

AUGUST 14, 2024



RESPONSE TO IFB: EMPLOYEE BENEFIT CARD (EBC)
NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

Prepared by:
Vincent Adamo
Account Director
Dialog Direct
vince.adamo@qualfon.com

Confidential. All Rights Reserved. Dialog Direct ©2024

TABLE OF CONTENTS

ADMINISTRATIVE SUBMISSION

Appendix A: Standard Clauses for New York State Contracts	5
Appendix B: Standard Clauses for All Department Contracts	12
Appendix C: Information Security Requirements	37
Appendix E: Insurance Requirements	59
Attachment 1: Offeror Affirmation of Understanding and Agreement	73
Attachment 2: Procurement Lobbying Policy	74
Attachment 3: Formal Offer Letter	80
Attachment 5: NYS Department of Civil Service Debriefing Guidelines	82
Attachment 7: Offeror Certifications Form	84
Attachment 9: Key Subcontractors and Affiliates	89
Attachment 13: Bid Submission Checklist	90
Attachment 15: Glossary of Defined Terms	92
Vendor Responsibility Questionnaire	95
NYS Tax 5-a Form ST220CA	96

TECHNICAL SUBMISSION

Executive Summary	100
EBC, Card Carrier and Envelope Prototypes (Submitted hard copies separate from this proposal document)	

FINANCIAL SUBMISSION

Price Quotation Form	112
----------------------	-----

A close-up photograph of a person's hand holding a black pen, pointing at a tablet. The tablet screen displays various data visualizations, including bar charts and a circular gauge. The background is slightly blurred, showing a desk and a laptop. A dark blue semi-transparent rectangle is overlaid on the bottom right of the image, containing the text 'ADMINISTRATIVE SUBMISSION' in white, bold, uppercase letters.

ADMINISTRATIVE SUBMISSION

TABLE OF CONTENTS

ADMINISTRATIVE SUBMISSION

Appendix A: Standard Clauses for New York State Contracts	5
Appendix B: Standard Clauses for All Department Contracts	12
Appendix C: Information Security Requirements	37
Appendix E: Insurance Requirements	59
Attachment 1: Offeror Affirmation of Understanding and Agreement	73
Attachment 2: Procurement Lobbying Policy	74
Attachment 3: Formal Offer Letter	80
Attachment 5: NYS Department of Civil Service Debriefing Guidelines	82
Attachment 7: Offeror Certifications Form	84
Attachment 9: Key Subcontractors and Affiliates	89
Attachment 13: Bid Submission Checklist	90
Attachment 15: Glossary of Defined Terms	92
Vendor Responsibility Questionnaire	95
NYS Tax 5-a Form ST220CA	96

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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

June 2023

TABLE OF CONTENTS

	Page
1. Executory Clause	3
2. Non-Assignment Clause	3
3. Comptroller's Approval	3
4. Workers' Compensation Benefits	3
5. Non-Discrimination Requirements	3
6. Wage and Hours Provisions	3-4
7. Non-Collusive Bidding Certification	4
8. International Boycott Prohibition	4
9. Set-Off Rights	4
10. Records	4
11. Identifying Information and Privacy Notification	4
12. Equal Employment Opportunities For Minorities and Women	5
13. Conflicting Terms	5
14. Governing Law	5
15. Late Payment	5
16. No Arbitration	5
17. Service of Process	5
18. Prohibition on Purchase of Tropical Hardwoods	5-6
19. MacBride Fair Employment Principles	6
20. Omnibus Procurement Act of 1992	6
21. Reciprocity and Sanctions Provisions	6
22. Compliance with Breach Notification and Data Security Laws	6
23. Compliance with Consultant Disclosure Law	6
24. Procurement Lobbying	7
25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors	7
26. Iran Divestment Act	7
27. Admissibility of Contract	7

STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Appendix B

**New York State Department of Civil Service
March 2024**

APPENDIX B - STANDARD CLAUSES FOR ALL DEPARTMENT CONTRACTS

Contents

1. Headings and Captions.....	3
2. Compliance with Laws	3
3. Jurisdiction or Venue	3
4. Summary of Policy and Prohibitions on Procurement Lobbying	3
5. Notice of Substantial Change in Contractor Status.....	4
6. Notice of Circumstances Expected to Adversely Affect Contractor’s Performance	4
7. Severability.....	4
8. Waiver of Breach.....	5
9. Force Majeure.....	5
10. Modification of Contract.....	5
11. Change Request	5
12. Piggybacking.....	6
13. No Third-Party Beneficiaries	6
14. Work Outside of Scope of the Contract.....	6
15. Contract Payments	6
16. Liability for Taxes	6
17. State’s Authority to Conduct Financial and Performance Audits	7
18. Independent Contractor	7
19. Subcontracting	8

20.	Contractor Staff.....	9
21.	Onboarding and Suitability Determinations	10
22.	Separation of Duties	10
23.	Dispute Resolution.....	11
24.	Indemnification and Limitation of Liability	11
25.	Insurance Requirements	12
26.	Warranties and Guarantees	13
27.	Ownership of and Title to Contract Deliverables.....	14
28.	Confidentiality and Non-Disclosure	15
29.	Freedom of Information Law	17
30.	Data Ownership and Use	18
31.	Termination.....	18
32.	Continuing Obligation to Remain Responsible	20
33.	Suspension of Work	20
34.	Default.....	21
35.	General Provisions as to Remedies.....	21
36.	Cooperation with Third Parties.....	21
37.	Publicity and Communications	22
38.	Accessibility.....	22
39.	Branding and Universal Web Navigation	22
40.	Migration.....	23
41.	Disclosure of Breach	23

1. Headings and Captions

The headings or captions contained within the Contract 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 the Contract or any provisions thereof.

2. Compliance with Laws

Contractor warrants and represents that, throughout the term of the Contract, in the performance of its obligations under the Contract, it will: (i) comply with all applicable State and Federal laws, ordinances, rules and regulations and policies of any governmental entity; (ii) pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees; and (iii) give all notices required by any laws, ordinances, rules, and regulations of any governmental entity.

3. Jurisdiction or Venue

Any action, suit or proceeding to enforce any provision of, or based on any matter arising out of or in connection with this Contract shall be brought in any New York state court located in Albany County or any federal court located in the Northern District of the State of New York.

4. Summary of Policy and Prohibitions on Procurement Lobbying

State Finance Law §§139-j and 139-k impose certain restrictions on communications between the Department and Offerors during the procurement process. Offerors are restricted from making contact, from the earliest posting, on the Department's website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with Article four-C of the Economic Development Law, of written notice, advertisement or solicitation of a Request for Proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation to solicit offers/bids through final award and approval of the procurement contract by the Department and, if applicable, the Office of the State Comptroller ("restricted period"), to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). A finding of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offeror shall be debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website: <https://ogs.ny.gov/acpl>.

5. Notice of Substantial Change in Contractor Status

In addition to the requirements of New York State Finance Law §138 (requiring the State's approval of subcontractors and assignments and/or conveyances), the Contractor shall notify the Department of any substantial change in the ownership or financial viability of the Contractor, its Affiliates, subsidiaries or divisions, or partners, in writing immediately upon occurrence. "Substantial change" means: (i) sales, acquisitions, mergers or takeovers of the Contractor, its Affiliates, subsidiaries, divisions, or partners that result in a change in the controlling ownership or assets of such entity after the submission of the Bid or execution of Contract; (ii) entry of an order for relief under Title 11 of the United States Code; (iii) the making of a general assignment for the benefit of creditors; (iv) the appointment of a receiver of Contractor's business or property or that of its Affiliates, subsidiaries or divisions, or partners; or action by Contractor, its Affiliates, subsidiaries or divisions, or partners under any State insolvency or similar law for the purposes of its bankruptcy, reorganization, or liquidation; or (v) court ordered liquidation of Contractor, its Affiliates, subsidiaries or divisions, or partners.

Upon the Department's receipt of such notice, the Department shall have thirty (30) business days from the date of notice to review the information. The Contractor may not transfer the Contract to or among Affiliates, subsidiaries or divisions, or partners, or to any other person or entity, without the express written consent of the Department. In addition to any other remedies available at law or equity, the Department shall have the right to terminate the Contract, in whole or in part, for cause, if it finds, in its sole judgment, that such substantial change adversely affects the delivery of Services or is otherwise not in the best interests of the State.

6. Notice of Circumstances Expected to Adversely Affect Contractor's Performance

The Contractor shall immediately notify Department upon learning of any situation that can reasonably be expected to adversely affect the delivery of Project Services under the Contract. If such notification is verbal, the Contractor shall follow such initial verbal notice with a written notice to Department within three (3) calendar days of Contractor's becoming aware of the situation. The written notification shall include a description of the situation and a recommendation of a resolution.

7. Severability

In the event that one or more of the provisions of the Contract shall for any reason be declared unenforceable by a court of competent jurisdiction under the laws or regulations in force, such provision(s) shall have no effect on the validity of the

remainder of the Contract, which shall then be construed as if such unenforceable provision(s) was never contained in the Contract.

8. Waiver of Breach

No term or provision of the Contract 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 the Contract shall constitute consent to, a waiver of, or excuse for any other, different or subsequent breach. The rights, duties and remedies set forth in the Contract shall be in addition to, and not in limitation of, rights and obligations otherwise available at law or equity. No delay or omission to exercise any right, power or remedy accruing to either party upon breach or default by the other under this Contract shall impair any such right, power or remedy.

9. Force Majeure

Neither Party to the Contract shall be liable or deemed to be in default for any delay or failure in performance under the Contract 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, slowdowns or other labor interruptions due to labor/management disputes involving entities other than the Parties to the Contract, or any other causes not reasonably foreseeable or beyond the control of a Party. Each Party is required to use best efforts to eliminate or minimize the effect of such events during performance of the Contract and to resume performance of the Contract upon termination or cessation of such events.

10. Modification of Contract

The Contract may be amended only by mutual written consent of the Parties and approved by the New York State Attorney General and Office of the State Comptroller, if required.

11. Change Request

At any time during the term of this Contract, the Department may make changes, subtractions or additions in any of the equipment, software, documentation, Project Services and/or other Deliverables within the general scope of work set forth in the Contract, consistent with pricing established under the terms of the Contract. All such changes shall be made using a mutually agreed upon form executed by the Parties and shall otherwise be in accordance with the terms and conditions of the Contract. If any such change causes an increase or decrease in pricing or the time required for the

performance of the Contract, an equitable adjustment of the Contract amount and/or time of performance will be made on mutual agreement of the Parties, subject to the approval of the New York State Office of the State Comptroller and any applicable control agency, if required.

12. Piggybacking

Contractor acknowledges and agrees that, pursuant to State Finance Law § 163(10)(e), the New York State Office of General Services may authorize and approve purchases from contracts between Contractor and Department to other New York State agencies, authorities, the United States Government or any other state, with the concurrence of the Office of the State Comptroller and under appropriate circumstances.

13. No Third-Party Beneficiaries

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

14. Work Outside of Scope of the Contract

The Contractor must not perform work outside the scope of the Contract unless such work is authorized by a properly executed written amendment to the Contract, and if applicable, approved by the Office of the State Comptroller. Work not so authorized shall not be compensated.

15. Contract Payments

Payments for commodities received or Services rendered shall be in accordance with the Contract.

16. Liability for Taxes

- a) The Department represents that the purchases on behalf of the State of New York are not subject to any state or local sales or use taxes, or to federal excise taxes.
- b) Contractor remains liable and solely responsible without exemption for social security, unemployment insurance, workers' compensation and other taxes and obligations to which Contractor may be subject to by law.

17. State's Authority to Conduct Financial and Performance Audits

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 Project Services and any applicable State and federal statutory and regulatory authorities. The audit activity may include, but is not 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 the Contract, and the review of any and all activities relating to the Contractor's performance and administration of the Contract.

In addition to any requirements set forth in the Contract, the Contractor shall make available any documentation necessary to perform such reviews including the copying of the documentation. 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 the Contract, Standards Clauses for All New York State Contracts, or any audit requirements related to the security of the Contractor's systems.

Further, upon request by the State, the Contractor shall cooperate with the State, including the Office of the State Comptroller, in any investigation, audit, or other inquiry related to the Solicitation or the resulting Contract or any related litigation, at no cost to the State. This provision shall survive the termination of the Contract.

18. Independent Contractor

The Parties agree that the Contractor is an independent contractor, and the Contractor, its officers, employees, agents, consultants, contractors and/or subcontractors in the performance of the Contract shall act in an independent capacity and not as agents, officers or employees of the State or the Department. Neither the Contractor nor any subcontractor shall thereby be deemed an agent, officer, or employee of the State. The Contractor agrees, during the term of the Contract, 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 workers' 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 Federal Insurance Contributions Act payments.

19. Subcontracting

If allowed in the solicitation, the Contractor may arrange for specified portions of its responsibilities to be subcontracted. The Contractor shall not in any way be relieved of any responsibility under the Contract by any subcontract. The Contractor shall be solely responsible to the Department for the acts or defaults of its Subcontractor(s) and of such Subcontractors' officers, agents, and employees, each of whom shall for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract. Any Deliverable provided or furnished by a Subcontractor shall be deemed for purposes of the Contract to be provided or furnished by the Contractor.

The Contractor shall inform each Subcontractor fully and completely of all provisions and requirements established by the Contract and enter into a written subcontract. Such subcontract shall include the functional equivalent of the Contract, and include such clauses:

- That the work performed by the Subcontractor must be in accordance with the terms and conditions of this Contract.
- That nothing contained in such subcontract shall impair the rights of the Department or the State.
- That nothing contained in the subcontract shall create any contractual relationship between the Subcontractor and the Department or the State.
- That the State and Department shall have the same authority to audit the records of all Subcontractors as it does those of the Contractor.
- That Subcontractor shall cooperate with any investigation, audit, litigation or other inquiry related to the Solicitation or the resulting Contract.
- That Subcontractor shall maintain and protect against any unauthorized disclosure of records with respect to work performed under the subcontract in the same manner as required of the Contractor
- The Contractor shall require that the Subcontractor must pass through all terms and conditions of the Contract, including but not limited to Appendix A, to any lower tier subcontractors.
- Unless waived by the Department, each subcontract shall expressly name the State of New York through the Department as the sole intended third party beneficiary of such subcontract.

The Department reserves the right to review and approve or reject any subcontract with a Subcontractor, as well as any amendments to said subcontract(s). This right shall not make the Department or the State a party to any subcontract or create any right, claim, or interest in the Subcontractor or proposed Subcontractor against the Department.

The Department reserves the right, at any time during the term of the Contract, to verify that the written subcontract between the Contractor and Subcontractor(s) is in compliance with all of the provisions of this Contract. In addition to other remedies

allowed by law, the Department reserves the right to terminate the Contract for cause if an executed subcontract does not contain all of the required provisions.

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 with a Subcontractor or which may affect the performance of the Contractor's duties under the Contract. Failure to disclose the identity of any and all Subcontractor(s) used by the Contractor as required hereunder may, at the sole discretion of the Department, result in a disqualification of the Subcontractor, if not immediately cured, or may result in termination of the Contract for cause. The Contractor shall pay all Subcontractors for and on account of Project Services and/or Deliverables provided by such Subcontractors in accordance with the terms of their respective subcontracts. If and when required by the Department, the Contractor shall submit satisfactory evidence that it has made such payment. The Contractor shall, within five (5) Business Days of the Department's written request, file promptly with the Department a copy of any subcontract providing Services for the Contract.

20. Contractor Staff

All Contractor Staff performing work under the Contract must: meet or exceed the technical and training qualifications set forth in the Contract; comply with all security and administrative requirements of the Department; possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the work will be provided or performed; and be legally entitled to work in such jurisdiction. All persons, corporations, or other legal entities that perform Project Services under the Contract on behalf of Contractor shall, in performing the Project Services, comply with all applicable Federal and State laws concerning employment in the United States. Contractor Staff may be required to execute a Department Nondisclosure Agreement, either before or upon arrival for work at a State facility or, if in Department's sole discretion, the Contractor's Staff will otherwise have access to critical State Networks, equipment or data.

The Department, in its sole discretion, may require the Contractor to remove from interaction with the State, or may refuse access to State systems and facilities or require removal from any State facility any Contractor Staff performing work under this Contract that the Department determines poses a security risk, has a work performance that the Department finds inadequate or unacceptable, or otherwise fails to meet the Department's business requirements or expectations. The Contractor shall not assign such removed person to any aspect of the Contract without the State's written consent. Such action by the Department shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms.

For reasons of safety and public policy, the use of illegal drugs and/or alcoholic beverages by the Contractor Staff shall not be permitted while performing any phase of Contract work.

The State shall not be liable for any expense incurred by the Contractor Staff for any parking or towing fees or as a consequence of any traffic infraction or parking violations attributable to Contractor Staff.

21. Onboarding and Suitability Determinations

The Contractor, including all Contractor Staff who work on the Contract, must comply with all State and Federal onboarding and security clearance requirements, at its own expense.

Contractor is responsible, at its own expense, for making suitability determinations on its Contractor Staff prior to the staff member performing any work in connection with this Contract. For purposes of this provision, a “suitability determination” is a determination that there are reasonable grounds to believe that an individual will likely be able to perform the Contract requirements without undue risk to the interests of the State. Upon request of the State, the Contractor shall certify to the State that the suitability determinations required by this provision have been completed for all Contractor Staff performing work in connection with this Contract.

Failure of a security clearance or non-compliance with this provision will disqualify any Contractor Staff from performing any Services under the Contract. All expenses, including travel and lodging, associated with the onboarding and security clearance process, including fingerprinting of Contractor Staff, if required, are the responsibility of the Contractor and are not reimbursable.

If Contractor Staff have any lapse in work under the Contract, such individuals may be subject to all onboarding and security clearance requirements if they are returned to performing Project Services under the Contract.

The State also reserves the right to: (a) conduct a background check or otherwise approve any Contractor Staff performing work on this Contract or having access to Data; and (b) refuse access to, eject or require replacement of any personnel at the Department’s discretion for any reason.

22. Separation of Duties

The Department requires the Contractor to follow security best practices by adhering to separation of job duties and limiting Contractor Staff access to Data to the minimum necessary to accomplish the intended purpose (i.e., job duties).

23. Dispute Resolution

Unless otherwise agreed to in writing by the Parties, any dispute raised by the Contractor concerning any question of fact or law arising under the Contract which is not disposed of by mutual agreement of the Parties shall be decided initially by the designee of the Commissioner ("Commissioner"). A copy of the written decision shall be furnished to the Contractor. The Parties shall proceed diligently with the performance of the Contract 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 Commissioner shall be final and conclusive unless, within ten (10) Days from the receipt of such decision, the Contractor furnishes the Commissioner a written appeal. In the event of an appeal, the Commissioner shall promptly review the initial decision, and confirm, annul, or modify it. The decision of the Commissioner 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 ("Article 78"). Pending final decision of any Article 78 proceeding, the Parties shall diligently perform the Contract in accordance with the Commissioner's decision.

24. Indemnification and Limitation of Liability

a. Indemnification:

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

Contractor shall indemnify, defend and hold the State harmless, without limitation, from any loss or damage to the State resulting from suits, actions, damages, and costs of every name and description resulting from any criminal acts committed by Contractor's officers, agents, employees, and subcontractors while providing Project Services under the Contract.

b. Indemnification for Intellectual Property Infringement:

Contractor shall indemnify, defend, and hold the State harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees and legal fees), claims, judgments, liabilities, and costs which may be assessed against the State in any action for infringement of a United States Letter Patent, or of any copyright,

trademark, trade secret, or other third-party proprietary right in relation to the Services, products, documentation or Deliverables furnished or utilized by Contractor under this Contract, provided that the State shall give Contractor: (i) prompt written notice of any action, claim, or threat of infringement suit, or other suit; (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense; and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the State shall require. This paragraph shall not apply to that portion of any infringement claim which results from a material modification by the State, without Contractor's approval, of any products, documentation or Deliverables furnished or utilized by Contractor pursuant to this Contract. Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, when it determines that there is an issue involving a significant public interest.

c. **Limitation of Liability**

For all other claims against the Contractor where liability is not otherwise set forth in the Contract as being "without limitation" or not subject to the limitation of liability provisions, and regardless of the basis on which the claim is made, Contractor's liability under the Contract for direct damages shall be limited to the greater of the following: (i) \$500,000 (Five Hundred Thousand Dollars); or (ii) two (2) times the amounts paid to the Contractor for Project Services under the Contract during the twelve (12) months of the Contract term which precedes the giving of notice of the claim by the State. For this purpose, amounts paid shall include, but not be limited to, payments made electronically, by check, by offset, or by the application of credits from the Contractor to the State. Unless otherwise specifically enumerated herein, neither party shall be liable for any incidental, punitive, consequential, indirect or special damages of any kind which may result directly or indirectly from the performance of this Contract, including, without limitation, damages resulting from loss of use or loss of profit by the State, the Contractor, or by others, however caused and regardless of the theory of liability even if such party has been informed of the possibility of such damages.

d. **No Indemnification by the State:**

The State does not agree to any indemnification provisions that requires the State to indemnify or save harmless Contractor or third parties.

25. Insurance Requirements

Prior to the commencement of work, Contractor shall file with the Department Certificates of Insurance evidencing compliance with all the requirements contained in the Solicitation. Acceptance and/or approval by the Department does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Contract.

Contractor shall cause all required insurance to be in full force and effect as of the commencement date of the Contract and to remain in full force and effect throughout the term of the Contract and as required by the Contract. Contractor shall not take any action or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.

26. Warranties and Guarantees

- a. **Contract Deliverables:** Contractor warrants and represents that the Services required by the solicitation and the Contract shall be performed or provided in accordance with all the terms and conditions, covenants, statements, and representations contained in the Contract. Contractor's failure to meet pre-defined service levels or service level guarantees may result in a credit or chargeback in an amount pre-determined by the Parties.
- b. **Product Performance:** Contractor hereby warrants and represents that Products acquired by the State under this Contract conform to the manufacturer's specifications, performance standards and documentation and that the documentation fully describes the proper procedure for using the Products.
- c. **Title and Ownership:** Contractor warrants and represents that it has: (i) full ownership, clear title free of all liens; or (ii) the right to transfer or deliver specified license rights to any Products acquired by the State under the Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor shall indemnify the State and hold the State harmless from any damages and liabilities (including reasonable attorneys' fees and costs) arising from any breach of Contractor's warranties as set forth herein.
- d. **Workmanship Warranty:** Contractor warrants and represents that all Services and Deliverables shall meet the completion criteria set forth in the Contract, and that Services will be provided in a professional and workmanlike manner in accordance with the highest applicable industry standards.
- e. **Personnel Eligible for Employment:** Contractor warrants and represents that all personnel performing Services under this Contract are qualified to provide Services and eligible for employment in the United States and shall remain so throughout the term of the Contract. Contractor shall provide such proof of compliance as is required by Department.
- f. **Virus Warranty:** The Contractor represents and warrants that any Product acquired by the Department does not contain any known viruses. Contractor is not responsible for viruses introduced at the Department's site by third parties who are not Contractor Staff.

- g. **Date/Time Warranty:** Contractor warrants that Product furnished pursuant to this Contract shall, when used in accordance with the product documentation, 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 must perform as a package or system, this warranty shall apply to the Products as a system.

Where 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), Contractor warrants that Services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of 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. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such Services.
- h. **Additional Warranties:** Where Contractor generally offers additional or more advantageous warranties than those set forth herein, Contractor shall offer or pass through any such warranties to the State.
- i. **No Limitation of Rights:** The rights and remedies of the State provided in this clause are in addition to and do not limit any rights afforded to the State by any other clause of the Contract.
- j. **Survival of Warranties:** All warranties contained in the Contract shall survive termination of the Contract.
- k. **No Implied Warranties:** To the extent permitted by law, these warranties are exclusive and there are no other express or implied warranties or conditions, including warranties or conditions of merchantability and fitness for a particular purpose.

27. Ownership of and Title to Contract Deliverables

a. Contractor acknowledges that it is commissioned by the State to perform the Project Services detailed in the Contract which may include the development of intellectual property by Contractor, its Subcontractors, partners, employees or agents for the State ("Custom Products"). Unless otherwise specified in writing in the Contract, upon the creation of such Custom Products, Contractor hereby conveys, assigns and transfers to the State the sole and exclusive rights, title and interest in the Custom Products, whether preliminary, final or otherwise, including all trademark and copyrights. 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 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 in performing Services under the Contract in the course of Contractor's business. The State 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 taking exclusive ownership and title to such Products. In such case, the State 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 in the Contract.

b. Ownership of and Title to Existing Software

Title and ownership to existing software delivered by Contractor under the Contract that is normally commercially distributed by the Contractor or a third-party proprietary owner, whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products shall remain with Contractor or the third party. Effective upon acceptance, such existing software shall be licensed to the State and must, at a minimum, grant the State a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the State as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the State's satisfaction) and distribute existing software to the State up to the license capacity stated in the Contract with all license rights necessary to fully effect the general business purposes stated in the Solicitation. With regards to third party software, the Contractor shall be responsible for obtaining these rights at its sole cost and expense.

28. Confidentiality and Non-Disclosure

a. Confidentiality

Except as may be required by applicable law or a court of competent jurisdiction, the Contractor, its officers, agents, employees, and subcontractors, if any, shall maintain strict confidence with respect to any "Confidential Information" to which the Contractor, its officers, agents, employees, and subcontractors, if any, have access. This

requirement shall survive termination of the Contract. Contractor agrees that all officers, agents, employees and subcontractors, if any, shall be made aware of and shall agree to the terms of this Contract. Upon the request of the State or Department, all of Contractor's officers, agents, employees and subcontractors with access to Data shall cooperate in executing a written confidentiality/nondisclosure agreement and/or security addendum under applicable confidentiality and privacy laws, rules, and regulations or policies. If the State or Department does not request the execution of a written confidentiality/nondisclosure agreement and/or security addendum then Contractor shall ensure all officers, agents, employees and subcontractors with access to Data are bound by a confidentiality/nondisclosure agreement and/or security addendum requirements consistent with applicable confidentiality and privacy laws, rules and regulations or policies.

For purposes of the Contract, all data from the State of which Contractor, its officers, agents, employees, and subcontractors, if any, becomes aware during the Contract performance shall be deemed to be Confidential Information (whether oral, visual or written). Notwithstanding the foregoing, data that falls into any of the following categories shall not be considered Confidential Information:

- i. information that is previously rightfully known to the receiving party without restriction on disclosure;
- ii. 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
- iii. information that is independently developed by Contractor without use of Confidential Information of the State.

In the event that it is necessary for Contractor to receive Confidential Information, which Federal or State statute or regulation prohibits from disclosure, Contractor hereby agrees it shall not retain a copy of such Confidential Information and shall either return or destroy, in accordance with the provisions of this Contract, all such Confidential Information when the purpose that necessitated its receipt by Contractor has been completed.

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

Contractor agrees that it shall 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 in accordance with the Contract notification provisions. The Parties agree that a violation of this section shall be deemed a material breach of contract.

b. Non-disclosure: Except as otherwise required by law, Contractor shall not disclose Data to a third party. Except where expressly prohibited by law, Contractor shall promptly notify the Department of any subpoena, warrant, judicial, administrative or arbitral order of an executive or administrative agency or other governmental authority of competent jurisdiction (a "Demand") that it receives and which relates to or requires production of the information or data Contractor is processing or storing on the State's behalf where the State is the object of the underlying subpoena, warrant, judicial, administrative or arbitral order. If Contractor is required to produce information or data in response to such Demand, Contractor will provide the Department with the information or data in its possession that it plans to produce in response to the Demand prior to production of such information or data. Except as otherwise required by law, Contractor shall provide the Department with reasonable time to assert its rights with respect to the withholding of such information or Data from production. If the State is required to produce information or data in response to a Demand, Contractor will, at the State's request and unless expressly prohibited by law, produce to the State any information or data in its possession that may be responsive to the Demand and shall provide assistance as is reasonably required for the State to respond to the Demand in a timely manner. The State acknowledges that Contractor has no responsibility to interact directly with the entity making the Demand. The Parties agree that the State's execution of this Contract, does not constitute consent to the release or production of Data or information.

Contractor agrees that access to and use of sensitive and Confidential Information is limited to authorized employees and legally designated agents, for authorized purposes only.

To the extent that Contractor, or Contractor Staff have access to Federal, State or local government Regulated Data pursuant to their responsibilities under the Contract, Contractor agrees that it will abide by the requirements of those Federal and State laws and regulations.

29. Freedom of Information Law

Disclosure of information related to this solicitation and the resulting Contract shall be permitted consistent with New York State laws, specifically the Freedom of Information Law (FOIL). The Department shall take reasonable steps to protect from public disclosure any records or portions thereof relating to this solicitation that are exempt from disclosure under FOIL. Information constituting trade secrets or critical infrastructure information for purposes of FOIL must be clearly marked and identified as

such by the Contractor upon submission in accordance with the solicitation provisions. If the Contractor intends to request an exemption from disclosure under FOIL, the Contractor shall at the time of submission, request the exemption in writing and provide an explanation of why the information should be exempted from disclosure pursuant to Public Officers Law § 87(2) of FOIL. Acceptance of the identified information by the Department does not constitute a determination that the information is exempt from disclosure under FOIL. Determinations as to whether the materials or information may be withheld from disclosure will be made in accordance with FOIL at the time a request for such information is received by the Department.

30. Data Ownership and Use

All Data is owned exclusively by the Department and will remain the property of the Department. Contractor is permitted to use Data solely for the purposes set forth in the Solicitation and resulting Contract, and for no other purpose. At no time shall the Contractor access, use, or disclose any Confidential Information (including personal, financial, health, or criminal history record information) for any other purpose. The Contractor is strictly prohibited from releasing or using Data or information for any purposes other than those purposes specifically authorized by the Department. Contractor agrees that Data shall not be distributed, used, repurposed, transmitted, exchanged or shared across other applications, environments, or business units of the Contractor or otherwise passed to other contractors, agents, subcontractors or any other interested parties, except as expressly and specifically agreed to in writing by the Department. This provision shall survive the termination of the Contract.

31. Termination

- I. In addition to the provisions set forth in Appendix A or elsewhere in this Contract, this Contract may be terminated as follows:
 - a. For Convenience:

By written notice, this Contract may be terminated at any time by the State for convenience upon sixty (60) calendar days written notice without penalty or other early termination charges due. If the Contract is terminated pursuant to this paragraph, the State shall remain liable for all accrued but unpaid charges incurred through the date of the termination.
 - b. For Cause:

The Contract may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of the Contract, provided that the Department shall give the Contractor written notice. Such written notice will specify the Contractor's failure and the termination of the Contract. Termination shall be effective no earlier than

thirty (30) Calendar Days after receipt of such notice unless the Contractor, in the opinion of the Department, has cured such failure. Such cure period may be extended by the Department in writing. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination without the prior written approval of the Department. 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 the Contract.

- c. For Suspension or Delisting of Contractor's Securities:
The State, in its sole discretion, may terminate the Contract or exercise such other remedies as shall be available under the Contract, at law or in equity if: the Contractor's securities are suspended or delisted by the New York Stock Exchange, the American Stock Exchange, or the NASDAQ, as applicable; 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.
- d. For Vendor Responsibility Related Findings:
The Department may, in its sole discretion, terminate the Contract if it finds at any time during the Contract term that the Contractor is non-responsible, or that any information provided in the Vendor Responsibility Questionnaire submitted with Contractor's Bid was materially false or incomplete, or if the Contractor fails to timely or truthfully comply with Department's request to update its Vendor Responsibility Questionnaire.
- e. Termination for Non-Responsibility:
Upon written notice to the Contractor, and after a reasonable opportunity to be heard with the appropriate Department officials, the Contract may be terminated by the Commissioner at the Contractor's expense where the Contractor is determined to be non-responsible. In such an event, the Commissioner may complete the contractual requirements in any manner s/he may deem advisable and pursue legal or equitable remedies for the Contractor's breach.
- f. For Lack of Funds:
The Contract 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 is received, in writing, by the Contractor from the Department.

II. Mitigation of Costs:

The Contractor shall not undertake any additional or new obligations under this Contract on or after the receipt of notice of termination without the prior written approval of the State. On or after the receipt of a notice of termination and during the termination notice period, the Contractor shall take all commercially reasonable and prudent actions to mitigate additional costs to the State and close out any unnecessary State obligations or expenses which do not impact the level of service required by the Contractor under the Agreement.

32. Continuing Obligation to Remain Responsible

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity, including the submission of an updated Vendor Responsibility Questionnaire. The Contractor is required to promptly report to the Department any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

33. Suspension of Work

The Department reserves the right to suspend any or all activities under the Contract, at any time, in the best interests of the State. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reasons for such suspension include but are not limited to, a budget freeze on State spending or declaration of emergency. Upon issuance of such notice, the Contractor shall comply with the suspension order. Contractor shall be paid for Services performed prior to suspension in accordance with the Contract. Such suspension will be lifted upon written notice to Contractor. Nothing in this paragraph shall diminish the State's right to terminate the Contract as provided in the Contract.

34. Default

- a. If either party breaches a material provision of this Contract and such breach remains uncured for a period of thirty (30) days after written notice thereof from the other party specifying the breach, then the other party may, at its option, terminate this Contract in accordance with the provisions of the Contract and exercise such other remedies as shall be available under the Contract, at law and/or equity.
- b. If, due to default that remains uncured for the period provided herein, a third party shall commence to perform Contractor's obligations under this Contract, the State shall thereafter be released from all obligations to Contractor hereunder, including any obligation to make payment to Contractor, provided however that the State shall continue to be obliged to pay for any and all Services provided prior to any such date, and if any lump-sum payment has been made, the State shall be entitled to a pro-rata refund of such payment.

35. General Provisions as to Remedies

- a. Except as otherwise set forth in the Agreement, 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 acquiescence to, an event otherwise constituting a breach or default under the Contract.
- b. In addition to any other remedies available to the State under the Contract and state and federal law for Contractor's default, the State may choose to exercise some or all of the following:
 - i. Suspend, in whole or in part, payments due to Contractor under this Contract;
 - ii. Pursue equitable remedies to compel Contractor to perform;
 - iii. Apply Service Credits against amounts due and owing by the State under the Contract; or
 - iv. Require Contractor to cure deficient performance or perform the requirements of the solicitation at no charge to the State.

36. Cooperation with Third Parties

Upon request by the State, the Contractor shall reasonably cooperate with any third party designated by the State such as, but not limited to, other contractors or Subcontractors, including successor Contractors, retained by the State.

37. 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 the Contract 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. Contractor shall be authorized to provide copies of the Contract 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.

38. Accessibility

a. Web Accessibility:

Any network-based information and applications development, or programming delivered to or by the State pursuant to this contract or procurement, will comply with Section 508 of the Rehabilitation Act of 1973, as amended, and be consistent with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Information Communication Technology, as such policy may be amended, modified or superseded (the "Accessibility Policy"). The Accessibility Policy requires that the Department's Information Communication Technology shall be accessible to persons with disabilities as determined by accessibility compliance testing. Such accessibility compliance testing will be conducted by Contractor and any report on the results of such testing must be satisfactory to the Department.

b. Language Access for Individuals with Limited English Proficiency:

Executive Order 26 (EO 26), directs executive state agencies that provide direct public services to offer language assistance services (translation and interpretation) to people of Limited English Proficiency (LEP). If applicable, any solution being procured which is deemed to provide a "direct public service" must comply with EO 26.

39. Branding and Universal Web Navigation

Any public facing web-based information and applications development, or programming delivered pursuant to the Contract shall comply with New York State Information Technology Standard, NYS-S16-001- New York Universal Web Navigation and New York State Branding Guidelines as such policy and standard may be amended, modified or superseded.

40. Migration

Contractor's services performed under this Contract will ensure easy migration of the Data including Confidential Information under this Contract by providing its solution in a manner designed to do so. This may include maintaining that information in a format that allows Department to easily transfer it to an alternative application platform. Contractor will make its Application Programming Interfaces (APIs) available to Department.

41. Disclosure of Breach

Notwithstanding on any other provision of this Contract or requirements of law or regulation, the Contractor shall provide notice to the Department as soon as possible following the Contractor's discovery or reasonable belief that there has been unauthorized disclosure or loss of sensitive or Confidential Information ("Security Incident").

- a. Within twenty-four (24) hours of the discovery or reasonable belief of a Security Incident, the Contractor shall provide a written report to the Department detailing the circumstances of the incident, which includes at a minimum:
 - i. A description of the nature of the Security Incident;
 - ii. The type of Department information involved including the categories of data;
 - iii. Who may have obtained the Department information;
 - iv. What steps the Contractor has taken or shall take to investigate the Security Incident;
 - v. What steps the Contractor has taken or shall take to mitigate any negative effect of the Security Incident; and
 - vi. A point of contact for additional information.
- b. Each day, or as otherwise mutually agreed to in writing by the Department and Contractor, thereafter until the Contractor's investigation is complete or otherwise directed by the Department, the Contractor shall provide the Department with a written report regarding the status of the investigation and the following additional information as it becomes available:
 - i. Who is known or suspected to have gained unauthorized access to the Department's information;
 - ii. Whether there is any knowledge if the Department information has been used in an unauthorized fashion or compromised;
 - iii. What additional steps the Contractor has taken or shall take to investigate the Security Incident;

- iv. What steps the Contractor has taken or shall take to mitigate any negative effect of the Security Incident; and
 - v. What corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
- c. Contractor shall also take immediate and necessary steps needed to restore the information security system to prevent further breaches.
- d. The Contractor shall confer with the Department regarding the proper course for the investigation and risk mitigation. The Department reserves the right to conduct an independent investigation of any Security Incident, and should the Department choose to do so, the Contractor shall reasonably cooperate by making resources, personnel, and systems access available to the Department and the Department's authorized representative(s) who may include the New York State Chief Information Security Office.
- e. Subject to review and approval of the Department, the Contractor shall, at its own cost, without limitation, provide notice that satisfies the requirements of applicable law or regulation to individuals whose personal, confidential, or privileged data were compromised or likely compromised as a result of the Security Incident as well as notice to any regulatory authority as required under the Contract or applicable law or regulation. If the Department, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing notice shall be reimbursed to the Department by the Contractor. If the Contractor does not reimburse such costs within thirty (30) calendar days of the Department's written request, the Department shall have the right to collect such costs including as a set-off against moneys due the Contractor.
- f. The Department reserves the right to require the Contractor to provide commercially standard credit monitoring for any and all individuals affected by the data breach at the sole expense, without limitation, of the Contractor for a period not to exceed 12 months, which shall begin 30 days following the notice of offer from the Contractor of such credit monitoring to those affected individuals, which shall be within a reasonable time following the identification of such affected individuals. The Department reserves the right to require notice by regular or electronic mail.

Appendix C

APPENDIX C - INFORMATION SECURITY REQUIREMENTS

New York State Department of Civil Service
March 2024

The following requirements shall be effective as of the date the Contractor or Contractor Staff first receives, maintains, transmits, accesses or otherwise comes into contact with Confidential Information (See Standard Clauses for All Department Contracts (Appendix B)). These requirements are intended to describe the minimum standard for physical, technical and administrative controls affecting Confidential Information in relation to the Services being provided under the Agreement.

The Department may suspend access to Department Systems or Data at any time if the Department, in its sole discretion, believes Contractor is not complying with any of its obligations herein.

Definitions

All capitalized terms herein shall have the meaning as set forth in this Appendix. If not defined herein will have the meaning as set forth in the resulting Contract including the Appendices and Attachments thereto, or if not defined therein will have the meaning as defined in 45 C.F.R. Parts 160-164.

1. Compliance

Contractor agrees to preserve the confidentiality, integrity and accessibility of Data with administrative, technical and physical measures that conform to federal, State and Department mandates, and the security controls as stated herein, based upon the nature of the Project Services provided, the Data involved, and/or the location where such Project Services are provided. Accordingly, Contractor warrants, covenants and represents that it shall fully comply with all New York State Information Technology Cybersecurity Policies, Standards and Procedures published by the New York State Chief Information Security Office at <https://its.ny.gov/policies>, as amended from time to time, that are applicable to the Project Services being provided by Contractor. Contractor is responsible for understanding which policies and state or federal laws apply to the Project Services and the Data in scope for the Agreement. The Department is required to provide a minimum of thirty (30) days written notice to the Contractor of changes to policies or rules under this section. If the requirements set forth herein are not the same as the New York State enterprise security policy, standard or procedures, then the more restrictive requirement applies. Contractor is responsible for assessing and monitoring Subcontractor control environments for compliance with the standards as documented herein. The Department reserves the

right to immediately revoke system or access privileges where such privileges pose an undue risk to the State.

2. Acceptable Use of Information Technology Resources

Contractor, including all Contractor Staff, accessing the State's Information Technology Resources in the course of their work for the Department are required to comply with New York State Information Technology Policy NYS-P14-001 – Acceptable Use of Information Technology Resources, as amended from time to time, prior to accessing any New York State Information Technology resources.

Access to the State's Networks, Systems, Data, or Facilities is provided to support the official business of the Department. Any use inconsistent with the Department's business activities and administrative objectives is considered unacceptable or inappropriate use.

The Department reserves the right to change its policies and rules at any time, with regard to the acceptable use of Department Networks, Systems, Data or Facilities. Non-compliance with these provisions or unacceptable use of Department Networks, Systems or Facilities may result in the revocation of system privileges, termination of the Agreement with Department, and/or criminal and/or civil penalties.

3. Information Security Program

- 3.1. Contractor must maintain a written Information Security Program ("WISP") including documented policies, standards, and operational practices that meet or exceed the requirements and controls set forth herein to the extent applicable to the Project Services and identify an individual within the organization responsible for its enforcement. Contractor's WISP shall address, at a minimum, all security requirements as listed in these requirements, as amended from time to time, and comply with all state and federal data security and privacy laws applicable to the Department. This documentation will be reviewed by Contractor's security official, or its designee, at least annually and shall be updated periodically with changes to organization, technology, or Services. When implementing security controls Contractor shall take a risk-based approach. Any control exceptions which represent risk will be formally documented, monitored, and periodically reviewed.
- 3.2. Upon request by the Department, Contractor's WISP shall be made available to and reviewed by the Department or the Department's

representative. At the Department's request and at no cost to the Department, Contractor shall make mutually agreed upon, commercially reasonable modifications to its WISP or to its data security controls in order to conform to the requirements set forth herein. The Department reserves the right, in its sole discretion, to terminate Contractor's access to Confidential Information until such time as Contractor has made such modifications to its WISP or data security controls. Contractor shall notify the Department in writing of any changes to systems, facilities or WISP controls affecting Confidential Information. This notification should set forth in detail how such changes will impact the Confidential Information.

- 3.3. Contractor shall apply appropriate sanctions against Contractor Staff who fail to comply with security policies and procedures.
- 3.4. Contractor shall have processes and procedures in place so that Security Incidents will be reported through appropriate communications channels as quickly as possible. Contractor shall periodically test, review, and update such processes and procedures. All Contractor Staff shall be made aware of their responsibility to report any Events prior to being granted access to any Confidential Information. If at any time during the Agreement, Contractor becomes aware of an Event or that it or any of its Subcontractors will or do not meet the obligations described within these requirements, Contractor will immediately notify the Department.
- 3.5. Contractor shall periodically conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and Availability of Confidential Information. The assessment must be reviewed by Contractor's security official and used to inform the Contractor's information security program.
- 3.6. Upon request, the Contractor shall identify to the Department the security official who is responsible for the development and implementation of the Contractor's policies and procedures.

4. Right to Assess, Audit and Certify

- 4.1. The Department, or its designated agents, may assess or audit the effectiveness of Contractor's compliance with requirements herein. The Department shall provide advanced notice of any assessment or audit. The Parties shall mutually agree in writing to the timing of the assessment or audit.

- 4.2. Upon request, Contractor shall complete a security controls assessment conducted by the Department or its designated agent ("Security Assessment"). To the extent that the security controls assessment identifies any risks or deficiencies for which remediation is required, such remediation requirements or compensating controls (and the timeframes within which the remediation requirement or compensating control must be successfully implemented) will be provided in writing to the Contractor. The Department and Contractor agree to negotiate in good faith a mutually agreeable timeframe within which the remediation requirements or compensation controls must be successfully implemented. If an agreement cannot be had, the Department will make the final determination regarding the timeframe. Contractor's failure to complete any remediation requirements within the required timeframe shall be deemed to be a material breach of the Agreement.

Where the Contractor is a Business Associate, or hosts, maintains or has access to Department Protected Health Information, certification in the HITRUST Common Security Framework (CSF) is required. The Department, in its discretion, may accept a comparable industry accepted security assessment certification in lieu of a HITRUST Common Security Framework (CSF) certification. (For purposes of these requirements a SOC 2 attestation report is deemed a comparable industry accepted assessment.) If an alternative security assessment certification is accepted, then such alternative certification shall replace the following references to HITRUST.

- 4.2.1. If the Contractor has a HITRUST CSF Certification applicable to the Project Services and/or applications in scope for the Agreement as of the Effective Date of the Agreement and maintains it throughout the Agreement, then that HITRUST CSF certification, at the discretion of the Department, will be accepted in lieu of a security controls assessment identified in Section 4.2. Documentary evidence for HITRUST CSF certification must be provided to Department upon request and include, at a minimum, sections of the HITRUST CSF report that demonstrate Contractor's scoring across all domains and any corrective action plans required as a condition of certification. Upon Contractor's written request, the Department shall return all such documentary evidence to Contractor. The Department may ask questions related to the protection of Confidential Information after review of documentation supporting the

HITRUST CSF Certification. The Contractor's HITRUST CSF Certification does not waive Department's rights to assess under Section 4.1 herein or other audit rights, including rights to onsite facility inspection, provided elsewhere in the Agreement.

4.2.2. If the Contractor is without a HITRUST CSF certification or an approved alternative security assessment certification as of the Effective Date of the Agreement, Contractor shall:

- Complete and provide to the Department a HITRUST CSF Self-Assessment Report no later than 90 days after the Effective Date of the Agreement; and
- Obtain and provide to the Department a HITRUST CSF Validated Report no later than 18 months after the Effective Date of the Agreement; and
- Obtain and provide to the Department a HITRUST CSF certification and associated documentation, including but not limited to complete validated reports and corrective action plans, no later than 24 months after the Effective Date of the Agreement.

4.2.3. If Contractor has begun the process of obtaining a HITRUST CSF Certification before the Effective Date of the Agreement, then Contractor represents and warrants to the Department that all corrective action plans that are necessary to obtain a HITRUST CSF Validated Report and/or HITRUST CSF Certification and that have been identified to Contractor prior to the Effective Date shall be communicated to the Department and documented in writing to the Department.

4.2.4. Within 30 days of identification, the Contractor shall report to the Department any findings through the HITRUST engagement that materially impacts Confidential Information. In addition, the Contractor will provide the associated corrective action plans identified during any self-assessment or third-party assessment, including any assessment related to Contractor's independent certification/attestation. Contractor will provide the Department with any further Information associated with such findings, as reasonably requested by the

Department. Upon Contractor's written request, the Department shall return all such documentary evidence to Contractor.

4.2.5. If at any time during the Agreement, the CSF Certification is withdrawn for any reason, Contractor will contact the Department within 24 hours of learning of the issue to provide information and remediation plans regarding the withdrawal.

4.3. From time-to-time Contractor may be requested to respond to, inform and provide updates regarding specific high-risk security gaps or exposures that exist for new or emerging security vulnerabilities that are made publicly known for systems, applications, hardware devices, etc. In all instances Contractor will provide a response to any Department inquiry within five business days and will provide specific details as to the questions asked to ensure that the Department can appropriately evaluate the risk or exposure to the Confidential Information while still protecting the systems, applications, hardware devices etc. from further vulnerabilities.

5. Encryption

- 5.1. Contractor shall apply encryption methodology that, at minimum, conforms to the New York State Encryption Standard (NYS-S14-007) or its successor policy.
- 5.2. Cryptographic key management procedures must be documented and include references to key lifecycle management (including provisioning, distribution, and revocation) and key expiration dates.
- 5.3. Access to encryption keys must be restricted to named administrators. Encryption keys must be protected in storage. For example, methods of acceptable key storage include encrypting keys or storing encryption keys within a hardware security module (HSM). Data-encrypting keys should not be stored on the same systems that perform encryption/decryption operations.
- 5.4. Except as otherwise agreed to in writing by the Contractor and Department, Confidential Information must be encrypted while in transit and at rest across at least the following types of assets:
- Public shared Networks
 - Non-wired Networks
 - Cloud Services

- Desktop and portable computing devices
- Mobile devices
- Portable media
- Back-ups
- Application or Network servers
- 'Plug & play' storage devices

6. Network and Systems Security

- 6.1. Contractor shall utilize and maintain a commercially available, industry standard malware detection program which includes an automatic update function to ensure detection of new malware threats.
- 6.2. Contractor shall maintain an intrusion detection or prevention system that detects and/or prevents unauthorized activity traversing the Network.
- 6.3. Contractor shall have technical controls to detect, alert, and prevent the unauthorized movement of Data from Contractor's control (commonly referred to as Data Loss Prevention).
- 6.4. Networks or applications that contain Confidential Information must be separated from public Networks by a firewall to prevent unauthorized access from the public Network.
- 6.5. At managed interfaces, Network traffic is denied by default and allowed by exception (i.e., deny all, permit by exception).
- 6.6. Contractor shall establish security and hardening standards for Network devices, including Firewalls, Switches, Routers, Servers, and Wireless Access Points (baseline configuration, patching, passwords, and access control).
- 6.7. Web content filtering must be in place to restrict external webmail, instant messaging, file sharing and other Data leak vectors for any Contractor Staff with direct or indirect access to Confidential Information.
- 6.8. Quarterly (unless the System has an Impact Risk rating of High* in which case monthly) vulnerability scans must be performed, and intrusion detection and identity management systems must be installed and monitored on all systems and components that handle, process, or store Confidential Information. Upon request, report summaries must be provided to the Department, including confirmation of remediation for

vulnerabilities identified as high- or medium-risk (or equivalent classifications). * See NYS-S15-002 Vulnerability Management Standard.

- 6.9. At a minimum, Contractor shall engage a qualified third party to perform annual penetration testing of Contractor's Networks containing Confidential Information. The scope of the penetration testing must, at a minimum, include all internal/external systems, devices and applications that are used to process, store, or transmit Confidential Data. Contractor must provide the Department with summary results and a remediation plan at the Department's request.
- 6.10. If Contractor provides products or Services related to the Agreement through a Department portal or mobile applications, especially those which are internet-facing, or use Department domains, the Department's portal, mobile applications and domain are subject to Department scanning and assessments. Contractor agrees to remediate vulnerabilities identified during this process in a manner and timeline acceptable to the Department.
- 6.11. Contractor shall ensure that no unencrypted Confidential Information is stored in any system that is internet facing.
- 6.12. Contractor shall use secure means (i.e., HTTPS, FTPS) for all electronic transmission or exchange of System, user and application information with the Department.

7. Mobile Device Security Controls

- 7.1. Contractor must have a documented mobile device policy that includes a documented definition for mobile devices and the acceptable usage and security requirements for all mobile devices. Such policy shall be consistent with Information Technology standards for Mobile Device Security (NYS-S14-09)
- 7.2. Where Contractor permits Bring Your Own Device (BYOD), Contractor must have a BYOD policy that defines the device and eligibility requirements for BYOD usage in the event that Confidential Information will be viewed or stored on devices that are not Contractor-issued mobile devices. This policy shall be consistent with the New York state policy on BYOD (NYS-S14-012).

- 7.3. Contractor must post and communicate the mobile device policy and requirements through Contractor's security awareness and training program.
- 7.4. Contractor must have a centralized mobile device management solution (MDM) deployed to all mobile devices that are permitted to store, transmit, or process Confidential Information.
- 7.5. Contractor's mobile device policy must require the use of encryption for either the entire device or for Confidential Information and must be enforceable through Contractor's MDM solution or other technical controls.
- 7.6. Contractor must enforce password policies for Contractor-issued mobile devices and/or BYOD mobile devices using Contractor's MDM solution or other technical controls.
- 7.7. Contractor's Information Technology department must provide remote wipe or corporate Data wipe for all mobile devices in the event that Confidential Information will be viewed or stored on mobile devices.

8. System and Application Controls

- 8.1. All Confidential Information must be securely stored at all times to prevent loss and unauthorized access or disclosure.
- 8.2. Laptop and workstation systems that access Confidential Information remotely must utilize endpoint protection which includes a personal firewall and anti-malware protection.
- 8.3. Operating systems and application software used must be currently supported by the manufacturer.
- 8.4. Current versions of operating system and application software must be maintained, and patches applied in a timely manner for all systems and applications that receive, maintain, process, or otherwise access Confidential Information.
- 8.5. Confidential Information must not be used in any non-production environment such as testing or quality assurance unless de-identification of the Data has been performed. In the event that de-identification is not practical or feasible, compensating controls must be in place protecting the Data to the same level of protection as afforded to the production environment. Confidential Information must not be

placed into a nonproduction cloud computing environment unless deidentified or compensating controls are in place protecting the Data to the same level of protection as afforded to the production environment.

- 8.6. Confidential Information must be segmented from non-Department Information so that appropriate controls are in place to identify the Data as Department's in all instances, including backup and removable media, and to appropriately restrict access only to users authorized to view the Data. Logical separation must allow Data to be deleted when it is no longer required.
- 8.7. Logical controls, virtual machine zoning, virtualization security and segregation must be in place to help prevent attacks and exposure in multi-tenancy environments containing Confidential Information.
- 8.8. Contractor shall maintain an asset management system which records the movement of hardware and electronic media and any persons responsible, therefore.

9. Software Development Lifecycle

- 9.1. The Contractor shall agree to maximize the number of security features and controls of any software development throughout the term of this Contract according to general industry standards, including, but not be limited to, the following terms and conditions. These provisions apply to the base product as well as any customizations to the product under this Contract.
- 9.2. The development process must use secure system development life cycle and secure coding practices standards as provided for in NYS-S13-001 Secure System Development Life Cycle Standard <https://its.ny.gov/secure-system-development-life-cycle> and the Secure Coding Standard NYS-S13-002 <https://its.ny.gov/information-security-policy>.
- 9.3. Contractor must use both an automated and manual source code analysis tool to detect and remediate security defects in code prior to production deployment.
- 9.4. Contractor must have policies and procedures in place to triage and remedy reported bugs and security vulnerabilities for the Project Services it provides to Department.
- 9.5. Contractor must have controls in place to prevent unauthorized access to its or Department's application, program, or object source

code and ensure that access is restricted to authorized personnel only.

- 9.6. National identifiers or Social Security Numbers must not be utilized as User IDs for logon to applications.

10. Physical Controls for the Protection of Confidential Information

- 10.1. All Confidential Information received or created in paper form must be protected from viewing by unauthorized persons.
- 10.2. A clean desk policy will be enforced to ensure proper safeguarding of all hard copy Confidential Information.
- 10.3. Visitor logs documenting all individuals who are not Contractor Staff who gain access to the facility where Confidential Information is processed will be maintained.
- 10.4. Confidential Information shall not leave control of the Contractor without the written approval of Department.
- 10.5. Servers, enterprise data storage devices, backup tapes and media, and other computing devices that contain Confidential Information used to support Network communications must be located in a secure and restricted access location.
- 10.6. Monitoring cameras (e.g., CCTVs) must monitor ingress and egress to sensitive areas within the facility. The monitoring equipment (e.g., CCTV) feed must be monitored either internally or externally by a qualified team. Alerting procedures must be defined and notification performed to qualified Contractor personnel. Processes for retention and review of security logs (e.g., access and visitor logs, CCTV) must be in place. Cameras must be positioned in a way that Confidential Information is not readable on screens and/or on CCTV recordings or screen captures.
- 10.7. When investigation of an incident or Breach is required, summary reports related to the incident or Breach and all audit trails and CCTV recordings shall be made available to Department upon request and in a timely manner. Upon Contractor's written request, the Department shall return all such documentary evidence to Contractor.

11. Access Control

- 11.1. Prior to gaining access to Confidential Information, Contractor Staff will have appropriate background checks completed in compliance with

state and federal law. See Standard Clauses for All Department Contracts (Appendix B), Onboarding and Suitability Determinations.

- 11.2. Security awareness training will be completed by Contractor Staff prior to access being granted to Confidential Information, and then completed on an annual basis going forward so long as access to Confidential Information continues. This training should include, at a minimum, guidance on defending against malware, protecting passwords, monitoring and reporting system notifications, social engineering, and handling sensitive Data. The Department may require Contractor Staff to complete Department specific security training at no additional cost to the Department.
- 11.3. Physical and logical access will be granted to the minimum Confidential Information necessary to meet the requirements of the user's scope of responsibilities.
- 11.4. Access reviews will be performed at least quarterly for privileged user accounts and at least annually for non- privileged user accounts. The Department reserves the right to request the Contractor to perform an additional access review for non-privileged user accounts if there is evidence of inappropriate access.
- 11.5. Only those individuals providing Project Services to the Department, or those who are responsible for administering or managing systems that contain Confidential Information, shall be authorized to access systems containing Confidential Information.
- 11.6. All Contractor Staff that are no longer required or authorized to access Confidential Information or systems that contain Confidential Information must have access promptly disabled.
- 11.7. Access to Confidential Information and systems that contain Confidential Information must be access controlled through the use of individual user IDs and passwords that substantially meet the NYS Authentication Tokens Standard NYS-S14-006 standard complexity rules and password lifetimes.
- 11.8. If it is suspected that a password has been compromised, the password must be immediately changed or reset.
- 11.9. Processes must be in place to create audit trails capable of determining who has accessed Confidential Information and/or systems that contain Confidential Information.

- 11.10. Remote access to systems or Networks that contain Confidential Information must use multi-factor authentication and a connection with Approved Encryption as defined in Section 5 above.
- 11.11. The Department reserves the right to immediately terminate remote access connections to Department or State Networks and Systems.
- 11.12. Upon request, Contractor shall provide reports within 48 hours for:
 - 11.12.1. List of all individuals with access to Confidential Information and/or systems that contain Confidential Information and the level of access granted;
 - 11.12.2. List of activity associated with any user ID who has access to Confidential Information; and
 - 11.12.3. Account management capabilities, such as account lockouts for unsuccessful logon attempts, defined inactivity times, remote access allowances, specific success and failure events, and management of elevated privilege accounts must be enforced.
- 11.13. All identity credentialing, authentication, Authorization, and access control events must be logged, and those logs are subject to periodic audit by the Department. At a minimum, the logs of all specified success and failure events associated with identity and access management in the computing environment it manages must be produced. These logs must then be archived for at least twelve months. These archived logs must be searchable and or discoverable. Contractor may redact information regarding those individuals who do not have access to the Department's data.

12. Data Protection

Contractor must protect Confidential Information from unauthorized access, use, alternation, disclosure, or dissemination. The Contractor must, in accordance with applicable law and the instructions of the Department, maintain such Data for the time period required by applicable law, exercise due care for the protection of Data, and maintain appropriate data integrity safeguards against the deletion or alteration of such Data. If any Data is lost or destroyed because of any act or omission of the Contractor or any non-compliance with the obligations of this Contract, then Contractor shall, at its own expense, use its best efforts to reconstruct such Data as soon as feasible. In such event, Contractor shall reimburse the Department for any costs incurred by the Department in correcting, recreating, restoring or reprocessing such Data or in providing assistance therewith.

13. Physical Data Transport

The Contractor shall use, if applicable, reputable means to physically transport Data. Deliveries must be made either via hand delivery by an employee of the Contractor or by restricted delivery via courier (e.g., FedEx, United Parcel Service, United States Postal Service) with shipment tracking and receipt confirmation. This requirement applies to transport between the Contractor's offices, to and from Subcontractors, and to the Department.

14. Data Return and Destruction

At the expiration or termination of the Agreement, at the Department's option, the Contractor must provide the Department with a copy of the Data, including metadata and attachments, in a mutually agreed upon, commercially standard format. The Contractor must provide the Department continued access to the Data beyond the expiration or termination of the Agreement for the period designated in the Contract. Thereafter, except for Data required to be maintained by law or this Agreement, Contractor shall destroy Data from its systems and wipe all its data storage devices to eliminate any and all Data from Contractor's systems. The sanitization process must comply with New York State Security Policy NYS-S13-003. If immediate purging of all data storage components is not possible, the Contractor will certify that any Data remaining in any storage component will be safeguarded to prevent unauthorized disclosures. Contractor must then certify to the Department, in writing, that it has complied with the provisions of this paragraph.

15. Offshore Security Requirement

Confidential Information, including Protected Health Information, is not permitted to be hosted, maintained, stored, processed or otherwise accessed outside CONUS ("offshore").

16. Contingency Planning

Contractor will have documented Business Continuity and Disaster Recovery plans in place that include Information security controls. Such plans will be tested at least annually.

17. Incident Response

17.1. Contractor will have a documented Incident Response Plan. Such plan will be tested at least annually.

17.2. Incident response roles and responsibilities must be clearly outlined between Contractor and Department as appropriate.

18. Payment Card Industry Data Security Standard

If, in performing Project Services to or on behalf of Department, Contractor acts as a Merchant or payment card processor as defined by the Payment Card Industry Data Security (PCI DSS) standard, then Contractor agrees to comply with the applicable PCI DSS requirements.

19. Litigation Holds

The Contractor must provide a detailed mechanism for how litigation holds will be implemented. This description shall include how metadata will be created, accessed, and stored in a cloud environment.

20. Cloud Services

In addition to the above security requirements the following security provisions will apply to any State Data that is being hosted by a third-party provider (i.e., Cloud Service) at the provider's or a third-party facility. The provisions are related to security only and do not address maintenance and support or service levels.

20.1 FedRAMP and CAIQ

a) All Cloud Services provided pursuant to this Contract shall comply with the standards set forth by the Cloud Security Alliance and/or Federal Risk and Authorization Management Program (FedRAMP) (<https://www.fedramp.gov>) for cloud services, and other applicable Federal and/or New York State laws, regulations, and requirements.

b) The Contractor must follow the National Institute of Standards and Technology (NIST) 800-53 guidelines for implementing system security and privacy controls and provide results of the Cloud Security Alliance Consensus Assessments Initiative Questionnaire (CAIQ) survey within 30 days of Contract approval, for the State's review. Thereafter on an annual basis, on the anniversary of the Contract Award, Contractor will provide, upon request of the State, a current CAIQ for the States review. The form is available at Cloud Security Alliance (<https://cloudsecurityalliance.org/>). The completion of this requirement is at the Contractor's expense with no additional cost to the State.

20.2 General Cloud Security

Contractor's and its Subcontractor(s)' cloud services environment and/or applications must be available on a 24 hours per day, 365 days per year basis, providing around-the-clock service to New York State users of such systems.

Contractor and its Subcontractor(s) must provide the State with reasonable advance notice of any major upgrades or system changes that they are performing. The State reserves the right to defer these changes if desired.

The Contractor shall maintain an up-to-date system contingency plan and assign personnel to coordinate joint contingency planning, training, and testing activities. In addition, Contractor shall have, and produce upon request, appropriate disaster recovery plans or processes to respond to events.

Contractor will provide to the State a profile of its and its Subcontractor(s)' data center facilities, networking infrastructure, security provisions, backup and recovery procedures, and disaster recovery plans to ensure State Data is protected and is recoverable in case of a system failure.

The following requirements are applicable to Contractor's and its Subcontractor(s)' development, testing and live production environments, for the cloud services provided to the State under this Contract:

- Contractor and its Subcontractor(s) shall establish and maintain appropriate environmental, safety, and facility procedures, data security procedures, and other safeguards against the destruction, corruption, loss, or alteration of the cloud services and any State Data to prevent unauthorized access, alteration or interference by third parties of the same.
- Contractor and its Subcontractor(s) shall utilize industry best practices and technology (including appropriate firewall protection, intrusion prevention tools, and intrusion detection tools) to protect, safeguard, and secure their cloud services systems and State Data against unauthorized access, use, and disclosure. Contractor and its Subcontractor(s) shall constantly monitor for any attempted unauthorized access to, or use or disclosure of, any of such materials and shall immediately take all necessary and appropriate action in the event any such attempt is discovered, within 48 hours of the discovery, or within a different period as agreed to by the State, notifying the State of any material or significant breach of security with respect to any such materials which impacts State Data.

- When software vulnerabilities are revealed and addressed by a Contractor patch, Contractor will obtain the patch from the applicable entity and categorize the urgency of applying the patch as either “critical” or “non-critical” in nature. The determination of the critical versus non-critical nature of patches is solely at the reasonable discretion of the Contractor in consultation with the State. Contractor will apply all critical security patches, hot fixes, or service packs as they are tested and determined safe for installation.
- The Cloud Services live production environment must be physically separate from the other environments. Contractor and its Subcontractor(s) shall maintain and implement procedures to physically and logically segregate State Data from Contractor’s data and data belonging to Contractor’s other customers.
- Security for any State Data hosted by Contractor, or its Subcontractors is the responsibility of Contractor and will not require customization by the State.
- Contractor shall ensure that a sufficient number of personnel of suitable experience, training, and skills are assigned in accordance with the cloud services. Contractor shall have general control and discretion to determine the methods by which Contractor performs and maintains its hosting or other cloud services; provided however, that Contractor shall comply with all terms and conditions herein and that Contractor shall be fully responsive regarding all State requests regarding all operational methods regarding Contractor’s and its Subcontractor(s)’ cloud services as they relate to the State.
- Contractor and its Subcontractor(s) providing cloud services to the State under this Contract must document their security policies, practices, and procedures related to the cloud services provided to the State and make such information available to the State upon request.
- At the State’s request, Contractor shall provide complete network connectivity diagrams for its cloud services to the State for review and approval prior to Cloud Services implementation.
- Contractor and its Subcontractor(s) must track and control all access entering and exiting its facilities used to provide the State with cloud services under this Contract, with physical security systems and video surveillance in place 24/7/365 days a year.
- Contractor and its Subcontractor(s) must apply standard software and hardware maintenance to its equipment as needed to address anomalies and

security concerns, including software hot-fixes and service packs, third-party software used by Contractor, and its Subcontractor(s) including operating system, backups, antivirus software, and any application software, hardware firmware, and BIOS updates with updates tested internally prior to install.

- Contractor and its Subcontractor(s) must deploy reliable industry best practice standard firewalls and anti-virus technologies to their cloud services systems that house NYS Confidential Information, with regular updates to virus definitions and logs monitored and maintained to ensure reliability and security.
- Contractor and its Subcontractor(s) must maintain toll free telephone lines for help desk support calls from State users of their cloud services systems.

20.5 Data Backup and Storage Management Services

Contractor shall do daily incremental backup of all State Data and full weekly backups for data recovery purposes.

Contractor shall backup all State Data to a location at a separate and distinct datacenter for disaster recovery purposes. Failover to an alternate site is to be available at all times with little or no notice.

In order to maintain uptime, critical services must be transferred in the event of a prolonged outage at the primary site. The alternate site must be located geographically separated from the primary site. Contractor's production facility and disaster recovery facility shall be located within the contiguous 48 states of the United States (CONUS) and no State Data shall be hosted outside of this geographic area. State Data shall be stored at the Contractor's or its Subcontractor(s)' production facility and at the disaster recovery facility for a number of specific days mutually agreed to by the Parties in a specific Transaction Document.

Contractor will assist the State, at no cost to the State, in the restoration of State Data that has been deleted or corrupted.

20.6 Audit Report

Within 30 days of Contract approval, Contractor will provide, at Contractor's expense, an independent third-party audit of controls related to the security, availability, or processing integrity of a system or the confidentiality or privacy of the information processed by that system for all systems used to perform the

services under the resulting Contract showing no deficiencies. Thereafter on an annual basis, at the contractor's expense. A full version of the audit report will be provided to the State, within 30 days of the anniversary date of the Contract. A Service Organization Control (SOC) 2 Type 2 audit report or approved equivalent sets the minimum level of a third-party audit. Any deficiencies identified in the audit report or where the Contractor is found to be noncompliant with Contract safeguards, must be remedied, within 90 days of the issue date of the audit report with proof of remediation provided to the State. The completion of this requirement is at the Contractor's expense with no additional cost to the State.

20.7 Data Center Tier Compliancy

All data center(s) used to perform the services under the resulting Contract must be compliant to Uptime Institute standards.

20.8 Development, Testing and Live Production Environments

All requirements are applicable to the Development, Testing, and Live Production Environments. Development and testing environments may be a scaled version of production if appropriate to the testing and development being performed.

The Live Production environment must be logically separate from the other environments.

20.9 Audit Logs

Audit logs must capture all access to State Data (log information to include username, event type, event operation, event details, successful/unsuccessful authentication events, system start/stop, hardware attachment/detachment, system alerts and error messages, and other security events, unsuccessful attempts to access/modify/delete data being logged, or data in the event table). All audit logs should be to write-once media only. The State must have access to all audit logs. A minimum of 92 days of Audit logs must be available as per the New York State Security Logging Standard.

The technical and professional activities required for establishing, managing, and maintaining the environment are the responsibilities of the Contractor.

20.10 Hosting Requirements

Contractor agrees that it shall perform the hosting services in a manner consistent with the following requirements:

- a) Host all State Data and maintain and implement procedures to logically segregate and secure State Data from Contractor's data and data belonging to Contractor's other customers, including other governmental entities.
- b) Establish and maintain appropriate environmental, safety, and facility procedures; data security procedures; and other safeguards against the destruction, corruption, loss, or alteration of the hosting Services and any State Data, and to prevent unauthorized access, alteration, or interference by third parties of the same.
- c) Utilize industry best practices and technology (including appropriate firewall protection, intrusion prevention tools, and intrusion detection tools) to protect, safeguard, and secure the System and State Data against unauthorized access, use, and disclosure. Contractor shall constantly monitor for any attempted unauthorized access to, or use or disclosure of, any of such materials and shall immediately take all necessary and appropriate action in the event any such attempt is discovered, promptly notifying the State of any material or significant breach of security with respect to any such materials.
- d) When software vulnerabilities are revealed and addressed by a vendor patch, Contractor will obtain the patch from the applicable vendor and categorizes the urgency of application as either "critical" or "non-critical" in nature. The determination of the critical versus non-critical nature of patches is solely at the reasonable discretion of Contractor in consultation with the State. Contractor will apply all critical security patches, hot fixes, or service packs as they are tested and determined safe for installation.

20.11 Access to Production Data

The State will determine when live data populate any hosted database. Once the State declares that the system is "live," all Contractor or Sub-Contractor staff that need access to the application, database, server or backup data/media must be pre-approved by the State before access is granted. Audit logs must capture all access to the application, database, server or backup data/media (log information to include username, event type, event operation, event details, successful/unsuccessful authentication events, system start/stop, hardware attachment/detachment, system alerts and error messages and other security events, unsuccessful attempts to access/modify/delete data being logged or data in the event table) and available to the State. All audit logs should be to write-once media only. The State must have access to all audit logs in a format

acceptable to the State.

20.12 Vulnerability Scanning

- a) The State will also have the option to perform monthly environment vulnerability scanning. Contractor must address all critical or severe (priority and secondary level) vulnerabilities found during scanning in a reasonable timeframe as agreed upon with the State.
- b) The State will have the option to perform application scanning and web server scanning, as needed. Contractor must address all high and medium vulnerabilities found during scanning in a reasonable timeframe as agreed upon with the State.

Appendix E

Appendix E Insurance Requirements

Prior to the start of work the Offeror shall procure, at its sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from this IFB, policies of insurance as required by this section, written by companies that have an A.M. Best Company rating of “A-,” Class “VII” or better. In addition, companies writing insurance intended to comply with the requirements of this Section 4.7 should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York. The Department may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company’s strong financial rating. If, during the term of a policy, the carrier’s A.M. Best rating falls below “A-,” Class “VII,” the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above. These policies must be written in accordance with the requirements of the paragraphs below, as applicable.

An Offeror shall deliver to the Department evidence of the insurance required by this IFB and any Contract resulting from this IFB in a form satisfactory to the Department. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. While acceptance of insurance documentation shall not be unreasonably withheld, conditioned or delayed, acceptance and/or approval by the Department does not, and shall not be construed to, relieve an Offeror of any obligations, responsibilities or liabilities under this IFB or any Contract resulting from this IFB.

The Offeror shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the term of any Contract resulting from this IFB.

1. General Conditions

- a. All policies of insurance required by this Solicitation or any Contract resulting from this IFB shall comply with the following requirements:
 - i. Coverage Types and Policy Limits. The types of coverage and policy limits required from the selected Offeror are specified in paragraph 12. Specific Coverages and Limits below.
 - ii. Policy Forms. Except as may be otherwise specifically provided herein, or agreed to in any Contract resulting from this IFB, all policies of insurance shall be written on an occurrence basis.
 - iii. Certificates of Insurance/Notices. The selected Offeror shall provide the Department with a Certificate or Certificates of Insurance, in a form satisfactory to the Department, as detailed below, and pursuant to the timelines set forth in paragraph 11 below. Certificates should reference the Solicitation or award

Appendix E Insurance Requirements

number and shall name the New York State Department of Civil Service, Agency Building 1, Empire State Plaza, Albany, NY 12239, as the certificate holder.

- b. Certificates of Insurance shall:
 - i. Be in the form acceptable to the Department and in accordance with the New York State Insurance Law (e.g., an ACORD certificate);
 - ii. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by this Solicitation or any Contract resulting from this Solicitation;
 - iii. Be signed by an authorized representative of the insurance carrier of the referenced insurance carriers; and
 - iv. Contain the following language in the Description of Operations / Locations / Vehicles section of the Certificate or on a submitted endorsement as applicable: Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.
- c. Only original documents (Certificates of Insurance and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

The Department generally requires an Offeror to submit only certificates of insurance and additional insured endorsements, although the Department reserves the right to request other proof of insurance. An Offeror should refrain from submitting entire insurance policies, unless specifically requested by the Department. If an entire insurance policy is submitted but not requested, the Department shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by The Department does not constitute proof of compliance with the insurance requirements and does not discharge an Offeror from submitting the requested insurance documentation.

2. **Primary Coverage**

All liability insurance policies where the Department is required to be included as an additional insured, shall provide that the required coverage shall be primary and non-contributory to other insurance available to the Department and their

Appendix E Insurance Requirements

officers, agents, and employees. Any other insurance maintained by the Department and their officers, agents, and employees shall be excess of and shall not contribute with the Offeror's insurance. Insurance policies that remove or restrict blanket contractual liability located in the "insured contract" definition (as generally stated in Section V, Number 9, Item f in the Insurance Services Offices (ISO) Commercial General Liability (CGL) policy) so as to limit coverage against Claims that arise out of the work, or that remove or modify the "insured contract" exception to the employers liability exclusion, or that do not cover the Additional Insured for Claims involving injury to employees of the Named Insured or subcontractors, are not acceptable.

3. **Breach for Lack of Proof of Coverage**

The failure to comply with the requirements of this Attachment at any time during the term of any Contract resulting from this Solicitation shall be considered a breach of the terms of any Contract resulting from this Solicitation and shall allow the Department and their officers, agents, and employees to avail themselves of all remedies available under any Contract resulting from this Solicitation, at law or in equity.

4. **Self-Insured Retention/Deductibles**

Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above \$100,000.00 are subject to approval from the Department. Such approval shall not be unreasonably withheld, conditioned or delayed. An Offeror shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Offeror is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.

5. **Subcontractors**

Prior to the commencement of any work by a Subcontractor, the Offeror shall require such Subcontractor to procure policies of insurance as required by this section and maintain the same in force during the term of any work performed by that Subcontractor. An Additional Insured Endorsement (ISO coverage form CG 20 38 04 13), or the equivalent, evidencing such coverage shall be provided to the Offeror prior to the commencement of any work by a subcontractor and pursuant to the timelines set forth in Section 4.7(11), as applicable, and shall be provided to the Department upon request. For subcontractors that are self-insured, the subcontractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the subcontractor would

Appendix E Insurance Requirements

have been required to pursuant to this section had the subcontractor obtained such insurance policies.

6. **Waiver of Subrogation**

For all liability policies (except Professional Liability and Data Breach/Cyber Liability), the Offeror shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against the Department and their officers, agents, and employees, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if the Offeror waives or has waived before the casualty, the right of recovery against the Department and their officers, agents, and employees or (ii) any other form of permission for the release of the Department any entity authorized by law or regulation to use any Contract resulting from this Solicitation and their officers, agents, and employees. A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

7. **Additional Insured**

The Offeror shall cause to be included in each of the liability policies (except Professional Liability and Data Breach/Cyber Liability) required below coverage for on-going and completed operations naming as additional insureds (via ISO coverage forms CG 20 10 04 13 or 20 38 04 13 and CG 20 37 04 13 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage): the Department and their officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to the Department pursuant to the timelines set forth in Section 11 below. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Offerors who are self-insured, the Offeror shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Offeror would have been required to pursuant to this Attachment had the Contractor obtained such insurance policies.

8. **Excess/Umbrella Liability Policies**

Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided upon request. Unrelated underlying policies included in the Schedule that are not required to meet the insurance requirements may be redacted from the Schedule.

Appendix E Insurance Requirements

9. Notice of Cancellation or Non-Renewal

Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) Business Days of receipt of any notice of cancellation or non-renewal of insurance, the Offeror shall provide the Department with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Solicitation and any Contract resulting from this Solicitation.

10. Policy Renewal/Expiration

Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this Solicitation and any Contract resulting from this Solicitation shall be delivered to the Department. If, at any time during the term of any Contract resulting from this Solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Solicitation or any Solicitation and any Contract resulting from this Solicitation, or proof thereof is not provided to the Department, the Offeror shall immediately cease work. The Offeror shall not resume work until authorized to do so by the Department.

11. Deadlines for Providing Insurance Documents after Renewal or Upon Request

As set forth herein, certain insurance documents must be provided to the Department contact identified in the Contract Award Notice after renewal or upon request. This requirement means that the Offeror shall provide the applicable insurance document to the Department as soon as possible but in no event later than the following time periods:

- a. For certificates of insurance: 5 Business Days from request or renewal, whichever is later;
- b. For information on self-insurance or self-retention programs: 15 Calendar Days from request or renewal, whichever is later;
- c. For other requested documentation evidencing coverage: 15 Calendar Days from request or renewal, whichever is later;
- d. For additional insured and waiver of subrogation endorsements: 30 Calendar Days from request or renewal, whichever is later; and

Appendix E Insurance Requirements

- e. For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: 5 Business Days from request or renewal, whichever is later.

Notwithstanding the foregoing, if the Offeror shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to the Department, the Department shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 Calendar Days.

12. Specific Coverage and Limits

Insurance Type		Proof of Coverage is Due
Commercial General Liability Insurance	\$1,000,000 each occurrence	Upon notification of tentative of award and updated in accordance with Contract
General Aggregate	\$2,000,000	
Products/Completed Operations	\$2,000,000	
Personal and Advertising Injury	\$1,000,000	
Medical Expense	\$5,000	
Business Automobile Liability Insurance	\$1,000,000 each accident	
Professional Liability Insurance (Errors and Omissions)	\$2,000,000 each claim	
Technology Errors & Omissions Insurance	\$2,000,000 each claim	
Data Breach/Cyber Liability Insurance	\$5,000,000 each claim	
Crime	\$50,000	
Workers' Compensation		With bid submission
Disability Benefits		

1. Commercial General Liability

Commercial General Liability Insurance, (CGL) shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury,

Appendix E Insurance Requirements

cross liability coverage, and liability assumed in a contract (including the tort liability of another assumed in a contract). Policy shall include bodily injury, property damage, and broad form contractual liability coverage. The limits under such policy shall not be less than the following:

- i. Each Occurrence – \$1,000,000.00
- ii. General Aggregate – \$2,000,000.00
- iii. Products/Completed Operations – \$2,000,000.00
- iv. Personal Advertising Injury – \$1,000,000.00
- v. Medical Expense – \$5,000.00

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

- i. Premises liability;
- ii. Independent contractors/subcontractors;
- iii. Blanket contractual liability, including tort liability of another assumed in a contract;
- iv. Defense and/or indemnification obligations, including obligations assumed under any Contract resulting from this Solicitation;
- v. Cross liability for additional insureds;
- vi. Products/completed operations for a term of no less than 1 year, commencing upon acceptance of the work, as required by the Contract;

The CGL policy, and any umbrella/excess policies used to meet the “Each Occurrence” limits specified above, must be endorsed to be primary with respect to the coverage afforded the Additional Insureds, and such policy(ies) shall be primary to, and non-contributing with, any other insurance maintained by the Department. Any other insurance maintained by the Department shall be excess of and shall not contribute with the Contractor’s or Subcontractor’s insurance, regardless of the “Other Insurance” clause contained in either party’s policy(ies) of insurance, if applicable.

2. Business Automobile Liability Insurance

Appendix E Insurance Requirements

The Contractor shall carry and maintain applicable coverage in the amount of at least \$1,000,000.00 per occurrence.

Such insurance shall cover liability arising out of automobiles used in connection with performance under this Contract, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates.

In the event that the Contractor does not own, lease, or hire any automobiles used in connection with performance under any Contract resulting from the Contract, the Contractor does not need to obtain Business Automobile Liability Insurance, but must attest to the fact that the Contractor does not own, lease or hire any automobiles used in connection with performance under the Contract on a form provided by Civil Service. If, however, during the term of the Contract, the Contractor acquires, leases, or hires any automobiles that will be used in connection with performance under the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage in accordance with the insurance requirements of the Contract.

3. Professional Liability Insurance (Errors and Omissions)

The Offeror shall maintain Professional Errors and Omissions (Professional Liability) in the amount of at least \$2,000,000.00 each occurrence, for claims arising out of but not limited to alleged wrongful acts, including breach of contract, bad faith and negligence. Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services.

- i. Such insurance shall include coverage of all professionals and technical personnel whose actions could be considered “professional services” arising out of the scope of services as additional named insureds.
- ii. If coverage is written on a claims-made policy, the Offeror warrants that any applicable retroactive date precedes the start of work; and that continuous coverage will be maintained, or an extended discovery period exercised, throughout the performance of the services and for a period of not less than three years from the time work under any Contract resulting from this Solicitation is completed. Written proof of this extended reporting period must be provided to the Department upon request.
- iii. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of any Contract resulting from this Solicitation.

Appendix E Insurance Requirements

4. Technology Errors & Omissions Insurance

The Offeror shall maintain, during the term of any Contract, Technology Errors and Omissions Insurance in the amount of at least \$2,000,000.00 each occurrence, for claims for damages arising from computer-related services including, but not limited to, the following: consulting, data processing, programming, system integration, hardware or software development, installation, distribution or maintenance, systems analysis or design, training, staffing or other support services, any electronic equipment, computer software developed, manufactured, distributed, licensed, marketed or sold. The policy shall include coverage for third party fidelity including cyber theft if coverage is not met in a Data Breach and Privacy/Cyber Liability policy or a Fidelity/Employee Dishonesty policy.

If the policy is written on a claims-made basis, the Offeror must provide to the Department proof that the policy provides the option to purchase an Extended Reporting Period (tail coverage) providing coverage for no less than one (1) year after work is completed in the event that coverage is canceled or not renewed. This requirement applies to both primary and excess liability policies, as applicable.

5. Data Breach/Privacy/Cyber Liability Insurance

An Offeror is required to maintain during the term of any Contract and as otherwise required herein, Data Breach and Privacy/Cyber Liability Insurance in the amount of at least \$5,000,000.00 each occurrence, including coverage for failure to protect confidential information and failure of the security of the Offeror's computer systems or the Department systems due to the actions of the Offeror which results in unauthorized access to the Department or their data. Coverage may be satisfied through alternative insurance policies.

Said insurance shall provide coverage for damages arising from, but not limited to the following:

- i. Breach of duty to protect the security and confidentiality of nonpublic proprietary corporate information;
- ii. Personally identifiable nonpublic information (e.g., medical, financial, or personal in nature in electronic or non-electronic form);
- iii. Privacy notification costs;
- iv. Regulatory defense and penalties;
- v. Website media liability; and
- vi. Cyber theft of customer's property, including but not limited to money and securities, unless coverage is provided under a

Appendix E Insurance Requirements

Fidelity/Employee Dishonesty policy or bond (subject to verification by the State).

6. Crime Insurance

If, during the term of any Contract resulting from this Solicitation, the Contractor plans to enter the premises of an Authorized User to fulfill its obligations under this Solicitation or any Contract resulting from this Solicitation, the Contractor is required to fulfill the Crime Insurance requirements herein and shall be required to provide proof of compliance with the requirements. The Contractor shall maintain, during the term of the Contract, Crime Insurance on a “loss sustained form” or “loss discovered form,” and coverage must include the following:

- The policy must allow for reporting of circumstances or incidents that might give rise to future claims.
- The policy must include an extended reporting period of no less than one (1) year with respect to events which occurred but were not reported during the term of the policy.
- Any warranties required by the Contractor’s insurer as a result of any Contract resulting from this Solicitation must be disclosed and complied with. Said insurance shall extend coverage to include the principals (all directors, officers, agents and employees) of the Contractor as a result of any Contract resulting from this Solicitation.
- The policy shall include coverage for third-party fidelity and name “The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation as an Authorized User and their officers, agents, and employees” as “Loss Payees” for all third-party coverage secured. This requirement applies to both primary and excess liability policies, as applicable.
- The policy shall not contain a condition requiring an arrest and conviction.
- The policy shall include coverage for, but is not limited to, employee theft, forgery or alteration, inside the premises-theft of money and securities, inside the premises-robbery or safe burglary of other property, outside the premises computer crime/fraud, and money orders and counterfeit paper currency.

If coverage is provided as underlying coverage of another policy, all requirements must be met within the primary policy.

13. Insurance Requirements

Sections 57 and 220 of the New York State Workers’ Compensation Law require the heads of all municipal and state entities to ensure that businesses applying for contracts have appropriate workers’ compensation and disability benefits insurance coverage. These requirements apply to both original contracts and

Appendix E Insurance Requirements

renewals. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of a Bid or any contract renewal. A Bidder will not be awarded a Contract unless proof of workers' compensation and disability insurance is provided to New York State Department of Civil Service.** Proof of workers' compensation and disability benefits coverage, or proof of exemption must be submitted to New York State Department of Civil Service at the time of notification of tentative award, policy renewal, contract renewal and upon request. Proof of compliance must be submitted on one of the following forms designated by the New York State Workers' Compensation Board. **An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.**

- a. The following forms meet the Departments requirements for proof of New York State Workers' Compensation

- i. CE-200 Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage Is Not Required:

Form CE-200 can be filled out electronically on the New York State Workers Compensation Board's website, www.businessexpress.ny.gov under the heading "Top Requests" on the home page. Applicants filling 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 (4) weeks before receiving a CE-200.

- ii. C-105.2 Certificate of Workers' Compensation Insurance (the contractor's insurance carrier provides this form) PLEASE NOTE: The New York State Insurance Fund provides its own version of this form, the U-26.3
- iii. SI-12 Certificate of Workers' Compensation Self-Insurance (To obtain this form, the contractor needs to call the New York State Workers' Compensation Board, Self-Insurance Office at 518-402-0247), OR GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self- Insurance (The Contractors Group Self- Insurer will provide this form).

- b. The following forms meet the Departments requirements for proof of New York State Workers' Compensation

Appendix E Insurance Requirements

New York State Disability Benefits Insurance Coverage:
Section 220(8) of the New York State Workers' Compensation Law (WCL) requires that State and municipal entities prior to entering into a contract must ensure that the contractor applying for that contract has appropriate New York State disability benefits insurance. All bidders receiving a conditional award must submit one of the following forms in order to meet this requirement.

- i. CE-200 Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage Is Not Required:

Form CE-200 can be filled out electronically on the New York State Workers Compensation Board's website, www.businessexpress.ny.gov under the heading "Top Requests" on the home page. Applicants filling 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 (4) weeks before receiving a CE-200.

- ii. DB-120.1 Certificate of Disability Benefits Insurance (the contractor's insurance carrier provides this form)
- iii. DB-155 Certificate of Disability Benefits Self-Insurance (To obtain this form the contractor needs to call the New York State Workers Compensation Board's Self-Insurance Office at 518-402-0247).

Prior to entering into a Contract with the Department, the selected Offeror and Subcontractor(s) or Affiliates, with more than \$100,000 in expected expenses over the life of the Contract, if any, will be required to verify for the Department, 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 above forms to be used to show compliance with the WCL are listed in Compliance with NYS Workers' Compensation Law. An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.

Any questions relating to either workers' compensation or disability benefits coverage should be directed to the New York State Workers' Compensation Board,

Appendix E Insurance Requirements

Bureau of Compliance at 518-486-6307. Information on the requirements of the New York State Workers' Compensation Law is available at [http://www.wcb.ny.gov/content/main/Employers/requirements-](http://www.wcb.ny.gov/content/main/Employers/requirements-businessesapplying-government-permits-licenses-contracts.pdf)

[businessesapplying-government-permits-licenses-contracts.pdf](http://www.wcb.ny.gov/content/main/Employers/requirements-businessesapplying-government-permits-licenses-contracts.pdf)

To the extent that the Offeror is proposing the use of Subcontractors or Affiliates, the Offeror must verify for the Department, on forms authorized by the New York State Workers' Compensation Board, the fact that the Subcontractors or Affiliates are properly insured or are otherwise in compliance with the insurance provisions of the WCL.

ATTACHMENT 1



Department of
Civil Service

Offeror Affirmation of Understanding and Agreement

IFB entitled:
"Employee Benefit Card"

As a prerequisite for participating in this Invitation for Bids entitled "**Employee Benefit Card**", 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. Attachment 1 should be completed by the Offeror and emailed, and/or mailed to the Designated Contact as set forth in Section 2 of the IFB.

Offeror Affirmation and Agreement

The Offeror affirms that it understands and agrees to comply with the procedures of the Department of Civil Service relative to permissible Contacts as required by State Finance Law §139-j(3) and §139-j(6)(b). The Department's policies are set out in Attachment 2.

Name of
Offeror:

DialogDirect, Inc.

By:

Dawn Corsiglia

(Signature)

Name:

Dawn Corsiglia

Title:

CFO - USA, Qualfon Group

Email:

dawn.corsiglia@qualfon.com

Address:

13700 Oakland Ave.

Highland Park, MI 48203

Date:

6/20/2024



Department of
Civil Service

Procurement Lobbying Policy

IFB entitled:
"Employee Benefit Card"

Procurement Lobbying, Ch.4, L. 2010 State Finance Law (SFL) Sections 139-j and 139-k ADM 982-1 (7/2019)

I. Definitions

For the purpose of this policy, the following definitions apply:

"Article of procurement" means a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a Department governmental procurement.

"Contacts" means any oral, written, or electronic communication (unless it is a Contact that is included among certain statutory exemptions set forth in State Finance Law §139-j(3)(a)) with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental entity's conduct or decision regarding the governmental procurement.

"Procurement Contract" means any contract or other agreement, including an amendment, extension, renewal, or change order to an existing contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the contract as it was finally awarded or approved by the comptroller, as applicable), for an article of procurement involving an estimated annualized expenditure in excess of \$15,000. Grants, contracts entered into under SFL Article 11-B, and intergovernmental agreements shall not be deemed "procurement contracts" for the purpose of this policy.

"Governmental entity" means:

- a) Any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary, including the Department;
- b) Each house of the state legislature;
- c) The unified court system;
- d) Any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law;



**Department of
Civil Service**

Procurement Lobbying Policy

IFB entitled:
"Employee Benefit Card"

- e) Any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state;
- f) A municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law;
- g) A subsidiary or affiliate of such a public authority.

"Offeror" means any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Department or any other State governmental entity about a governmental procurement during that procurement's restricted period of such governmental procurement whether or not the caller has a financial interest in the outcome of the procurement; provided, however, that a governmental agency or its employees that communicates with the procuring agency regarding a governmental procurement in the exercise of its oversight duties shall not be considered an Offeror.

"Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids in response to the solicitation document.

"Proposal" means any bid, quotation, offer or response to a Department solicitation of submissions relating to procurement.

"Governmental procurement" means:

- a) The public announcement, public notice, or public communication to any potential vendor of a determination of need for a procurement, which shall include, but not be limited to, the public notification of the specifications, bid documents, request for proposals or evaluation criteria for a procurement contract;
- b) The solicitation for a procurement contract;
- c) The evaluation of a procurement contract;
- d) The award, approval, denial, or disapproval of a procurement contract; or
- e) The approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the State Comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the Offeror/Contractor.



Department of
Civil Service

Procurement Lobbying Policy

IFB entitled:
“Employee Benefit Card”

“Restricted period” means the period of time commencing with the earliest posting, on the Department’s website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with Article four-C of the Economic Development Law, of written notice, advertisement or solicitation of a request for Proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from Offerors intending to result in a procurement contract with the Department, and ending with the final contract award and approval of the contract by the Department and, where applicable, the Office of the State Comptroller.

“Revenue contract” means any written agreement between the Department and an Offeror whereby the Department gives or grants a concession or a franchise.

II. Designated Contacts

For each governmental procurement, the Department shall at the same time that a restricted period is imposed, designate, with regard to each governmental procurement, a person or person(s) who are knowledgeable about the procurement and who may be contacted by Offerors relating to the governmental procurement. Each Offeror who contacts the Department during a procurement’s restricted period is permitted to make permissible contacts only the person(s) designated by the Department for that purpose (i.e., Designated Contact). Such contacts must comply with the requirements established by SFL sections 139-j and 139-k, and with the requirements set forth by the Department in the solicitation document.

III. Offeror Affirmation of Understanding and Agreement to Comply

As a threshold requirement to participating in a procurement, the Department shall require each Offeror to provide written affirmation of its understanding of and agreement to comply with the Department’s policy and procedures relating to permissible contacts during the governmental procurement’s restricted period. Such a written affirmation by an Offeror shall be deemed to apply to any amendments to a procurement submitted by the Department after an initial affirmation is received with an initial bid.

IV. Contact Documentation

Upon any contact during the procurement’s restricted period, Department staff shall obtain the name, address, telephone number, place of principal employment, and occupation of the person or organization making the contact, and also shall inquire whether the person or organization making the contact was the Offeror or was retained, employed, or designated by or on behalf of the Offeror to appear before or contact the



Department of
Civil Service

Procurement Lobbying Policy

IFB entitled:
“Employee Benefit Card”

Department about the procurement. All recorded contacts shall be recorded on the appropriate form(s) and included in the procurement record.

V. Non-responsibility Disclosure

Department staff shall ensure that all solicitation documents require Offerors to disclose findings of non-responsibility made within the previous four years by any State governmental entity where such prior finding of non-responsibility was due to:

- a) A violation of the procurement lobbying requirements established at SFL section 139-j; or
- b) The intentional provision of false or incomplete information to a government entity.

VI. Non-responsibility Determination

The failure of an Offeror to timely disclose accurate or complete information to the Department regarding the above shall be considered by the Department in its determination of the Offeror's responsibility. No procurement contract shall be awarded to any such Offeror, its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders unless the Department finds that the award of the contract to that entity is necessary to protect public property or public health or safety, and that the entity is the only source capable of supplying the required article of procurement within the necessary timeframe, provided however, that the Department shall include in the procurement record a statement describing the basis for such finding.

VII. Contractor Certification

A contract award subject to SFL sections 139-j and 139-k shall contain a certification by the successful Offeror that all information provided to the Department with respect to the procurement lobbying requirements established by those sections is complete, true and accurate.

Each contract shall contain a provision authorizing the Department to terminate such contract in the event such certification is found to be intentionally false or intentionally incomplete. The Department shall include in the procurement record a statement describing the basis for such termination.

Any employee of the Department who becomes aware that an Offeror has made an impermissible contact(s) during the procurement shall immediately notify the Department's Ethics Officer or the Department's Director of Internal Audit. If an Offeror violates these requirements with regard to permissible contacts at a governmental entity



**Department of
Civil Service**

Procurement Lobbying Policy

IFB entitled:
“Employee Benefit Card”

other than the Department, the employee of that entity who becomes aware of the violation shall notify that entity’s Ethics Officer, Inspector General, if any, or other official of that entity responsible for reviewing or investigating such matters, who shall in turn notify the Department’s Ethics Officer or the Department’s Director of Internal Audit.

VIII. Department Review of Alleged Violations and the Imposition of Sanctions

- a) If the Department’s Ethics Officer or the Department’s Director of Internal Audit receives notification of an allegation that an Offeror has made an impermissible contact during the procurement’s restricted period as described above, the Department’s Director of Internal Audit shall immediately investigate such allegation. If the position of Director of Internal Audit is vacant, the Ethics Officer shall conduct the investigation, or the Commissioner may appoint a designee to investigate the allegation. In no event shall the person conducting the investigation be someone who has participated in the preparation of the solicitation document, the evaluation of Proposals, or the selection decision.
- b) If the investigation indicates that sufficient cause exists to believe that the allegation is true, the Department shall give the Offeror reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation. At the Department’s discretion, such opportunity to be heard may be provided by giving the Offeror the opportunity to meet with the Department staff conducting the investigation or by the Offeror’s submission of a written statement, or both. The Offeror may, but need not, be represented by counsel during the investigation. Any and all issues concerning the manner in which the investigation process is conducted shall be determined solely by the Department staff conducting the investigation.
- c) If it is found that an Offeror has knowingly and willfully made an impermissible contact in violation of these requirements, then the Department staff making such findings shall report to the President of the Civil Service Commission related instances, if any, of any Department employee’s violation of Public Officers Law sections 73(5) and 74.

IX. Sanctions

- a) A finding that an Offeror has knowingly and willfully made an impermissible contact shall result in a determination of non-responsibility for such Offeror. Concomitantly, such Offeror and its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders, shall not be awarded the procurement contract, unless the Department finds that the award of the procurement contract to that entity is necessary to protect public property or public health or safety, and that the entity

ATTACHMENT 2



**Department of
Civil Service**

Procurement Lobbying Policy


IFB entitled:
"Employee Benefit Card"

is the only source capable of supplying the required article of procurement within the necessary timeframe. If such in the case, the Department shall include in the procurement record a statement describing the basis for such a finding.

- b) Any subsequent determination of an Offeror's non-responsibility due to violation of these requirements within four years of a prior determination of non-responsibility due to a violation of these requirements shall result in the Offeror being rendered ineligible to submit a proposal on or be awarded any procurement contract for a period of four years from the date of the second non-responsibility determination.

Prepared for: **NYS Department of Civil Service**

ATTACHMENT 3

 Department of Civil Service	Formal Offer Letter IFB entitled: "Employee Benefit Card"
--	--

Employee Benefit Card Procurement Manager
NYS Department of Civil Service
Empire State Plaza, Swan Street Building, Core 1
Albany, NY 12239

Date: 08/09/2024

RE: IFB entitled: "Employee Benefit Card"
Firm Offer to the State of New York

Dialog Direct hereby submits this firm and binding offer ("Proposal") to the State of New York in response to New York State Department of Civil Service IFB entitled "Employee Benefit Card" (IFB). The Proposal hereby submitted meets or exceeds all terms, conditions, and requirements set forth in the above-referenced IFB and in the manner set forth in the IFB.

Dialog Direct accepts the terms and conditions as set forth in IFB; as well as the terms and conditions set forth in IFB Appendices A through E and agrees to satisfy the comprehensive programmatic duties and responsibilities outlined in the IFB as set forth in the IFB for the Project Services as bid.

Dialog Direct agrees to execute a standardized contractual agreement and accepts as non-negotiable the terms and conditions set forth in Appendix A.

Dialog Direct further agrees, if selected, to comply with the provisions of 1) the Tax Law Section 5-a, Certification Regarding Sales and Compensating Use Tax; and 2) Sections 57 and 220 of the New York State Workers' Compensation Law.

This formal offer will remain firm and non-revocable for a minimum period of 180 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 180 day period, this offer shall remain firm and binding beyond such until a contract is approved by the NYS Comptroller, unless **Dialog Direct** serves the New York State Department of Civil Service "Department" with written notice of its Proposal withdrawal.

Legal Business Name of Company Bidding: Dialog Direct, Inc.
DBA – Doing Business As (if applicable): Dialog Direct
Address Street City State Zip: 13700 Oakland Avenue, Highland Park, Michigan 48203
NYS Vendor Identification Number: 1100158443
Federal Tax Identification Number: [REDACTED]

If applicable, place an "X" next to each that apply:

Vendor Responsibility Questionnaire Filed Online:
 Minority-owned Business Enterprise (MBE):
 Women-owned Business Enterprise (WBE):
 Service Disabled Veteran Owned Business (SDVOB):

submission.

Signature: Dawn Corsiglia **Title:** CFO - USA, Qualfon

Acting in the County of Oakland



Department of
Civil Service

**NYS Department of Civil Service
Debriefing Guidelines**

IFB entitled:
"Employee Benefit Card"

In accordance with NYS State Finance Law §163(9)(c), the Department shall make a debriefing available to any entity that submitted an unsuccessful proposal or bid in response to a given solicitation after notification is made by the Department. All Offerors shall be given written notice of the tentative contract award.

Timeframes associated with requesting/conducting a Debriefing:

A debriefing must be requested by an unsuccessful Offeror in writing, either via postal mail or electronic mail, within fifteen calendar days of the Department's written notification that an Offeror's offer is unsuccessful.

Any unsuccessful Offeror, upon request, will be afforded an opportunity for a debriefing. An unsuccessful Offeror's failure to timely request a debriefing shall not extend the time period to file a protest.

How Debriefings shall be conducted by the Department:

A debriefing may be requested by any unsuccessful Offeror regarding the reasons that the submitted proposal or bid was not selected for award. While a debriefing is typically conducted in person, it may be conducted by video conference, over the phone, or through written summaries, upon the mutual agreement of the Department and the Offeror.

A debriefing is intended to make the procurement process open and transparent and to help the vendor community become more viable competitors for New York State goods and services. A debriefing will include:

1. The reasons that the proposal, bid or offer submitted by the unsuccessful Offeror was not selected for award. The Department will not discuss specific details of other Offerors' proposals.
2. The qualitative and quantitative analysis employed by the agency in assessing the relative merits of the proposals, bids or offers;
3. The application of the selection criteria to the unsuccessful Offeror's proposal; and
4. When the debriefing is held after a final award, the reasons for the selection of the winning proposal, bid or offer. The debriefing shall also provide, to the extent practicable, general advice and guidance to the unsuccessful Offeror concerning potential ways that a future proposal, bid or offer could be more responsive.



Department of
Civil Service

**NYS Department of Civil Service
Debriefing Guidelines**

IFB entitled:
"Employee Benefit Card"

General Conditions Applicable to All Debriefings:

1. The Department will schedule the same amount of time for each Offeror who requests a debriefing.
2. A debriefing will not be scheduled for more than one hour.
3. A debriefing will be held individually with each requesting unsuccessful Offeror.
4. The Department's Designated Contact (i.e., the Procurement Manager) is the sole person authorized to schedule a debriefing.
5. The Offeror must provide a list of their intended attendees prior to the debriefing, including their titles or relationship to the Offeror and notify the Department if the Offeror is intending to have legal counsel participate, so that the Department can notify agency legal counsel.
6. At least two Department employees must be present at each debriefing.
7. Debriefings will not be taped or transcribed by the Department, and Offerors are prohibited from taping the Debriefing.
8. Requests for copies of documents made by an Offeror at the debriefing must be handled in accordance with the Department's Freedom of Information Law procedures.

ATTACHMENT 7



Department of
Civil Service

Offeror Certifications Form

IFB entitled:
"Employee Benefit Card"

MANDATORY SUBMISSION: to be completed, signed, and included in the Bid Submission

SECTION ONE: Information Regarding the Offeror		
A. Provide the Offeror's authorized signatory information and identification numbers.		
Name: Dawn Corsiglia		
Signature: <i>Dawn Corsiglia</i>		
Organization: Dialog Direct		
Address: 13700 Oakland Avenue		
City, State, and ZIP Code: Highland Park, Michigan 48203		
Telephone Number (include area code): 248.875.7131		
Email Address: dawn.corsiglia@qualfon.com		
Taxpayer Identification Number: Dialog Direct: [REDACTED]		
NYS Vendor Identification Number, if available: 1100158443		
B. Provide the contact information of the Offeror's primary contact with DCS regarding this Bid Submission. (If different from A.)		
Name: Vincent Adamo		
Title: Account Director		
Address: 13700 Oakland Avenue		
City, State, and ZIP Code: Highland Park, Michigan 48203		
Telephone Number (include area code): 855.457.1395 x.51040		
Email Address: vince.adamo@qualfon.com		
SECTION TWO: Minimum Offeror Eligibility Requirements		
1.	The Offeror must, at time of Bid Submission, possess the legal capacity to enter into a Contract with the Department.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.	The Offeror, at time of Bid Submission, must be authorized to conduct business in NYS, or, if the Offeror is not so authorized at time of Bid Submission Due Date, then the Offeror must, at time of Bid Submission Due Date, have filed an application for authority to do business in NYS with the New York State Secretary of State. Such application must be approved prior to Contract Award.	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.	The Offeror must represent and warrant that, at time of Bid Submission, 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 (as detailed in Section 3 of this IFB) and agree that it will comply with any requirements imposed upon it by law.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4.	The Offeror must have, at time of Bid Submission, at least two current or former clients, each with a card production size of at least one hundred thousand (100,000) in the last twelve-month period prior to bid submission.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5.	The Offeror must represent and warrant that, at time of Bid Submission, it possesses adequate staffing resources, financial resources, and organizational capacity to perform the type, magnitude and quality of work specified in the IFB.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No



Department of
Civil Service

Offeror Certifications Form

IFB entitled:
"Employee Benefit Card"

6.	The Offeror must have, at time of Bid Submission, at least three years prior experience, within the past five years (2020-2024), producing and distributing Employee Benefit Cards that are similar to those specified in the Employee Benefit Card Specifications (Exhibit 1); and have produced a minimum of one million Employee Benefit Cards in a twelve-month period within those past five years (2020-2024).	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
SECTION THREE: Offeror Certifications			
1.	The Proposal constitutes a firm and irrevocable offer for a period of one hundred and eighty (180) days from the date of submission to DCS.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.	By submission of a Proposal, the Offeror agrees not to make any claims for or have a right to any damages because of any misrepresentations or misunderstanding of the specifications or because of any errors or omissions or lack of information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
3.	The Offeror agrees to fully comply with the Procurement Lobbying Law Sections 139-j and 139-k of the New York State Finance Law.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
4.	The Offeror certifies that all information provided in connection with its Proposal is true and accurate.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.	The Offeror certifies they can meet all of the requirements found in Project Services (Section 3 of the IFB).	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
6.	The Offeror acknowledges that, should any extraneous terms, alternative activities/work to be performed, added conditions, or exceptions be submitted within its Proposal, such extraneous terms, alternative activities/work to be performed, added conditions, or exceptions will not be considered by DCS.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
7.	The Offeror has read, understands, and accepts all provisions of Appendix A – Standard Clauses for All New York State Contracts. Appendix A contains important information related to the contract to be entered into as a result of this IFB and will be incorporated, without change or amendment, into the contract entered into between DCS and the selected Offeror. By submitting a response to this IFB, the Offeror agrees to comply with all the provisions of Appendix A.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
8.	The Offeror understands that submissions that do not provide all the requested documents in the IFB and or packaging of the IFB submissions in compliance with the instructions provided in IFB may be subject to rejection.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
9.	<p>EXECUTIVE ORDER NO. 177 CERTIFICATION EXECUTIVE ORDER NO. 177 CERTIFICATION</p> <p>The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.</p> <p>The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.</p> <p>Generally, the Human Rights Law applies to:</p> <ul style="list-style-type: none"> • all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment; • employers with fewer than four employees in all cases involving sexual harassment; and, 	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No



Department of
Civil Service

Offeror Certifications Form

IFB entitled:
"Employee Benefit Card"

<ul style="list-style-type: none"> any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin. <p>In accordance with Executive Order No. 177, the Contractor hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.</p> <p>Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.</p>	
<p>10. PUBLIC OFFICER LAW REQUIREMENTS AND CONFLICT OF INTEREST DISCLOSURE</p> <p>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 establish 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 this IFB and any other activities including, but not limited to, contracts, Proposals, 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.</p> <p>The Offeror hereby submits its 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.</p> <p>Please provide below 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. Please attach additional pieces of paper as necessary.</p> <p><u>Dialog Direct affirms that there is no conflict of interest, and as your business partner for the last 10 years, operations will remain as they are.</u></p> <p>_____</p> <p>_____</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>11. SEXUAL HARASSMENT PREVENTION CERTIFICATION</p> <p>State Finance Law §139-I requires Offeror's on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training (that meets the Department of Labor's model policy and training standards) to all its employees. By submission of this Proposal, each Offeror and each person signing on behalf of any Offeror certifies, and in the case of a joint Proposal each party thereto certifies its own organization, under penalty of perjury, that the Offeror has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the Labor Law.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>12. The Offeror certifies under penalty of perjury that they are not a Russian entity or Russia supporting entity as those terms are defined in Executive Order No. 14 dated February 27, 2022.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>13. The Offeror certifies under penalty of perjury that your organization is not conducting business operations in Russia, as those terms are defined in Executive Order No. 16 dated March 17, 2022.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No



Department of
Civil Service

Offeror Certifications Form

IFB entitled:
"Employee Benefit Card"

14. NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND

☒ Yes ☐ No

MACBRIDE FAIR EMPLOYMENT PRINCIPLES

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

Have business operations in Northern Ireland.

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.

15. NON-COLLUSIVE BIDDING CERTIFICATION

☒ Yes ☐ No

By submission of this Certification, the Contractor and each person signing on behalf of the Contractor certifies, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this Agreement 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 competitor;
2. Unless otherwise required by law, the prices which have been quoted in this Agreement have not been knowingly disclosed by the Contractor and will not knowingly be disclosed by the Contractor prior to contract approval, directly or indirectly, to any other competitor; and
3. No attempt has been made or will be made by the Contractor to induce any other person, partnership, or corporation to submit or not to submit a price quote for the purpose of restricting competition.

16. As stated in Section 2 of this Solicitation, an Offeror is encouraged to use New York State businesses in the performance of Project Services. Please use the below to identify the Offeror's proposed utilization of New York State businesses.

Name(s) of New York Subcontractors and/or Suppliers	Address, City, State, and Zip Code	Description of Services or Supplies Provided	Estimated Value Over 1-Year Contract Period for services (directly related to this contract.)	Identify if Subcontractor and/or Supplier
CNY Business Solutions	Utica, NY 13503	Produce envelopes	■■■■■ annually	Supplier
	P.O. Box 127			

ATTACHMENT 7



Department of
Civil Service

Offeror Certifications Form

IFB entitled:
"Employee Benefit Card"

The undersigned affirms and swears as to the truth and veracity of all statements in Attachment 1.

Signature: Dawn Corsiglia Title: CFO - USA. Qualfon

PRINT SIGNATORY'S NAME: Dawn Corsiglia Date: 08/09/2024

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT

STATE OF } Michigan

Sworn Statement:

COUNTY OF } Macomb

On the 9th day of August in the year 2024, before me personally appeared
Dawn Corsiglia, known to me to be the person who executed
the foregoing instrument, who, being duly sworn by me did depose and say that She maintains an office
at 13700 Oakland Ave. Highland Park
Town of _____
County of Wayne, State of MI; and further that:

____ (If an individual): he executed the foregoing instrument in his/her name and on his/her own
behalf.

CFO - USA, Qualfon

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

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

____ (If a limited liability company): he is a duly authorized member of _____, LLC, the
limited liability company described in said instrument; that, he is authorized to execute the foregoing
instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to
that authority, he executed the foregoing instrument in the name of and on behalf of said limited liability
company as the act and deed of said limited liability company.

Notary Public: Rebecca M Brashaw Date: 08/09/2024

Notarized online using audio-video communication

Acting in the County of Oakland

Rebecca M Brashaw
Online Notary Public
State of Michigan
Macomb County
Commission #: 0-034-634-739
Commission Expires: 01/08/2030

ATTACHMENT 9



**Department of
Civil Service**

Key Subcontractors or Affiliates

IFB entitled:
"Employee Benefit Card"

INSTRUCTION: Prepare this form for each Key Subcontractor or Affiliate. Key Subcontractors include all vendors who will provide \$100,000 or more in Project Services over the term of the Agreement that results from this RFP.

Offeror's Name:

The Offeror:

☐ is

☒ is not

proposing to utilize the services of a subcontractor(s) to provide Project Services

**Subcontractor's Legal
Name:**

Business Address:

**Subcontractor's Legal
Form:**

☐ Corporation ☐ Partnership ☐ Sole Proprietorship

☐ Other _____

As of the date of the Offeror's Proposal, a subcontract:

☐ has

☐ has not

been executed between the Offeror and the subcontractor(s) for services to be provided by such subcontractor(s) relating to the Project.

In the space provided below, describe the Subcontractor's role(s) and responsibilities regarding Project Services to be provided by the subcontractor:

Relationship between Offeror and 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. In the space provided below, Project Status:

6. In the space provided below, describe the roles and responsibilities of the Offeror and subcontractor in regard to the project identified in 3, above:

ATTACHMENT 13



Bid Submission Checklist

IFB entitled:
“Employee Benefit Card”

DCS reserves the right to disqualify any bids that do not contain the **mandatory items** as specified for this Solicitation and the resulting Contract. Bidders should use the following checklist when submitting bids and include all required documents with Bid Submissions (*mark the box to indicate inclusion of the documents*).

ADMINISTRATIVE SUBMISSION CHECKLIST		
Requirement	Reference(s)	Bidder's Action
<input checked="" type="checkbox"/> Standard Clauses for New York State Contracts	APPENDIX A	For reference only. No action required.
<input checked="" type="checkbox"/> Standard Clauses for All Department Contracts	APPENDIX B	For reference only. No action required.
<input checked="" type="checkbox"/> Information Security Requirements	APPENDIX C	For reference only. No action required.
<input checked="" type="checkbox"/> Insurance Requirements	APPENDIX E	For reference only. No action required.
<input checked="" type="checkbox"/> Offeror Affirmation of Understanding and Agreement	ATTACHMENT 1	Completion, signature, and submission required.
<input checked="" type="checkbox"/> Procurement Lobbying Policy	ATTACHMENT 2, IFB SECTION 2.1	For reference only. No action required.
<input checked="" type="checkbox"/> Formal Offer Letter	ATTACHMENT 3, IFB SECTION 4.2	Signature, notarization, and submission required.
<input type="checkbox"/> Questions Template	ATTACHMENT 4, IFB SECTION 2.1.5	Required if there are any Offeror questions.
<input checked="" type="checkbox"/> NYS Department of Civil Service Debriefing Guidelines	ATTACHMENT 5	For reference only. No action required.
<input checked="" type="checkbox"/> Offeror Certifications Form	ATTACHMENT 7, IFB SECTION 4.1	Signature, notarization, and submission required.
<input type="checkbox"/> Non-Material Deviations Template	ATTACHMENT 8, IFB SECTION 4.3	Required for any proposed Non-Material Deviations.
<input checked="" type="checkbox"/> Key Subcontractors or Affiliates	ATTACHMENT 9, IFB SECTION 4.5	Completion and submission required.
<input type="checkbox"/> FOIL Request for Redaction Chart	ATTACHMENT 11, IFB SECTION 4.4	Required for any requested redactions.
<input checked="" type="checkbox"/> Bid Submission Checklist	ATTACHMENT 13	For reference only. No action required.
<input checked="" type="checkbox"/> Glossary of Defined Terms	ATTACHMENT 15	For reference only. No action required.
<input checked="" type="checkbox"/> Vendor Responsibility Questionnaire	IFB SECTION 4.6	Completion, signature, and submission required.
<input checked="" type="checkbox"/> NYS Tax Law Section 5-a Forms ST-220TD &/or ST-220CA	IFB SECTION 4.7	Completion, signature, and submission required.

ATTACHMENT 13



Bid Submission Checklist

IFB entitled:
"Employee Benefit Card"

TECHNICAL SUBMISSION CHECKLIST

Requirement	Reference(s)	Bidder's Action
<input checked="" type="checkbox"/> Executive Summary	IFB SECTION 5.1	Completion and submission required.
<input checked="" type="checkbox"/> EBC, Card Carrier and Envelope Prototype	IFB SECTION 5.2	

COST SUBMISSION CHECKLIST

Requirement	Reference(s)	Bidder's Action
<input checked="" type="checkbox"/> Price Quotation Form	ATTACHMENT 12, IFB SECTION 6.1	Completion and submission required.



Department of
Civil Service

Glossary of Defined Terms

IFB entitled:
"Employee Benefit Card"

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.

Agreement or Contract means the Agreement entered into between the Parties resultant from this solicitation.

Authorization means access privileges granted to a user, program, or process or the act of granting those privileges.

Availability means the extent to which information is operational, accessible, functional, and usable upon demand by an authorized entity (e.g., a system or user).

Bid/Bid Submission means the submission by the Offeror in response to the solicitation.

Breach means acquiring of information by a person without valid authorization or through unauthorized acquisition.

Business Day(s) means Monday through Friday, except for those designated as Business Holidays.

Business Holiday(s) means legal Holidays observed by the State.

Calendar Year/Annual means a period of 12 months beginning with January 1 and ending with December 31.

Card Carrier means a paper, cardstock or other acceptable medium designed to function as a holder (whether the cards are spot glued or perforated as a part of the holder), and able to carry printed content, for the benefit cards.

Card/Employee Benefit Card means an employee identification card that meets the specifications of this IFB.

Cardholder means an individual covered by The Empire Plan for which an EBC has been requested to be produced or has been produced by the Contractor.

Commissioner means the Commissioner of the New York State Department of Civil Service.


Glossary of Defined Terms

 IFB entitled:
 “Employee Benefit Card”

Contract means a formal and legally binding agreement.

Contractor means the successful Offeror selected as a result of the evaluation of Offerors’ Proposals submitted in response to the solicitation and who executes separate Contracts with the Department to provide Plan Services.

Council on Employee Health Insurance means the council composed of the President of the Civil Service Commission, Director of the Governor’s Office of Employee Relations, and the Director of the Division of Budget.

Data means any information, analytic derivatives, formula, algorithms, or other content that the Department or State may provide to the Contractor pursuant to this Contract. Data includes, but is not limited to, any of the foregoing that the Department and/or Contractor (i) uploads to a Cloud Service, and/or (ii) creates and/or modifies using a Cloud Service.

Day(s) means calendar Days unless otherwise noted.

Deductible means the amount paid by the Enrollee each Calendar Year for Covered Services under the non-network portion before a Plan payment is made.

Department or DCS means the New York State Department of Civil Service.

Plan Year means the period from January 1st to December 31st in each Plan Year, unless specified otherwise by the DCS.

Proposal or Submissions means the Contractor’s Administrative Proposal, Technical Proposal, and Financial Proposal, including all responses to supplemental requests for clarification, information, or documentation, submitted during the procurement.

Solicitation means writings by the State setting forth the scope, terms, conditions, and technical specifications for a procurement of a service.

Specifications means a detailed description of Employee Benefit Card including Card Stock, Card Carrier Stock, Envelope Stock and Card Processing and Design.

State Agency or state agencies means all state departments, boards, commissions, offices, or institutions but excludes, however, for the purposes of subdivision five of section three hundred fifty-five of the education law, the state university of New York and excludes, for the purposes of subdivision a of section sixty-two hundred eighteen



Department of
Civil Service

Glossary of Defined Terms

IFB entitled:
"Employee Benefit Card"

of the education law, the city university of New York. Furthermore, such term shall not include the legislature or the judiciary.

Subcontractor means any individual or legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of the Contract with a Contractor.

VENDOR RESPONSIBILITY QUESTIONNAIRE

Dialog Direct confirms that we have submitted the required Vendor Responsibility Questionnaire online through the NYS VendRep platform and have re-certified our response as of August 9, 2024.

**Contractor Certification to Covered Agency**

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

ST-220-CA

(12/11)

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

Contractor name DialogDirect, Inc.				For covered agency use only Contract number or description	
Contractor's principal place of business 13700 Oakland Avenue		City Highland Park,	State MI	ZIP code 48203-3175	
Contractor's mailing address (if different than above)				Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		\$	
Contractor's telephone number 800 523-5867		Covered agency name			
Covered agency address				Covered agency telephone number	

I, Dawn Corsiglia, hereby affirm, under penalty of perjury, that I am Chief Financial Officer
 (name) (title)

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

(Mark an X in only one box)

☒ The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

☐ The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
 (insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this 29th day of January, 20 24

Dawn Corsiglia

(sign before a notary public)

Chief Financial Officer

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. See *Need help?* for more information on how to obtain this publication. In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

Notarized online using audio-video communication

Rebecca M Brashaw
 Online Notary Public
 State of Michigan
 Macomb County
 Commission #: 0-034-634-739
 Commission Expires: 01/08/2030

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF Michigan }

:

SS.:

COUNTY OF Macomb

On the 29th day of January in the year 20 24, before me personally appeared Dawn Corsiglia,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

She resides at 13700 Oakland Ave,

Town of Highland Park,

County of Wayne,

State of Michigan; and further that:

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

☐ (If an individual): he executed the foregoing instrument in his/her name and on his/her own behalf.

☒ (If a corporation): She is the Chief Financial Officer of DialogDirect, Inc., the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, she is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, she executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

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

☐ (If a limited liability company): he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Rebecca M Brashaw

Notary Public

Registration No.

Acting in the county of Oakland

Privacy notification

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

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

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

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

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

Notarized online using audio-video communication

Rebecca M Brashaw
Online Notary Public
State of Michigan
Macomb County
Commission #: 0-034-634-739
Commission Expires: 01/08/2030

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



Telephone assistance

Sales Tax Information Center: (518) 485-2889

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

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



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

A close-up photograph of a printing press. A large, dark blue rectangular overlay is positioned in the upper right quadrant, containing the text 'TECHNICAL SUBMISSION' in white, bold, sans-serif capital letters. Below the overlay, a large roll of white paper is being processed by a machine. A horizontal metal roller is visible, pressing against the paper. The paper has a colorful, abstract pattern of yellow, orange, and red. The background is dark and out of focus.

TECHNICAL SUBMISSION

TABLE OF CONTENTS

TECHNICAL SUBMISSION

Executive Summary	100
EBC, Card Carrier and Envelope Prototypes (Submitted hard copies separate from this proposal document)	

EXECUTIVE SUMMARY

IFB Required Answers, Section 5.1

I. Offeror Name: Dialog Direct, Inc.

I. Addresses of All Offices:

United States

Highland Park, Michigan: 13700 Oakland Ave, Highland Park, MI 48203
Holland, Michigan: 1351 South Waverly Road, Suite 360, Holland, MI 49423
Fort Collins, Colorado: 4401 Innovation Drive, Fort Collins, CO 80525
Coeur d'Alene, Idaho: 1201 West Ironwood Drive, Coeur d'Alene, ID 83814
Orlando, Florida: 105 Live Oaks Gardens, Casselberry, FL 32707
Johnstown, Pennsylvania: 1003 Broad Street, Suite #101, Johnston, PA 15906
Fort Worth, Texas : 4301 Cambridge Road, Fort Worth, TX 76155
Harlingen, Texas: 2200 Haine Drive, Harlingen, TX 78550
San Antonio, Texas: 8415 Datapoint Dr., Suite 300, San Antonio, TX 78229
Waukesha, Wisconsin: 20935 Swenson Drive, Suite 360, Waukesha, WI 53186
Valmeyer, Illinois: 523 South Meyer Avenue, Valmeyer, IL 62295
North Las Vegas, Nevada: 6565 Nascar Street, North Las Vegas, NV 89115
Robbinsville, New Jersey: 4 Applegate Drive, Suite A, Robbinsville, NJ 08691
South Plainfield, New Jersey: 51 Cragwood Road, Suite 203, South Plainfield, NJ 07080

Canada

Montreal: 1155 Rue Metcalfe 18th floor, Montreal, QC H3B 2V6, Canada

Guyana

Guyana Campus - Building 1: Lot 146 Plantation Providence, East Coast Demerara, Guyana, South America
Guyana Campus - Building 2: Lot 146 Plantation Providence, East Coast Demerara, Guyana, South America

Mexico

Mexico City: Colonia Tizapán, San Angel Mexico City, Mexico

Costa Rica

Costa Rica: Cuarto Piso Torre 1, Frente Cenada Barreal de Heredia, Heredia 40104, Costa Rica

Colombia

Bogotá: Carrera. 12 #96 32 Bogotá, Colombia

Philippines

Cagayan De Oro: 2nd Level Limketkai Module-2 BPO & Cyberpark Building, Limketkai Center, Cagayan de Oro, Misamis Oriental 9000
Cebu: Skyrise 3 Bldg. | Cebu IT Park Apas, Cebu City Cebu City, 6000
Dumaguete - Building 1: EROS Building DR. | V. Locsin Street & Real Sts., Dumaguete City, Negros Oriental, 6200
Dumaguete - Building 2: LinkSY IT Park | Bantayan, Dumaguete City, Negros Oriental, 6200
Manila: Robinsons Otis Shopping Center | Fourth Floor, District of Paco, Old Manila, Manila, Philippines

India

Gurgaon: Plot No. 38, Electronic City, Sector-18, Gurgaon, Haryana 122015, India

I. Proposed Location of Services: Highland Park, MI (13700 Oakland Ave, Highland Park, MI 48203)

I. Name of Officer Responsible for This Account: Vincent Adamo, Account Director

2. A detailed list of two former or current clients each with a card production size of one hundred thousand (100,000) produced within the last 12-month period prior to bid submission.

Included in Dialog Direct's current partnerships of similar services are:

Partnership Start: 2012

No. of cards produced (annually): 989,000

Partnership Start: 1999

No. of cards produced (annually): 150,000

These quantities clearly demonstrate our capability to continue providing New York Department of Civil Services with the requested service.

3. A detailed list of client organizations establishing that the Offeror has at least three years prior experience, within the past five years (2020-2024), producing and distributing Employee Benefit Cards, with the number of cards produced for each client, to clearly demonstrate that the Offeror and/or its Key Subcontractor or Affiliate meets the minimum three years prior experience and of one million Employee Benefit Cards produced in a twelve-month period within those past five years (2020-2024).

Our client service agreements do not allow for us to release production quantities with a complete client list. However, the following are an overview of relevant ID Card production runs:

- Our largest customer averages 82,000 cards per month.
- The average for all other customers is 8,300 cards per month.
- The total annual volume of our largest customer is 989,000 cards.
- The average annual volume for other customers is 100,000 cards.

As the current provider for the New York Department of Civil Services Employee Benefit cards, we can confirm that the current production rates for your Employee Benefit cards for previous' years have been as follows:

New York Department of Civil Services

Partnership Start: **2014**

No. of cards produced: **3.6 million**

Summary of Approach

As New York Department of Civil Service's vendor partner for 10 years we are looking forward to the next five years and beyond. Because our goal is to maintain and grow our partnership, we will maintain your current pricing for the next two years with a nominal increase in years three to five as reflected in our Financial Submission.

We appreciate the opportunity to review our relationships with New York Department of Civil Service's existing and new stakeholders. Dialog Direct's 42 years of experience successfully providing fulfillment solutions to more than 200 clients (67+ in healthcare), we believe, attests to our ability to perform. We know that successful performance is more than printing, inserting and mailing—it is meeting the high expectations of all our clients, especially those in highly regulated industries, such as healthcare, that sets us apart from other vendors.

In 2015, Dialog Direct completed a merger and acquisition of Michigan-based HealthLOGIX. The acquisition supported Dialog Direct's strategic focus on the healthcare industry and further strengthened and expanded Dialog Direct's marketing services capabilities.

We understand that each ID card is a direct reflection of your organization. Our promise is delivering the right information, to the right person at precisely the right time. We are excited to report that in this current contract, spanning the past 4.5 years, we have shipped over 3.1 million ID cards to NY State members—all on time. Our total number of ID Cards for this program since 2014 is 3.6 million. On the quality side, only three ID cards were sent incorrectly over the past 4.5 years, and none of these incidents were in the last two years. That's nearly a 100% success rate.

The best practices of the collective HealthLOGIX and Dialog Direct organization are based on our experience and expertise.

- We are a well-respected production and fulfillment provider, having served multiple industries over our 42 years, including healthcare. This allows us the opportunity to dedicate resources to thought leadership and capital investment in healthcare marketing, people, compliance and technology.
- We serve 29 clients in the healthcare industry in the individual and group Medicare, Medicaid, Commercial space with services ranging from inbound/outbound member and provider enrollment and servicing, pharmacy support, concierge services to print and fulfillment services.
- We maintain world-class, healthcare-specific web-based tools for document management, production tracking, audit/compliance review and archival for our client partners.
 - WebView® is our Internet-based search engine and retrieval tool, allowing access to any document we produced in easy, searchable terms and is currently used for New York Department of Civil Services .
 - ProLOGIX® is our web-based customer portal. It defines the data elements, management of documents and jobs, as well as tracking of individual runs of jobs through our production systems. We welcome the opportunity to demonstrate all the robust capabilities of our technology platform.
- Given the importance of the role technology plays in healthcare, we employ a staff of experienced IT professionals to ensure that scope, QA and delivery is flawless; HIPAA and CMS requirements and timelines are met or exceeded; and that comprehensive disaster recovery/business continuity plans are in place with our other Dialog Direct facilities.
- We operate as a client service organization, and not a production house, which means we place a much greater emphasis on the relationship, listening and understanding the needs, providing strategic vision, and building upon each experience and project.

Solution Highlights

Location

Print and fulfillment for New York Department of Civil Service will continue at our 356,000 sq. ft. facility in Highland Park, Michigan. Our state-of-the-art facilities are managed through a common networked operating system and the same set of well-defined operating processes, providing clients with seamless, fully integrated and highly efficient operations, that includes a fully redundant fulfillment/production facilities Robbinsville, New Jersey. Redundancies are built into our systems to allow for ongoing operations in all scenarios.

Materials Management

As market presence is a must in today's volatile paper market, we understand the importance of managing New York Department of Civil Service's overall cost and budget for the ID Cards. Dialog Direct will leverage our material buying scale to provide New York Department of Civil Service with savings you cannot achieve on your own. New York Department of Civil Service will work hand in hand with Dialog Direct's procurement team to ensure you get the best possible price every time we purchase paper and envelopes for your print production needs.

Print Production

Dialog Direct's digital print solution will offer New York Department of Civil Service high-speed digital imaging utilizing the latest in monochrome, digital color and high-speed inkjet technologies. Our hardware and software continue to offer New York Department of Civil Service a complete solution for your printing needs.

High Speed / Intelligent Inserting

Dialog Direct's intelligent inserting solution will continue to deliver an unparalleled combination of productivity, integrity, and flexibility, allowing for greater operational performance and increased mail effectiveness. Our solution combines flexible document processing capabilities and precision high-speed control to eliminate speed degradations and achieve maximum yield for variable, high-page count applications.

Mail Management

Dialog Direct's mail management solution is an advanced operation that offers high-speed automation through bar coding to ensure valuable postage discounts and expedited delivery. We apply barcodes utilizing MLOCR (Multi-Line Optical Character Reader) technology allowing your mailing to be combined with hundreds of thousands of daily mail pieces as part of our USPS approved Combined Mailing Agreement. This "comingling" maximizes your postal savings and speeds up your mail process. Dialog utilizes the following presort technologies:

- MLOCR equipment
- Bulk Mailer sortation software
- DBCS (Delivery Barcode Sorter)
- NPI V-sort flat sorting MLOCR system
- First Class manifesting system
- USPS Plant Load Verification site
- CASS, DPV, NCOA combined with digital presort

ID Card Processing

As we do today, Dialog Direct will process your files within an hour or two of receipt of data file. A report is sent upon the verification of content of file process. At this time, items can be viewed in WebView®. As a current partner, you are aware that WebView® is our web-based reporting tool that allows users with proper username/password to view data/reports. The entire procedure, from file processing to file print/mail drop for ID cards, is approximately 48 hours.

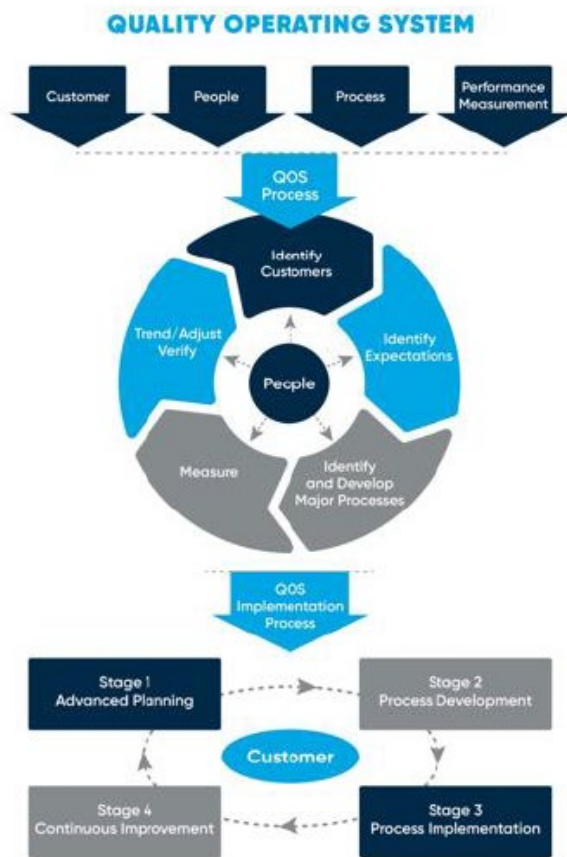
Our long history of consistency and reliability with New York Department of Civil Services is, in part, attributable to our state-of-the-art affixing technologies. The carrier will continue to display a 2Dbar code—this bar code contains the ID number(s) for the card(s) that will be affixed to the carrier, ensuring the right card goes on the right carrier.

Quality Control

Knowing that customer expectations are high, and rightfully so, we have a strict methodology for ensuring that our performance consistently meets and exceeds specifications. To conform to these stringent requirements, we instituted the Dialog Direct Quality Operating System in 1989 and have continued to adhere to this blueprint ever since.

Dialog Direct prides itself on providing innovative, strategic, targeted value products and services to our clients. This is our core value proposition. To serve this end, we have adopted a version of the "Lean" series of tools and techniques for program management, specifically, focusing on eliminating all non-value-added activities and waste from our processes. The goal of our ongoing organizational process implementation is always incremental and breakthrough improvement. At full potential, all aspects of our organization's value chain will have eliminated waste and will be operating at full value-added potential.

All our fulfillment streams incorporate a check and balance process dictated by our Quality Operating Office and Six Sigma guidelines. Our fulfillment streams are a multi-step process, where each step is uniquely quality controlled.



QUALITY ASSURANCE TOOLS:

- Batch Documentation
- In-Process Quality Inspection
- Material Tie-Outs
- Line Clear
- Quality Assurance Review
- Inkjet – Camera Verification
- Maintain Samples
- Control Product Release
- Service Level Agreement
- Statement of Work
- Quarterly Business Reviews

Account Management

Once a project is up and running, The Client Services team, who participate in the initial project launch team, begin managing the day-to-day aspects, including close communication with the client. Activities include overseeing system functionality and activity, taking orders for analyses, providing reports, and overseeing the overall quality of the work. An important role is providing feedback to both external clients and internal departments so that everyone involved with the program knows exactly what's going on.

The Client Services team is led by the Director of Customer Engagement, supported by project engineers and inventory analysts who support the day-to-day operation of your business. The Client Services team represents the voice of the customer within Dialog Direct and will be responsible for the day-to-day communication between the parties. Kristy Anderson and her director Vince Adamo have been managing the NY State account for the entire 10 years of the partnership and we see no changes there.

Account reviews, frequency and content with our clients:

- Quarterly State-of-the-Project review
 - Quarterly or as specified
 - Day-to-day client/Dialog Direct team
 - Review of performance versus client expectation
 - Discussion of continuous improvement
- Annual State-of-the-Business review
 - Customer and Dialog Direct Senior Management
 - Review of performance versus client expectation
 - Discussion of continuous improvement opportunities

Our Client Services team is empowered to take any required actions to ensure customer satisfaction is achieved. The Client Services Manager operates in a peer relationship with all department heads and has full authority to interact at those senior levels to ensure that we exceed expectations.

We measure quality by meeting or exceeding our set Key Performance Indicators (KPIs). Specifically, quality practices are soundly rooted in ISO-standard requirements, as well as Six-Sigma principles. The emphasis on quality is built into the fabric of the organization through our Quality Operating System (QOS). QOS is the disciplined process that dictates how work is handled and includes detailed process flows and performance metrics for every activity. As your current vendor, we are accustomed to your specific service levels and performance. Standards for timeliness, accuracy, productivity and customer service are measured for each applicable operation in the process.

Measurement methods include both manual and automated inspection and vary based on the task or operation being performed. Performance metrics, including trend charts, Paynter and Pareto diagrams, are reviewed with clients on an agreed-upon frequency. Quality control checks are built into every step of the process, and at every hand-off point to ensure quality is maintained throughout the entire process.

Our reporting includes validation of process functionality, summarization of process effectiveness (including data hygiene and database updates) and notification of ad-hoc processes as defined by business needs. Standards for timeliness, accuracy, productivity and customer service are measured for each applicable operation in the process.

Throughout the project launch and the duration of the program, regularly scheduled status meetings will report project performance, key activity status, review open change control and discuss open project tasks. Other common tools used by the project team include:

- Statement of Work
- KPI or SLA Performance Reporting
- Change Control Log and Change Control
- Issues Log
- Project Risks and Mitigation
- Meeting Minutes
- Decisions Made
- Required Actions Time Table
- High Level Project Plan

Flexible Staffing

Dialog Direct uses forecasting tools to predict volume and determine appropriate staffing levels. Our flexible staffing plan, training policies and processing systems enable Dialog Direct distribution centers to accommodate widely divergent volume levels. For example:

When faced with the extra work of a peak season, special marketing campaign or outside influences that were not anticipated, we have many options to assist us in planning for these special peaks:

- Temporary Staff: Dialog Direct has partnered with specialized staffing firms to provide high-quality contract employees for temporary staffing at all Dialog Direct facilities. The temporary staff members are hired to work specialized days or hours depending on the forecasted needs.
- Shared Resource: We can cross train other personnel on other teams to assist during peak seasons for short periods of volume. Once trained this person is used when volumes exceed forecast and can be ready within a few minutes.

We offer third shift and weekend order processing as needed.

WHO WE ARE

Make Each Person's Life Better

At Dialog Direct, everything revolves around our mission: "be the best and make each person's life better"—this extends to our employees, their families, our communities and our clients. Everything we do ties back to our mission—from global, corporate financial planning to the minutiae involved in daily operations per center. Our mission-driven, person-first culture is the industry's most innovative approach to maximizing the value of the person behind the interaction. It is the reason why our most tenured clients selected us as a partner and continue to choose Dialog Direct. It all starts with our commitment to develop an environment and culture fully committed to helping each of our employees grow as individuals—personally and professionally.

We cannot emphasize enough how important our mission is for us, and we believe it is our number one differentiator—across our focused service lines and client verticals. Our employees are given a multitude of options, support, coaching and guidance for advancing their careers and skill sets. In addition, We offer personal development programs to employees, as well as direct support to their families.

When our employees are happy, they stay longer, which reduces recruitment and training hours for new hires, strengthens performance in client programs and ensures the best possible customer experiences for your end users. This simple philosophy has made Dialog Direct one of the fastest growing BPOs and has led to recognition as one of the Industry's Best Outsourcers, with some of the highest client satisfaction scores in the industry today.

Our mission is enacted daily by operating our business according to a purposeful set of defined policies, processes and values that assist us in achieving our mission daily. Our leaders are not just managers, they are Mission Leaders. They are trained to be Managers, Mentors and Messengers to our clients, clients' customers, our employees and the communities where we live and work. Today, we have more than 1,500 Mission Leaders.









care@work
fun@work
give@work
communicate@work
learn@work

Our Four Agreements

Our core commitments are an important part of everyday operations. Dialog Direct fosters a culture of leadership dedicated to four agreements to become the best. These agreements are: keep commitments, move fast, spend wisely and add value as a strategic partner. These are agreements we make as individuals, as an organization and with our clients and end-user customers. They represent our never-ending journey to strive only for the best. Through these commitments, we achieve repeatable results.

We Make STRIDES

STRIDES is an acronym for our seven values.

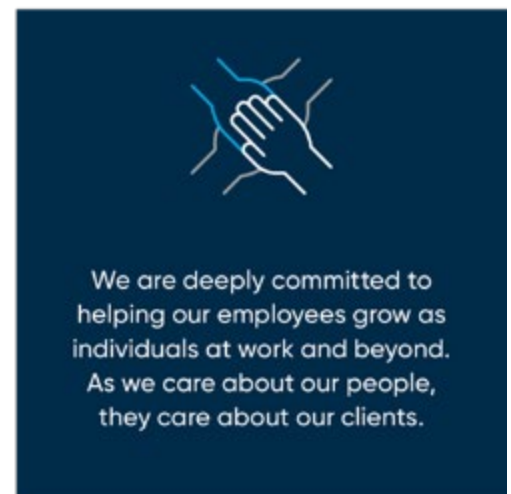
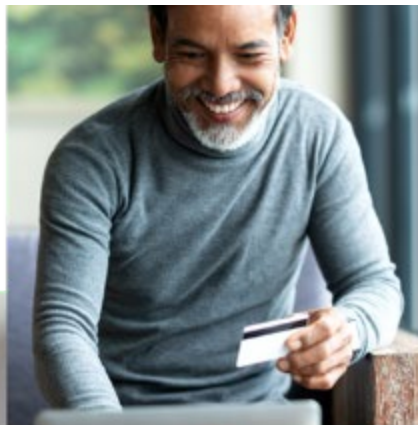
 Service	We are a solutions-based business. We provide solutions for our clients and, equally important and paramount to our success, we provide support to our employees. Delivering value both internally and externally enables everyone to achieve their desired outcomes.
 Teamwork	Through unity, we accomplish greater things. Every single person in our organization does something that someone else depends on to do their job successfully. We are all on the same team.
 Results	Though this is commonly associated with financial performance and client KPIs, it's much more than that. We strive to be the best at everything we do by meeting goals effectively, efficiently and with a results-based approach.
 Integrity	We honor our word. It's human to make mistakes, and divine to admit to them. We guarantee transparency and will always value honesty in our organization.
 Dignity	Business goals will not be achieved at the expense of dignity. Dignity is one of the most important drivers in cultivating our client relationships. Having dignity not only means being valued and treated with respect, but also valuing and treating others with respect.
 Encouragement	We motivate ourselves to do our very best, and to lead by example. We encourage others by giving them hope, confidence or support.
 Spirituality	Everyone has a purpose in life. We call it "total vocation." It could be career-related, family-related, faith-related or a combination of all these and more. We are dedicated to helping each person discover their total vocation by encouraging them to achieve their dreams. Every call we answer and every interaction we process is an opportunity to make someone's life better.

Living Our Values

When we live our values, we build a deeper connections with customers and help the company stand out in the market. Tenured employees find solutions to a customer's needs, resolve issues independently and use processes more effectively to improve each customer interaction. In other words: employee engagement and tenure drive creativity and quality to keep costs down.

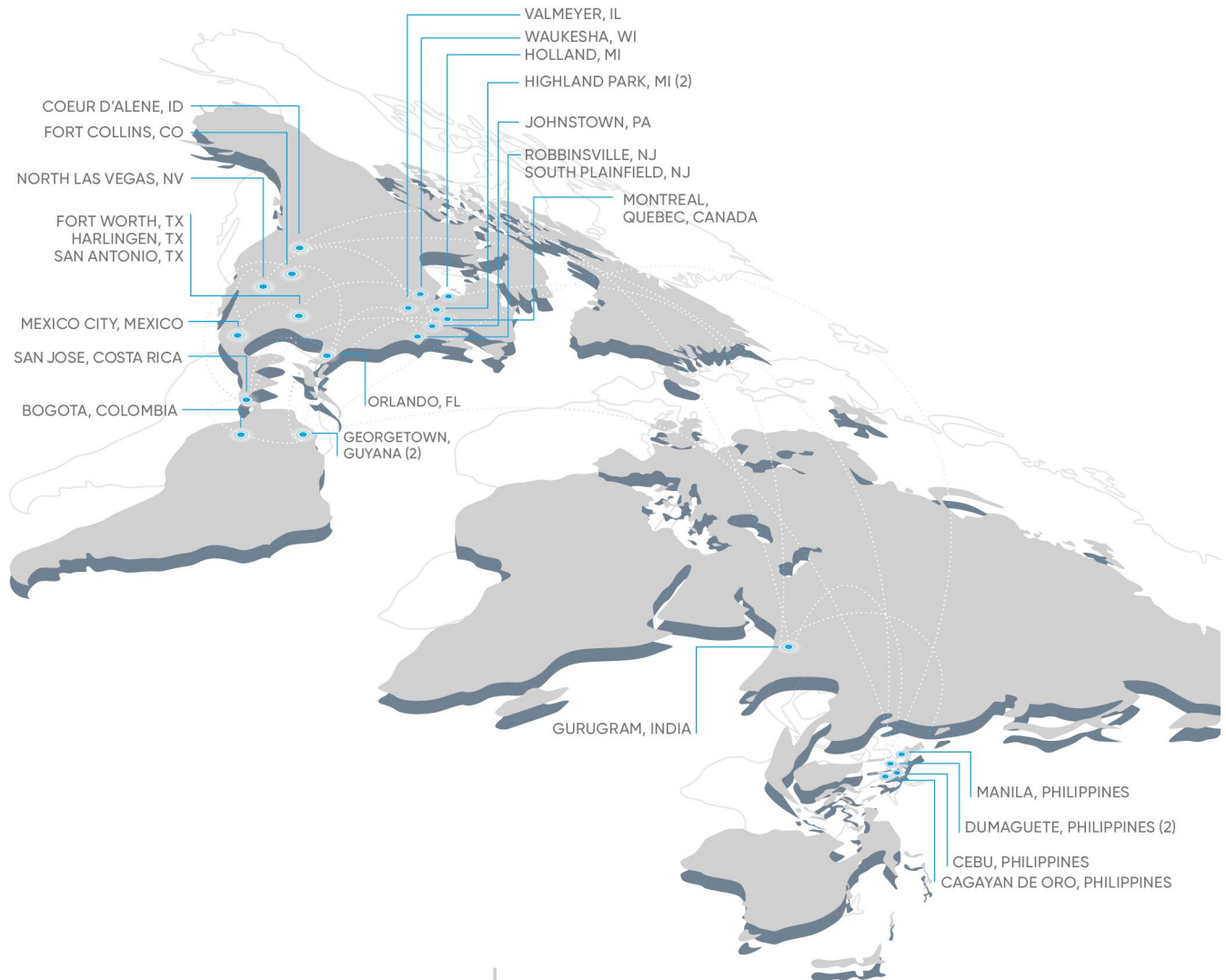
We strive to help our employees develop necessary skills to overcome challenges and encourage them to take this knowledge on their life's journey. Our community involvement translates to happier, longer tenured employees than what is customary in the industry, and that makes us proud. It inspired the creation of the Giving and Care programs to support our people and the communities in which we live.

We encourage and recognize employees who volunteer their time, energy and effort, and we offer confidential counseling (in addition to and separate from mentorship in work operations). In 2023, our Giving program included 2,013 volunteers supporting 112 outreach programs to reach 9,610 beneficiaries in 76 communities across seven countries, and our Care Coaches conducted 7,750 care sessions, managed 584 care cases, made 140 hospital visits, organized 659 workshops and facilitated 569 interfaith, diversity and inclusion activities.



Our Footprint

Today, Dialog Direct/Qualfon has approximately 15,000 employees in 27 locations. Our locations include 15 onshore in the United States, six nearshore in Canada, Mexico, Costa Rica, Guyana and Colombia and six offshore in the Philippines and India. Each offers full, end-to-end customer life cycle services through voice, non-voice (email, chat, and social media) and back-office functions via onshore, nearshore, and offshore contact center locations.



**OUR GLOBAL
FOOTPRINT**

27
Locations

15,000+
Team members

A blurred background image of an office interior. Two people are visible in silhouette, standing near a large window that lets in bright light. The overall tone is professional and modern.

FINANCIAL SUBMISSION

TABLE OF CONTENTS

FINANCIAL SUBMISSION

Price Quotation Form	112
----------------------	-----



Department of
Civil Service

Price Quotation Form

IFB entitled:
"Employee Benefit Card"

Offeror Name: Dialog Direct, Inc.

Empire Plan	Year 1	Year 2	Year 3	Year 4	Year 5
Per EBC Fee					
Card Carrier and Envelope (per Packet)					

Instructions:

Quote in the space provided the per EBC fee and the per Packet of Card Carrier and Envelope fee that will be payable in accordance with the terms of the IFB. Each Card Carrier and Envelope Packet includes one (1) Card Carrier and one (1) Envelope.

Quoted fees must include all costs to produce the EBC, Card Carrier and Envelope, including materials, administration, startup costs, and management reporting costs. **Do not include USPS charges in fee quotes, as these will be reimbursed on a pass-through basis.** The Offeror may not bill and will not be reimbursed for any postage charges associated with normal day-to-day functions undertaken by the Offeror to complete Project Services. Such postage charges are considered overhead expenses and, as such, included as a component of the Offeror's per EBC, Card Carrier and Envelope fees.

The Department will not accept fees with any variables or contingencies. An Offeror must fill in quotes in the space provided. The Department will not accept modifications to this attachment.