly basis, workforce utilization reports, utilizing the form set forth in IFB, Exhibit K, a breakdown of the workforce actually utilized on the Agreement, broken down by specified ethnic background, gender, and Federal Occupational Categories and that the report is due fifteen (15) Business Days after the end of the quarter for which the report is being generated.

EXHIBIT Q Performance Guarantees(Link [§4.03.5](#))

Performance Guarantees		Exhibit Q Page of 1 of 2
<p>The Offeror must acknowledge and agree to all of the following performance guarantees and the associated penalty for failure to meet the guarantee:</p>	<p>For each performance Guarantee listed, in the boxes set forth below, the Offerors must check either 1) their agreement to meet the guarantee and the guarantee's associated penalty, or 2) their refusal to meet the guarantee and the guarantee's associated penalty</p>	
<p>#1 The Contractor guarantees that all implementation activities will be completed no later than September 30, 2010, and agrees that the Contractor shall pay to the DCS a penalty of \$1,250 per day, as well as, the sum of the penalty amounts established for Performance Guarantees #2 through #7, below for each day after September 30, 2010, that all implementation activities are not completed.</p>	<p>The Offeror acknowledges and</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to meet Performance Guarantee #6 and its associated penalty.</p>	
<p>#2 The Contractor guarantees that by 12:00 pm (noon) of each Business Day all of the items in the DCS's lockboxes will be retrieved from the lockboxes and agrees that the Contractor shall pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Contractor must further agree that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantees #3, #5, and #6, below.</p>	<p>The Offeror acknowledges and</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to meet Performance Guarantee #6 and its associated penalty.</p>	
<p>#3 The Offeror guarantees that all items retrieved from the lockboxes will be processed on the Business Day that they are retrieved and agrees that the Contractor shall pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Offeror further agrees that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantees 5, and 6, below.</p>	<p>The Offeror acknowledges and</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to meet Performance Guarantee #6 and its associated penalty.</p>	

Performance Guarantees		Exhibit Q Page of 2 of 2
The Offeror must acknowledge and agree to all of the following performance guarantees and the associated penalty for failure to meet the guarantee:		For each performance Guarantee listed, in the boxes set forth below, the Offerors must check either 1) their agreement to meet the guarantee and the guarantee's associated penalty, or 2) their refusal to meet the guarantee and the guarantee's associated penalty
#4	The Offeror guarantees that each Business Day deposits from EBD will be picked up between the hours of 10:00 a.m. and 2:00 p.m. ET and agrees that the Contractor shall pay to the DCS a penalty of \$125 each time the Contractor fails to meet this guarantee. The Offeror further agrees that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantees 5, and 6, below.	<p>The Offeror acknowledges and</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to meet Performance Guarantee #6 and its associated penalty.</p>
#5	The Offeror guarantees that all deposits retrieved by 12:00 pm (noon) from the lockboxes and all deposits received from EBD via courier will be posted on the Business Day retrieved or received, as applicable and agrees that the Contractor shall pay to the DCS a penalty of \$125 each day the Contractor fails to fully meet this guarantee. The Offeror further agrees that failure to meet this performance guarantee does not relieve the Contractor's responsibility to satisfy the associated Business Day's performance guarantee 6, below.	<p>The Offeror acknowledges and</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to meet Performance Guarantee #6 and its associated penalty.</p>
#6	The Offeror guarantees that all funds deposited will be available within one (1) Business Day of deposit for transfer into the State treasury and agrees that the Contractor shall pay to the DCS a penalty of \$125 each time the Contractor fails to fully meet this guarantee.	<p>The Offeror acknowledges and</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to meet Performance Guarantee #6 and its associated penalty.</p>
#7	The Offeror guarantees the availability of daily Business Day electronic files for retrieval by 6:30 pm ET for each lockbox and non-lockbox deposit giving daily item counts and monetary totals in an EDP format that enables DCS to load information to its mainframe or PC based computer system and agrees that the Contractor shall pay to the DCS a penalty of \$125 for each time the Contractor fails to fully meet this guarantee.	<p>The Offeror acknowledges and</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree</p> <p>to meet Performance Guarantee #6 and its associated penalty.</p>

EXHIBIT R Financial Forms

The Financial part of the Proposal must respond to all of the mandatory sections as set forth in IFB, [§4.04](#) in the formats as specified and using the forms set forth in IFB, [Exhibit R](#), **Schedule 1** and **Schedule 2**, and if applicable **Schedule 3**.

Schedule of Fees and Expenses Direct Fee

Schedule 1 (Page 1 of 1)

Schedule of Rates for Payment and Billing Direct Fees

PROJECT SERVICE	UNIT RATES				
	INITIAL CONTRACT TERM			OPTIONAL EXTENSION PERIODS	
	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Lockbox Services ⁽¹⁾					
Courier Pick-Up ⁽²⁾					
Check Paid/Deposits Processed ⁽³⁾					
Wires in /Wires out ⁽⁴⁾					

PROJECT SERVICE	Projected Yearly Volumes	PROJECTED ANNUAL COSTS				
		YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Lockbox Services ⁽⁵⁾	118,000					
Courier Pick-Up ⁽⁶⁾	260					
Check Paid/Deposits Processed ⁽⁷⁾	142,000					
Wires in /Wires out ⁽⁸⁾	180					
TOTALS ⁽⁹⁾						
PROJECTED FIVE YEAR COST ⁽¹⁰⁾						

Footnotes:⁽¹⁾ Lockbox Services must be quoted on a "Per Envelop Processed" basis⁽²⁾ Courier Pick-Up must be quoted on a "Per Day" basis⁽³⁾ Check Paid/Deposits Processed must be quoted on a "Per Check or Money Order Processed" basis⁽⁴⁾ Wires in /Wires out must be quoted on a "Per Wire" basis⁽⁵⁾ Lockbox Services Projected Annual Cost for each year equals that year's associated "Per Envelop Processed" fee times 118,000⁽⁶⁾ The Projected Yearly Volume amount of 260 calculated as: 5 days per week, 52 weeks per year. Courier Pick-Up Projected Annual Cost for each year equals that year's "Per Day" fee times 260⁽⁷⁾ Check Paid/Deposits Processed Projected Annual Cost for each year equals that year's "Per Check or Money Order Processed" fee times 142,000⁽⁸⁾ Wires in /Wires out Projected Annual Cost equals that year's "Per Wire" fee times 180⁽⁹⁾ TOTALS for each year equals the sum of that year's Lockbox, Non-Lockbox, Check Paid/Deposits Processed and Wires In/Wires Out Projected Annual Cost amounts⁽¹⁰⁾ PROJECTED FIVE YEAR COST equals the sum of the Year 1, Year 2, Year 3, Year 4 and Year 5 TOTALS amounts

Schedule of Fees and Expenses Compensation Balance

Schedule 2 (Page 1 of 1)

Schedule of Rates for Payment and Billing Compensation Balance

PROJECT SERVICE		UNIT RATES				
		INITIAL CONTRACT TERM			OPTIONAL EXTENSION PERIODS	
		YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Lockbox Services ⁽¹⁾						
Courier Pick-Up ⁽²⁾						
Check Paid/Deposits Processed ⁽³⁾						
Wires in /Wires out ⁽⁴⁾						

PROJECT SERVICE	Projected Yearly Volumes	PROJECTED ANNUAL COSTS				
		YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Lockbox Services ⁽⁵⁾	118,000					
Courier Pick-Up ⁽⁶⁾	260					
Check Paid/Deposits Processed ⁽⁷⁾	142,000					
Wires in /Wires out ⁽⁸⁾	180					
TOTALS ⁽⁹⁾						
PROJECTED FIVE YEAR COST ⁽¹⁰⁾						

Footnotes:⁽¹⁾ Lockbox Services must be quoted on a "Per Envelop Processed" basis⁽²⁾ Courier Pick-Up must be quoted on a "Per Day" basis⁽³⁾ Check Paid/Deposits Processed must be quoted on a "Per Check or Money Order Processed" basis⁽⁴⁾ Wires in /Wires out must be quoted on a "Per Wire" basis⁽⁵⁾ Lockbox Services Projected Annual Cost for each year equals that year's associated "Per Envelop Processed" fee times 118,000⁽⁶⁾ The Projected Yearly Volume amount of 260 calculated as: 5 days per week, 52 weeks per year. Courier Pick-Up Projected Annual Cost for each year equals that year's "Per Day" fee times 260⁽⁷⁾ Check Paid/Deposits Processed Projected Annual Cost for each year equals that year's "Per Check or Money Order Processed" fee times 142,000⁽⁸⁾ Wires in /Wires out Projected Annual Cost equals that year's "Per Wire" fee times 180⁽⁹⁾ TOTALS for each year equals the sum of that year's Lockbox, Non-Lockbox, Check Paid/Deposits Processed and Wires In/Wires Out Projected Annual Cost amounts⁽¹⁰⁾ PROJECTED FIVE YEAR COST equals the sum of the Year 1, Year 2, Year 3, Year 4 and Year 5 TOTALS amounts

Schedule of Fees and Expenses Optional Services

Schedule 3 (Page 1 of ____)

Schedule of Rates for Payment and Billing Optional Services

If the Offeror chooses not to propose any Optional Services beyond the Project Services as required by the IFB, the Offeror should so advise the Department by placing a check mark in the following box: ☐ The Offeror is not proposing any Optional Services beyond the Project Services as required by the IFB as part of its Proposal.

If the Offeror is choosing to propose Optional Services beyond the Project Services as required by the IFB, the Offeror should place a check mark in the following box and complete the table below: ☐ The Offeror is proposing Optional Services beyond the Project Services as required by the IFB as part of its Proposal.

ID# ⁽¹⁾	Header Name ⁽²⁾	Component Description ⁽³⁾	Unit Rate ⁽⁴⁾	Pricing Methodology ⁽⁵⁾	Pricing Assumptions ⁽⁶⁾

Insert Rows above as necessary

⁽¹⁾ Assign an identification number to each Optional Service proposed and to each subcomponent of each service, if any.

⁽²⁾ Briefly identify the nature of the Optional Service proposed.

⁽³⁾ For each Optional Service briefly identify each subcomponent, if any.

⁽⁴⁾ For each Optional Service and each of its subcomponents, if any, quote the unit rate for the service/component proposed. All unit rates quoted must remain fixed for the potential five year term of the Agreement. If a service has multiple separately priced components either provide the sum of the components if possible or leave blank and so note in the Pricing Assumptions box.

⁽⁵⁾ Identify the basis upon which the proposed pricing is based; e.g., annual, per transaction processed, etc.

⁽⁶⁾ Indicate whether or not the Offeror's quoted rate is based on certain assumptions and if so list those assumptions on a separate document and attach it to the Schedule 3 submitted.