



**Request for Proposals solicited by the
New York State Office of General Services
For
Art Conservation and Restoration**

Solicitation Number: 1904

Release Date: December 4, 2014

Mandatory Intent to Submit a Proposal: December 30, 2014

Proposals Due: January 15, 2015 @ 2:00 PM EST

Designated Contact: **T.J. Karl, CMS**
NYS Office of General Services
Financial Administration, 32nd Floor
Corning Tower, Empire State Plaza
Albany, NY 12242
Voice: 518-474-5981
Email: thomas.karl@ogs.ny.gov

Table of Contents

1. INTRODUCTION.....	4
1.1 Overview	4
1.2 Designated Contact.....	4
1.3 Key Events	5
1.4 Minimum Proposer Qualifications	6
1.5 Intent to Submit a Proposal.....	6
2. PROPOSAL SUBMISSION.....	7
2.1 RFP Questions and Clarifications	7
2.2 Proposal Format and Content.....	7
2.2.1 Technical Proposal.....	7
2.2.2 Cost Proposal.....	8
2.2.3 Administrative Proposal	9
2.3 Bid Preparation.....	9
2.4 Packaging of RFP Response	9
2.5 Instructions for Proposal Submission.....	9
3. ADMINISTRATIVE INFORMATION.....	11
3.1 Issuing Office.....	11
3.2 Method of Award	11
3.3 Price	11
3.4 Term of Contract	12
3.5 Price Adjustment (Escalation / De-escalation).....	12
3.6 Method of Payment	12
3.7 Electronic Payment	13
3.8 Past Practice	13
3.9 Exceptions to RFP.....	13
3.10 Dispute Resolution	14
3.11 Examination of Contract Documents.....	14
3.12 Prime Contractor Responsibilities	14
3.13 Glossary of Terms	15
3.14 Rules of Construction	15
4. EVALUATION AND SELECTION PROCESS.....	16
4.1 Proposal Evaluation	16
4.2 Proposal Scoring.....	16
4.3 Evaluation Process.....	17
4.3.1 Submission Review	17
4.3.2 Technical Evaluation (70%)	17
4.3.3 Cost Proposal Evaluation (30%)	17
4.3.4 Final Composite Score (100%)	17
4.4 Notification of Award	17
5. SCOPE OF WORK.....	18
5.1 Operational Standards	18
5.2 Staffing and Professional Experience	18
5.3 Scope - General	18
5.3.1 LOT #1: Paintings and Decorative Art	19

5.3.2 LOT #2: Sculptures and Memorials	19
5.4 Additional Services.....	19
5.4.1 Recommended Treatments and Repairs	20
5.4.2 Objects Outside the Albany Area.....	20
5.4.3 Emergency Services	20
5.5 Security and Scheduling Procedures	21
5.6 Reporting Requirements	21
6. CONTRACT CLAUSES AND REQUIREMENTS	22
6.1 Appendix A / Order of Precedence	22
6.2 Procurement Lobbying Requirement	22
6.3 Contractor Insurance Requirements	22
6.4 Tax and Finance Clause	25
6.5 M/WBE & EEO Requirements.....	26
6.6 Freedom of Information Law / Trade Secrets	30
6.7 General Requirements	31
6.8 Contract Terms.....	32
6.9 Extent of Services	32
6.10 Subcontractors	32
6.11 Procurement Rights.....	33
6.12 Debriefings	34
6.13 Termination	34
6.14 NYS Vendor Responsibility	34
6.15 Extension of Use	35
6.16 Indemnification	36
6.17 Force Majeure	36
6.18 Ethics Compliance.....	36
6.19 Encouraging use of New State Business in Contract Performance.....	36
6.20 New York State Vendor File Registration	37
6.21 MERCURY-ADDED CONSUMER PRODUCTS:.....	37

Appendices

- Appendix A - Standard Clauses for New York State Contracts
- Appendix B – RFP Required Forms
- Appendix C – Sample Contract

Attachments

- Attachment 1- Paintings & Decorative Art
- Attachment 2 – Sculptures and Memorials in Albany Area
- Attachment 3 – Cost Proposal Form
- Attachment 4 – Company Qualifications and Experience

1. INTRODUCTION

1.1 Overview

This Request for Proposals (RFP) is being released by the New York State Office of General Services (OGS or State) Division of Financial Administration on behalf of the OGS Bureau of Curatorial Services. OGS is seeking a qualified conservator(s) to provide comprehensive maintenance, conservation and restoration of the art collection in the custody of OGS in Albany and other various locations within the state of New York. This collection includes a variety of paintings, murals, sculptures, memorials, tapestries, furnishings and other decorative art objects. The collection is divided into 2 separate lots – Lot 1 which includes all paintings and various decorative art objects throughout New York State and Lot 2 which includes all sculptures and memorials throughout New York State. Proposers can bid on either both lots or one lot and each will be evaluated individually.

This solicitation outlines the terms, conditions, and all applicable information required for submitting a proposal. Proposers should pay strict attention to the key events (Section 1.3) to prevent disqualification. To ensure compliance with the RFP requirements and to prevent possible disqualification, Proposers should follow the format and instructions contained in this document.

1.2 Designated Contact

In compliance with the Procurement Lobbying Law (139j & 139k), T.J. Karl, Contract Management Specialist I, New York State Office of General Services, Division of Financial Administration has been designated the Primary designated contact for this procurement solicitation and may be reached by email or voice for all inquiries regarding this solicitation.

Designated Contact:

T.J. Karl, Contract Management Specialist I

New York State Office of General Services
Financial Administration
Corning Tower, 32nd Floor
Empire State Plaza
Albany, New York 12242
Voice: 1-518-474-5981
Email: thomas.karl@ogs.ny.gov

In the event the designated contact is not available, the **alternate designated contacts** are:

Diane Robinson, Contract Management Specialist II

New York State Office of General Services
Financial Administration
Corning Tower, 32nd Floor
Empire State Plaza
Albany, New York 12242
Voice: 1-518-474-5981
Email: diane.robinson@ogs.ny.gov

Warren Joscelyn, Contract Management Specialist I

NYS Office of General Services
Financial Administration
Corning Tower, 32nd Floor, ESP
Albany, New York 12242
Voice: 1-518-474-5981
Email: warren.joscelyn@ogs.ny.gov

William Macey, Contract Management Specialist III

New York State Office of General Services
Financial Administration
Corning Tower, 32nd Floor
Empire State Plaza
Albany, New York 12242
Voice: 1-518-474-5981
Email: bill.macey@ogs.ny.gov

For inquiries related specifically to Minority Women-Owned Business Enterprises (MWBE) provisions of this procurement solicitation, the designated contact is:

Anuola Surgick, Compliance Specialist 1

MWBE and Community Relations
NYS Office of General Services
Corning Tower, Empire State Plaza
Albany, NY 12242
Voice: (518) 486-6866
Email: anuola.surgick@ogs.ny.gov

1.3 Key Events

The Table below outlines the tentative schedule for important action dates. If the State finds it necessary to change any of these dates, notification will be accomplished through an addendum to this RFP.

Action	Date
OGS issues Request for Proposal (RFP) # 1904 for Art Conservation and Restoration	December 4, 2014
Proposers submit Mandatory Intent to Submit a Proposal notification to OGS	December 30, 2014
Proposers Questions due to OGS including any exception waiver request	December 30, 2014
OGS issues Responses to Questions (estimated)	January 8, 2015
Proposals due to OGS No later than 2:00 PM EDT	January 15, 2015
Contract start date	Upon OSC approval

1.4 Minimum Proposer Qualifications

Proposers are advised that the State's intent is to ensure that only qualified and reliable contractors enter into a contract to perform the work as defined in this document.

The State considers the following qualifications to be a pre-requisite in order to be considered as a qualified Proposer for purposes of this solicitation.

- Must maintain a restoration/treatment facility within 200 miles of the City of Albany. Facility must be climate/humidity controlled, and large enough to store and treat large works of art.
- Must employ a conservator with accreditation as a member in the American Institute for Conservation.

1.5 Intent to Submit a Proposal

Vendors who wish to submit a proposal **must register** their Intent to Submit a Proposal with OGS by the date stated in Section 1.3 Key Events by sending written notice to the designated contact, T.J. Karl, via email thomas.karl@ogs.ny.gov. Vendors shall include their company name, address, phone, fax, contact name, title, email address and whether they will be submitting a proposal for Lot #1, Lot #2, or Lots #1 and #2.

Only vendors who have submitted an Intent to Submit a Proposal will be allowed to submit proposals and receive updates and responses to questions regarding this RFP. By issuing an Intent to Submit a Proposal, the vendor is not obligated to submit a proposal.

Late submissions will not be accepted. Proposers assume sole responsibility for ensuring that their intent is received timely.

2. PROPOSAL SUBMISSION

2.1 RFP Questions and Clarifications

There will be an opportunity for submission of questions and/or requests for clarification. Questions and/or clarifications must be submitted, via email, to the Designated Contact. All questions must cite the particular page, section, and paragraph number, where applicable. Please submit questions as early as possible following receipt of the RFP. The final deadline for submission of any questions/clarifications regarding this RFP is listed in Section 1.3 – Key Events. Questions received after the deadline for inquiries may not be answered.

OGS will distribute an addendum with all Questions and Responses to Questions via email on or about the date listed in Section 1.3 – Key Events, to the Primary Contact Person for all vendors that have submitted a timely Intent to Submit a Proposal notice. Vendors that have registered their Intent to Submit a Proposal will also receive any additional updates regarding this RFP, as necessary.

2.2 Proposal Format and Content

Proposers are encouraged to include all information that may be deemed pertinent to their proposal. Proposers may be requested to provide clarification based on the State's evaluation procedure. Any clarification will be considered a formal part of the Proposer's original proposal. If further clarification is needed during the evaluation period, OGS will contact the Proposer.

In order for the State to evaluate proposals fairly and completely, proposers must follow the format set forth herein and must provide all of the information requested. All items identified in the following list must be addressed as concisely as possible in order for a proposal to be considered complete. Failure to conform to the stated requirements may necessitate rejection of the proposal.

Note: OGS reserves the right to request any additional information deemed necessary to ensure that the Proposer is able to fulfill the requirements of the contract.

2.2.1 Technical Proposal

2.2.1.1. Cover Letter

The cover letter must confirm that the proposer understands all the terms and conditions contained in this RFP and will comply with all the provisions of this RFP. Further, should the contract be awarded to your company, you would be prepared to begin services upon OSC approval as indicated in Section 1.3– Key Events. The cover letter must include the full contact information of the person(s) OGS shall contact regarding the proposal and must also include the name(s) of principal(s) of the company responsible for this contract, their function, title and number of years of service with company. A Proposer Representative authorized to make contractual obligations must sign the cover letter. The letter must also state which lot(s) the proposer is submitting a proposal for and whether or not subcontractors will be used. Include the name, address, and intended role of each proposed subcontractor.

2.2.1.2. Minimum Proposer Qualifications

Proposers must confirm their ability to meet the minimum qualifications, experience and capabilities to provide services requested in this RFP including the Minimum Requirements set forth in Section 1.4.

2.2.1.3. Operational Work Plans/Methodology

Describe your plan for providing the services required by this RFP. At a minimum, this section must include:

- For each of the art work listed in Attachment 1 (Lot #1 - Paintings) and/or Attachment 2 (Lot #2 - Sculptures) to this RFP, a detailed description of your plan for regular inspection, repair methods, cleaning and other routine and non-routine conservation services including products and techniques used and related timelines (where applicable).
- List the tools, methods and technology that will be used in the performance of the contract.
- A list of any subcontractors your firm may use in providing the required services of this RFP. A description of any subcontractors and how these subcontracted services will relate to this proposed contract (See Section 6.10 - Subcontractors Clause).
- Description of climate/humidity controlled facility large enough to store and treat large works of art.
- Description of treatment facility security measures to protect rare, valuable and unique works of art, 24 hours a day, 365 days a year.
- Include a description of shipping and packing procedures as well as travel distance when transportation of art objects is required.
- Outline specific transportation plans for moving large objects and sculptures.

2.2.1.4. COMPANY EXPERIENCE WORKING WITH VALUABLE/FINE ART OBJECTS

- Show evidence of firms' capabilities and treatment methods for paintings and/or sculptures. A description of your firm's experience in conservation service. Provide evidence of ability to perform multiple treatments of paintings (Lot #1) and/or sculptures (Lot #2).
- Provide a list of similar contracts and at least three (3) references for which the vendor provided similar services for within the past five (5) years.

2.2.1.5. QUALIFICATIONS OF KEY PERSONNEL

- Provide an organizational chart and staffing plan for your firm. Include responsibilities, job qualifications, years' experience and resumes for each employee that would be assigned to the contract.
- Provide proof conservator holds appropriate professional degrees, affiliations and proof of membership in the American Institute for Conservation. Detail the number of years' experience in the conservation and treatment of valuable and sizable collections of art comparable to the State's collection.
- Experience of technicians including number of years working under the direct supervision of an accredited, program-trained conservator and any degrees or credentials in Fine Arts or other related field.

2.2.2 Cost Proposal

Proposer shall submit a completed Cost Proposal Form (Attachment 3A and/or 3B). The Cost Proposal Form must be complete with no lines omitted for the lot(s) the proposer is submitting a bid on. Proposer shall not deviate from the Cost Proposal Form.

2.2.3 Administrative Proposal

- All other required completed forms from RFP Appendix B.
- Important Notes:
 - Insurance – Proposers are reminded of the insurance requirements as described in Section 6.6. The selected Proposer will be required to provide all necessary documentation upon notification of selection.
 - M/WBE & EEO Requirements- Proposers are reminded of the requirements as described in Section 6.8.
 - Vendor Responsibility - Proposers are reminded of the requirement as described in Section 6.17, and are requested to complete the online questionnaire located on the OSC VendRep System website prior to bid submission. If the vendor has previously certified responsibility online, it shall ensure that the VRQ was recertified in the last 6 months.
 - Document Consistency - An award will only be made to the entity which has submitted bid. All submitted documents must be consistent with official name of bidding entity, FEIN and NYS Vendor ID number.
 - A Proposer shall be registered with the NYS Department of State as an entity authorized to conduct business in New York State

2.3 Bid Preparation

All proposals must be completed in ink or machine produced. Handwritten bids will be disqualified.

2.4 Packaging of RFP Response

Please submit (1) original of Attachment 3 – Cost Proposal Form clearly marked **“Cost Proposal” in a separate sealed envelope** from the Technical Proposal.

Note: No overt statements about costs shall be included in the Technical Proposal.

Submit one (1) original of all required forms from Appendix B marked Administrative Proposal and three (3) originals of the Technical Proposal. Also submit an additional three (3) exact copies of the Technical Proposal.

All proposal documents must be submitted by mail, hand delivery, overnight carrier or certified mail in a package showing the following information on the outside:

- Proposer 's complete name and address
- Solicitation Number – RFP 1904
- Lot #1, Lot #2, or Lots #1 and #2
- Proposal Due Date and Time: (as indicated in Section 1.3 - Key Events)
- Proposal for Art Conservation and Restoration Services.

Failure to complete all information on the bid envelope and / or packages may necessitate the premature opening of the proposal and may compromise confidentiality.

2.5 Instructions for Proposal Submission

Note that these instructions supersede the generic instructions posted on the OGS website bid calendar.

Only those Proposers who furnish all required information and meet the mandatory requirements will be considered.

Submit all required proposal documents including signed proposal addenda if any, to the NYS Office of General Services - Division of Financial Administration at the following address:

OGS Financial Administration, Contract Unit
Empire State Plaza, Corning Tower, 32nd Floor
Albany, NY 12242
Attn: T.J. Karl
RFP # 1904*

****Please specify which lot(s) is being bid on.**

E-MAIL OR FAX BID SUBMISSIONS ARE NOT ACCEPTABLE AND WILL NOT BE CONSIDERED.

The State of New York will not be held liable for any cost incurred by the Proposer for work performed in the preparation and production of a bid or for any work performed prior to the formal execution and approval of a contract.

Bids must be received in the above office on or before 2:00 PM on the date indicated in Section 1.3 - Key Events. Proposers assume all risks for timely, properly submitted deliveries.

The received time of bids will be determined by the clock at the above noted location. **NO CONSIDERATION WILL BE GIVEN TO BIDS RECEIVED AFTER THE STATED DATE AND TIME.**

Proposers mailing their bid must allow sufficient mail delivery time to ensure receipt of their bid at the specified location no later than the specified date and time. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the bidding entity shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather or security procedures for parking and building admittance shall not excuse late Bid submissions. Proposers are cautioned that receipt of bids in the OGS Mailroom is NOT sufficient, and that at least historically, one overnight carrier has been known to deliver its packages to the OGS Mailroom. OGS cannot be responsible for the actions of your chosen carrier.

Bids must remain open and valid for 120 days from the due date, unless the time for awarding the contract is extended by mutual consent of NYS OGS and the Proposer. A bid shall continue to remain an effective offer, firm and irrevocable, subsequent to such 120 day period until either tentative award of the contract(s) by issuing Office is made or withdrawal of the bid in writing by Proposer. Tentative award of the contract(s) shall consist of written notice to that effect by the issuing Office to the successful Proposer. This RFP remains the property of the State at all times, and all responses to this RFP, once delivered, become the property of the State.

Important Building Access Procedures for Delivered Bids:

Building Access procedures are in effect at the Corning Tower. Photo identification is required. All visitors must register for building access, for delivering bids. Vendors are encouraged to pre-register by contacting the OGS Finance Office at 518-474-5981 at least 24 hours prior to the bid opening. Pre-registered visitors are to report to the visitor desk located at the Concourse level of the Corning Tower. Upon presentation of appropriate photo identification, the visitor will be allowed access to the building.

Upon arrival at the visitor desk, visitors that have not pre-registered will be directed to a designated phone to call the OGS Finance Office. The Finance Office will then enter the visitor's information into the building access system. Access will not be allowed until the system has been updated. Visitors are encouraged to pre-register to ensure timely access to the building. Vendors who intend to deliver bids or conduct business with OGS should allow extra time to comply with these procedures. These procedures may change or be modified at any time. Visitor parking information can be viewed at the following OGS web site:
<http://ogs.ny.gov/BU/BA/Parking/Visitor/>

3. ADMINISTRATIVE INFORMATION

3.1 Issuing Office

This RFP is being released by the New York State Office of General Services Division of Financial Administration on behalf of OGS Bureau of Curatorial Services.

3.2 Method of Award

As many as two separate contracts shall be awarded under this solicitation to the responsive and responsible Proposer(s) affording the best value to the State. The contract(s) awarded under this solicitation will be made to the responsive and responsible Proposer(s) receiving the highest total score per lot using the evaluation criteria listed in Section 4- Evaluation and Selection Process.

Upon determination of the best value proposal for each lot, a contract, between OGS and the successful proposer, will be delivered to the successful proposer for signature and shall be returned to the issuing office for all necessary State approvals. Upon final approval, a completely executed contract will be delivered to the contractor.

The Grand Total bid amount of the selected Contractor, shall be used to establish the contract value for the appropriate lot(s). The established contract value shall not be exceeded.

3.3 Price

Proposers are required to submit pricing using Attachment 3 Cost Proposal. This will include lump sum pricing for specified inspections and cleanings for all objects included in Attachments 1 and/or specified inspections of all objects included in Attachment 2.

Additionally, an hourly rate will be submitted for any pre-approved additional services that may be required (treatments, repairs, etc.). Proposers must submit a separate hourly rate for a conservator and a technician. Attachment 3 – Cost Proposal states an estimated number of annual hours for each title for evaluation purposes only.

Bid prices shall be inclusive of all labor licenses, insurance, travel*, training, administrative costs, overhead and profit, sustenance, lodging and employee benefits.

Pre-approved materials and shipping costs will be reimbursed upon presentation of receipts with no additional markup. These costs are NOT included in the additional services hourly rates bid.

Both the lump sums and the hourly rates will be fixed for the first year and adjusted according to Section 3.5 – Price Adjustment (Escalation/De-escalation).

***Note: Reimbursement for contractor's travel and meals/lodging expenses, where applicable (Additional Services only), is subject to the same limitations, which apply to New York State Management/Confidential (M/C) employees. These limitations, including the current available rates, may be found at the following web site: <http://www.osc.state.ny.us/agencies/travel/travel.htm>**

3.4 Term of Contract

The contract(s) resulting from this RFP will become effective upon OSC approval and will continue for a term of five (5) years.

The State of New York retains the right to cancel this contract for convenience, provided that the Contractor is given at least thirty (30) days written notice of OGS's intent to cancel. Any cancellation by OGS under this section shall in no event constitute or be deemed a breach of any contract resulting from this RFP and no liability shall be incurred by or arise against OGS, its agents and employees therefore for lost profits or any other damages resulting there from. This provision shall not be understood as waiving the State's right to terminate the contract for cause or stop work immediately for unsatisfactory work, but is supplementary to that provision.

3.5 Price Adjustment (Escalation / De-escalation)

The contractor is to submit a bid that will be fixed for one (1) year only. On each anniversary date of the contract, the contractor will be granted an increase or decrease in their bid, dependent upon fluctuations in the Consumer Price Index for All Urban Consumers (CPI-U), Northeast Region, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212. Visit their website at www.bls.gov/ro2/home.htm.

The 'base' month for determining adjustments will be the third month prior to the start date of the contract. The base month is fixed and will not be adjusted year to year. The adjustments will be based on the difference in the base month CPI for each applicable year and will become effective in the anniversary month. For example, if the contract is awarded in September 2006, the 'base' month will be June. If the contract allows for an adjustment after the first year, it would be based on the difference between the June 2006 CPI and the June 2007 CPI and become effective in September 2007.

The consumer price index is published around the middle of each month for the prior month (i.e. the January figure is not published until mid-February). The contractor has the sole responsibility to request, in letter form, an adjusted rate and shall provide a copy of the index and other supporting documentation necessary to support the increase or decrease with the request. This request and documentation must be received at the below address within three months of the base month. To ensure timely delivery, certified mail is recommended. As long as the request is submitted and received within the required time frame, the adjustment will be processed using the base month Consumer Price Index. Once approved, the contractor will be notified in writing. Request and documentation must be sent to the OGS Purchasing Unit, Corning Tower, 32nd Floor, Empire State Plaza, Albany, New York 12242.

Should a contractor fail to submit the request and supporting documentation to the proper location within three months of the applicable base month date, contractor shall be deemed to have waived its right to any increase in price, but the State shall not be barred from making the appropriate adjustment in the case of a decrease determined in accordance with the above methodology.

3.6 Method of Payment

For the purposes of this contract, payment will be issued on a per job basis. Upon satisfactory completion, inspection and approval by the Bureau of Curatorial Services, an invoice shall be submitted to the OGS Business Services Center – Accounts Payable Unit for payment. The invoice will be processed in accordance with established procedures of the Office of General Services and the Office of the State Comptroller (OSC) and payments will be subject to the prompt payment provisions of Article XI-A of the New York State Finance Law.

Each invoice must contain the Contract ID number (i.e.: OGS01-C00XXXX-1140000), a unique invoice number, an itemized list of the services performed – including: date of service, name of art work treated, description or

type of service performed, actual hours worked (if additional services work), and names of workers involved for each job. Pricing must be in accordance with the cost proposal form (subject to annual adjustments per section 3.5). Invoices for material and shipping costs must include copies of receipts.

Invoices without the above stated information will be returned to Contractor to be completed as required in the paragraph above. Payment will not be issued until a corrected invoice is received and approved by OGS.

All invoices or vouchers must be submitted for payment to:

ACCOUNTS PAYABLE

BUSINESS SERVICE CENTER

-or- accountspayable@ogs.ny.us

OFFICE OF GENERAL SERVICES

EMPIRE STATE PLAZA STATION

P. O. BOX 2117

ALBANY, NEW YORK 12220-0117

Also, a copy of the invoice and reports must be forwarded to the Director of Curatorial Services.

3.7 Electronic Payment

Contractor shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the contract, the agency, and the State Comptroller. Payment for invoices submitted by the contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by e-mail at epunit@osc.state.ny.us, or by phone at 518-474-4032.

Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

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

3.8 Past Practice

The failure to exercise any right hereunder in the past shall not operate as a waiver of such right. No breach of this Agreement shall be deemed waived unless such waiver shall be in writing and signed by the party claimed to have waived. No waiver of any breach of the Agreement at any time in the past shall constitute a waiver of subsequent breach.

3.9 Exceptions to RFP

The Issuing Office will consider all requests to waive any RFP requirement. However, vendors should be aware that failure to obtain a waiver of any RFP requirement in advance of proposal submission could result in rejection of Proposer's proposal and disqualification from the proposing process.

Proposers wishing to obtain an exemption or waiver for any part of this solicitation must contact the Issuing Office in writing by the ‘Questions Due Date’ as identified in Section 1.3 - Key Events. The request must cite the specific section and requirement in question, and clearly identify any proposed alternative. Requests will be considered and responded to in writing, either with the ‘Responses to Questions’ as identified in Key Events (if the response results in a change to the RFP), or directly to the requesting vendor.

3.10 Dispute Resolution

It is the policy of the Office of General Services’ Financial Administration to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to proposal solicitations, contract awards, and contract administration. OGS Financial Administration encourages vendors to seek resolution of disputes informally, through consultation with OGS Financial Administration staff, prior to commencing a formal dispute process. All such matters will be accorded full, impartial and timely consideration. A copy of the OGS Financial Administration Dispute Resolution Procedures for Vendors may be obtained by contacting the designated contact person identified in the solicitation.

3.11 Examination of Contract Documents

- Each Vendor is under an affirmative duty to inform itself by personal examination of the specifications of the proposed work and by such other means as it may select, of the character, quality and extent of the work to be performed and the conditions under which the contract is to be executed.
- Each Vendor shall examine specifications and all other data or instruction pertaining to the work. No pleas of ignorance of conditions that may be encountered or of any other matter concerning the work to be performed in the execution of the contract will be accepted by the state as an excuse for any failure or omission on the part of the Vendor to fulfill every detail of all the requirements of the documents governing the work. The Vendor, if awarded the contract, will not be allowed any extra compensation by reason of any matter or thing concerning which such proposer might have fully informed itself prior to bidding.
- Any Vendor in doubt as to the true meaning of any part of the specification or the proposed contract documents shall submit to T.J. Karl, Division of Financial Administration, 32nd Floor, Corning Tower Building, Empire State Plaza, Albany, New York 12242 e-mail: thomas.karl@ogs.ny.gov a written request for an interpretation thereof. If a major change is involved to which all vendors must be informed, such request for interpretation shall be delivered, in writing, no later than question due date listed in Section 1.3. Any interpretation of the proposed documents will be made only by an addendum duly issued. A copy of such addendum will be e-mailed to vendors who have registered Intent to Submit a Proposal.
- Any addendum issued prior to the proposal due date must be acknowledged by signature, dated and be submitted on or before the proposal due date with four (4) originals. In awarding a contract, any addenda will become a part thereof.
- Any verbal information obtained from, or statements made by, representatives of the Commissioner of General Services at the time of examination of the documents or site shall not be construed as in any way amending contract documents. Only such corrections or addenda as are issued, in writing, to all Proposers shall become a part of the contract.

3.12 Prime Contractor Responsibilities

The State will contract only with the successful Vendor who is the Prime Contractor. The Issuing Office considers the Prime Contractor, the sole Contractor with regard to all provisions of the RFP, and the contract(s) resulting from the RFP.

No subcontract entered into by the Contractor shall relieve the Contractor of any liabilities or obligations in this RFP or the resultant contract(s). The Contractor accepts full responsibility for the actions of subcontractors who carry out any of the provisions of any contract(s) resulting from this RFP.

3.13 Glossary of Terms

“Issuing Office” shall mean the Office of General Services Department of Financial Administration.

“Contractor” shall mean a successful company awarded a contract pursuant to this RFP.

“Request for Proposal” or “RFP” shall mean this document.

The “State” shall mean The People of the State of New York, which shall also mean the New York State office of General Services.

“Commissioner” shall mean the Commissioner of General Services or duly authorized representative.

“Proposer” or “Bidder” shall mean any person, partnership, firm, corporation or other authorized entity submitting a proposal to the State pursuant to this RFP.

3.14 Rules of Construction

Words of the masculine and feminine genders shall be deemed and construed to include the neuter gender. Unless the context otherwise indicates, the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this RFP, refer to this RFP.

4. EVALUATION AND SELECTION PROCESS

4.1 Proposal Evaluation

Paintings and Decorative Art (Lot #1) are listed in Attachment 1. Sculptures and Memorials (Lot #2) are listed in Attachment 2. Separate evaluations will be conducted for each Lot.

Responsive proposals will be independently evaluated based upon the criteria set forth in this Section. Proposals will be evaluated for best value to the State.

The State may request that Contractors submitting responsive proposals provide oral presentations or interviews, covering the major points of their proposals. The presentations will be given on a date, time and location to be designated by OGS. OGS reserves the right to check references or conduct site visits as part of the evaluation process.

4.2 Proposal Scoring

The technical evaluation committee will evaluate and score each responsive proposal for items A–D listed below. Scores from each of the Proposers, including items A-E listed below, will be totaled and the Proposer having the highest score will be ranked number one; the Proposer with the second highest total score will be ranked number two and so on.

A. OPERATIONAL WORK PLANS & METHODOLOGY (25%)

Each Proposal will be evaluated as to the extent by which Proposer's relevant experience (including that of its proposed employees) and length of service in both the industry and with the Proposer, exceeds the minimum requirements.

B. EXPERIENCE WORKING WITH VALUABLE/FINE ART OBJECTS (25%)

The organization has demonstrated ability to successfully handle contracts of similar scope.

C. QUALIFICATIONS OF KEY PERSONNEL (16.5%)

Relevant accomplishments and qualifications of the personnel to be assigned to the contract.

D. MWBE or SBE Status (3.5%)

Proposers that are New York certified Minority and Women owned business or a New York State small business will receive an additional 3.5% for such status.

- The Proposer is a New York State Certified Minority-Owned Business *or*
- The Proposer is a New York State Certified Women-Owned Business *or*
- The Proposer is a Small Business as defined in Executive Law Section 310(20)

Note: Although a Proposer may meet more than one criteria, credit is to be awarded for only one category, not multiple categories

E. COST (30%)

Attachment 3 cost proposals will be evaluated in relation to all cost proposals submitted.

4.3 Evaluation Process

4.3.1 Submission Review

A committee of OGS employees will evaluate each proposal and initially determine whether a proposal is responsive to the requirements of the Solicitation. Proposals that are nonresponsive, in the sole opinion of OGS, may be rejected. All bids passing the submission review requirements for responsiveness will be evaluated.

4.3.2 Technical Evaluation (70%)

The technical evaluation committee will subsequently evaluate and score each responsive proposal for items a–c listed above. OGS intends to contact company references and reference check information will be considered in the technical evaluation. It is the responsibility of the Proposer to ensure availability of the provided references. The inability to contact a given reference will be reflected in the technical scoring and/or may result in rejection of the proposal.

Additionally, proposers will be available for telephone interviews. Dates and times will be scheduled by the evaluation team. The purpose is to provide an overview of the proposer (including key personnel) capabilities and experience. Interview information will be considered in the technical scoring. It is a mandatory requirement that each proposer and their key personnel be available to OGS during its regular hours of operation to participate in a telephone interview. The inability to contact a proposed candidate will be reflected in the technical scoring and/or may result in rejection of the proposal.

The evaluation team will grade each proposal criteria (A-C) using a 0 – 10 scale. That grade will be applied to the category weight to determine the category points. Example: a perfect grade of 10 in each category (A-C) would receive 665 points (66.5%).

For item D the evaluation team will award 35 points (3.5%) if proper certification declaring MWBE and/or Small Business criteria is met.

4.3.3 Cost Proposal Evaluation (30%)

OGS Division of Financial Administration will evaluate all cost proposals from responsive Proposers. The cost proposal with the lowest total fee will be awarded the maximum possible points, (refer to item E listed above). Each subsequent proposal will receive a proportionate number of points using the following formula: low bid / bid being evaluated X category weight.

4.3.4 Final Composite Score (100%)

Scores from each of the Proposers will be totaled and the Proposer having the highest score will be ranked number one; the Proposer with the second highest total score will be ranked number two and so on. Proposer having the highest score will be ranked number one; the Proposer with the second highest total score will be ranked number two and so on.

4.4 Notification of Award

After the evaluation, all Proposers will be notified of the name of the Selected Proposer(s). The Selected Proposer(s) will be notified that their submitted proposal has been selected and that a contract will be forthcoming for execution. The original proposal, and any additions or deletions to the proposal become part of the contract.

Public announcements or news releases pertaining to any contract resulting from this Solicitation shall not be made without prior approval from the Issuing Office.

5. SCOPE OF WORK

With the exception of Sections 5.3.1 and 5.3.2, the scope of work parameters outlined in this section shall apply to both Lot #1 and Lot #2. Under Section 5.3 each lot is broken out separately (5.3.1 is Lot #1 and 5.3.2 is Lot #2) to define the specific differences in regards to each lot's particular scope of work.

5.1 Operational Standards

All art conservation and restoration services under any contract resulting from this RFP shall be of the highest quality and standards; and must conform in all respects to Federal, State and municipal laws, ordinances, rules and regulations. The Contractor shall continuously maintain all required licenses and permits and shall provide for the inspection and review of such licenses and permits by the Office of General Services and any other persons authorized by law.

The service shall at all times be prompt, accurate, courteous and efficient.

The quality of service shall be subject to inspection by the State of New York at any time.

Contractor must provide transportation of artwork to and from their facility with a well-established art shipper.

Contractors' personnel must sign in and out with the Office of Curatorial Services. Failure to sign in or out, whether intentional or not, shall be understood to mean that service was not performed.

Facility must be climate/humidity controlled, and large enough to store and treat large works of art. Facility must also be equipped with adequate security measures to protect rare, valuable and unique works of art, 24 hours a day, 365 days a year.

5.2 Staffing and Professional Experience

- Conservator should have degrees and affiliations in the field of Art Conservation & Restoration and a minimum of 8 years' experience in the conservation and treatment of valuable and sizable collections of art comparable to the State's collection.
- This experience includes cleaning, repairing, repainting and restoring works of art. Staff must know how to address the concerns of the artist in their research and treatment plan.
- Technicians should have a minimum of 5 years working under the direct supervision of an accredited, program-trained conservator and an Associate's Degree in Fine Arts or other related field.

5.3 Scope - General

The successful contractor(s) will be responsible for annual inspection / cleaning of all objects in the Albany area as well as any additional services as described below. Objects outside the Albany area will be serviced as described below and compensated as additional services (with the exception of the three (3) Binghamton sculptures annual inspection – see section 5.3.2). All services are subject to security, scheduling, and reporting requirements as further described herein. All work and related documentation is subject to inspection by OGS upon request. OGS retains the right to add or remove any object listed in Attachment 1 and Attachment 2 of this RFP.

5.3.1 LOT #1: Paintings and Decorative Art

Please See Attachment 1 for an itemized list of all paintings and art objects along with the treatment recommendations, frequency of treatments and locations of each piece.

All objects listed in Attachment 1 are located in the Albany area and are to be cleaned and inspected annually. Within the first year of the contract the annual inspections must be scheduled with the Director of Curatorial Services, and in subsequent years, this service shall be conducted in January and February of each year (item A1 of the Cost Proposal Form). Each object shall be carefully cleaned and inspected, and the condition documented. Upon completion of this annual service, a written report shall be submitted to OGS Curatorial Services. This report shall state the condition of each object and any recommended additional services (See Section 5.6 – Reporting Requirements and Section 5.4 Additional Services below).

Treatments and repairs may range from more extensive cleaning with solvents to repairing flaking, lifting, tears and in-painting so the damage is no longer evident. It is always the conservators mandate to return the objects to their original conditions.

Additionally, 2 conservation technicians will inspect all paintings and decorative art listed in Attachment 1 in the fall of each year to provide ongoing condition reports. They will document the condition of each object, dust and do minor cleaning as needed. This service would be scheduled in September (item A2 of the Cost Proposal Form).

5.3.2 LOT #2: Sculptures and Memorials

Please see Attachment 2 for an itemized list of all sculptures and memorials along with the treatment recommendations and locations of each piece.

The vast majority of objects listed in Attachment 2 are located in the Albany area and are to be inspected two times each year as described below. There are also three (3) sculptures located at SUNY Binghamton and Binghamton SOB that require annual Spring inspection and should be included in item A1 pricing.

Within the first year of the contract the annual inspections must be scheduled with the Director of Curatorial Services, and in subsequent years, this annual service shall be conducted in April of each year (item A1 of the Cost Proposal Form). Each object shall be carefully inspected, and condition documented. Upon completion of this annual inspection, a written report shall be submitted to OGS Curatorial Services. This report shall state the condition of each object and any recommended additional services (See Section 5.6 Reporting Requirements and Section 5.4 Additional Services).

Treatments and repairs may include but not be limited to cleaning, washing, and waxing with some patina treatment with the use of heat and chemicals. Works included may need to be cleaned and repaired for cracking and chipping.

In addition, 2 conservation technicians will inspect all sculptures and memorials listed in Attachment 2 in the fall and winter of each year (Albany only) to provide ongoing treatment reports. They will document the condition of each object, dust and do minor cleaning as needed. This service will be scheduled in September for outdoor sculptures, and January for indoor sculptures (items A2 and A3 of the Cost Proposal Form).

5.4 Additional Services

Additional services shall be considered any services other than the annual scheduled inspections / cleaning described in 5.3.1 & 5.3.2 above. Additional services will generally fall into three categories as outlined below.

All additional services require pre-approval by the Director of the OGS Bureau of Curatorial Services. Additional Services performed without proper approval will not be compensated. OGS retains the right to have any additional services completed via separate competitive bid or other means, as determined to be in the best interest of the State.

Additional Services (repairs, upgrades, any work performed by subcontractors other than for base scope services, etc.) shall only be performed when pre-approved in writing by the Director of Curatorial Services, and shall be compensated at the hourly rates bid for conservator and technician, provided, however, that any subcontractor work shall be reimbursed at actual cost with the markup thereon being limited to five percent (5 %) of the actual cost. The following process shall apply:

The contractor shall prepare a quote for the Director of Curatorial Services. For Additional Service work performed by Contractor's staff, the quote must detail the scope of services, proposed timeline for completion, title(s) performing work, number of hours times hourly rate bid and any other information or options that the State should consider. The cost of materials will be reimbursed with no allowable markup. If subcontractors are to be used, the process detailed in the Subcontractors clause herein must be followed.

Upon approval, an e-mail authorizing the work will be issued. A copy of the authorization e-mail must accompany the invoice for any Additional Services.

5.4.1 Recommended Treatments and Repairs

These will be as a result of the annual inspections described in 5.3.1 & 5.3.2. Recommendations in the report shall indicate the referenced object, describe current condition, and include photographs showing the defect / damage. It must also detail the proposed treatment / repair plan to include products and techniques to be used, proposed timeline, and associated costs. If removal or shipping / transportation are proposed, those details must also be included. The cost portion must be detailed to include title performing work, number of hours multiplied by the hourly rate as well as product and transportation / shipping / equipment rental costs to be reimbursed. Receipts are to be submitted with invoice to the Director of Curatorial Services and will be paid against the contract.

The Director of Curatorial Services will review all recommendations and has the sole option of whether or not to proceed with the repair or treatment. He also has the option to request revisions to the recommendations. Such revisions must be in writing. Any approved recommended treatments / repairs shall also be in writing, and a copy of the approval must accompany the invoice upon completion of the treatment / repair.

5.4.2 Objects Outside the Albany Area

Objects outside the Albany area (with the exception of the three (3) Binghamton sculptures) are not included in the annual inspection / cleaning described in 5.3.1 & 5.3.2. Upon request, the contractor shall provide a written cost proposal to inspect / clean an object(s). On a case by case basis, OGS will determine whether the State or the Contractor will be responsible for transportation / shipping to and from the contractor's location. Upon inspection completion, the contractor shall produce a written report indicating the referenced object, describe current condition, and include photographs and any recommended treatments / repairs. Such recommendations must detail the proposed treatment / repair plan to include products and techniques to be used, proposed timeline, and associated costs.

The Director of Curatorial Services will review all recommendations and has the sole option of whether or not to proceed with the repair or treatment. He also has the option to request revisions to the recommendations. Such revisions must be in writing. Any approved recommended treatments / repairs shall also be in writing, and a copy of the approval must accompany the invoice upon completion of the treatment / repair.

5.4.3 Emergency Services

In the case of vandalism or emergency damage depending on the severity, the conservator may be called to Albany to provide quick urgent services. This could involve works owned by the state, or objects on loan, where the treatment would be rendered in tandem with the conservator at the lending institution. These emergency calls are at the sole discretion and approval of the OGS Director of Curatorial Services. In recognition of the urgent nature of such services, any verbal proposals and approvals must be followed up in writing along with a narrative explanation of the emergency, subsequent actions and associated timeline.

5.5 Security and Scheduling Procedures

Please note that security at the Empire State Plaza involves the Bureau of Curatorial Services providing Contractor information to the security offices. For work on any objects located throughout the Empire State Plaza, 48 business hour notice, except in emergencies, is required. Information such as the company name, the driver's name (as it appears on ID), valid driver license number, vehicle make, model and license plate must be provided to the Bureau of Curatorial Services. If the work schedule is changed due to weather or other circumstances, the same procedure needs to take place when rescheduling. Neither party will be charged for rescheduling of services. No payment will be issued to the Contractor for no-shows.

During the summer and fall months, there are major public events at the Plaza that may affect work scheduled on Lot 1 objects. Any equipment on site during this period, such as rigging lifts and scaffolding, needs to be secured and wrapped so that there is no potential for climbing risks and injury. Because of these public events, Lot 1 additional services are generally scheduled for May and continue through early July, stop in July and August and begin again in September through October. In some cases objects must be removed and transported to conservation facilities in the fall and returned in the spring. The Plaza is closed to all traffic during the winter.

5.6 Reporting Requirements

The Contractor will be responsible for the completion of a variety of administrative and reporting requirements, and the cost of same shall be included in the base bid price.

During the term of any contract resulting from this RFP, the Contractor shall maintain a designated officer or employee as its representative for contact with the State and for all communication and transactions relating to any contract resulting from this RFP.

The Commissioner's designated representative for all purposes of this contract shall be the Director of the Bureau of Curatorial Services.

Upon award of the contract and prior to the start of any work, the Contractor shall be available for an initial job meeting with the OGS Director of Curatorial Services. This meeting shall include:

- The Contractor's submission of a schedule of work to be reviewed and approved.
- An introduction for each respective organization, chain of command, etc.

Upon completion of each annual Inspection / cleaning, a written report, as described in sections 5.3.1 & 5.3.2, must be forwarded to the OGS Director of Curatorial Services.

Upon completion of any approved additional services, written reports, as described in section 5.3, must be forwarded to the OGS Director of Curatorial Services

6. CONTRACT CLAUSES AND REQUIREMENTS

6.1 Appendix A / Order of Precedence

Appendix A — Standard Clauses for New York State Contracts, dated January 2014, attached hereto, is hereby expressly made a part of this solicitation document as fully as if set forth at length herein. Appendix A is a separate document to this RFP and shall be retained for reference by the proposer.

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

1. Appendix A (January 2014)
2. The Contract
3. OGS Solicitation Number 1904 (This Document)
4. Selected Contractor's Proposal

6.2 Procurement Lobbying Requirement

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS and an Offerer/Proposer during the procurement process. An Offerer/Proposer is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS 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). Designated staff, as of the date hereof, is identified on the first page of this solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Proposer pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offerer/Proposer is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website:

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

6.3 Contractor Insurance Requirements

Prior to the commencement of the work to be performed by the Contractor hereunder, the Contractor shall file with The People of the State of New York, Office of General Services (hereinafter referred to as "OGS"), Certificates of Insurance (hereinafter referred to as "Certificates"), evidencing compliance with all requirements contained in this Section. Such Certificates shall be of a form and substance acceptable to OGS.

Certificate acceptance and/or approval by OGS do not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Contract.

All insurance required by the Contract shall be obtained at the sole cost and expense of the Contractor; shall be maintained with insurance carriers licensed to do business in New York State and acceptable to OGS; shall be primary and non-contributing to any insurance or self insurance maintained by OGS; shall be endorsed to provide written notice be given to OGS, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail; shall be sent to Office of General Services, Purchasing Unit, Corning Tower, 32nd Floor, Empire State Plaza, Albany, New York 12242 and shall name The People of the State of New York, its officers, agents, and employees as additional insureds there under (General Liability Additional Insured Endorsement shall be on Insurance Service Office's

(ISO) form number **CG 20 10 11 85**). The additional insured requirement does not apply to Workers Compensation, Disability or Professional Liability coverage.

The Contractor shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by OGS. Such approval shall not be unreasonably withheld.

The Contractor shall require that any subcontractors hired, carry insurance with the same limits and provisions provided herein.

Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to OGS and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.

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

Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply to OGS updated replacement Certificates of Insurance, and amendatory endorsements.

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

- a) Commercial General Liability Insurance with a limit of not less than \$5,000,000 each occurrence. Such liability shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage.
 1. If such insurance contains an aggregate limit, it shall apply separately on a per job or per project basis.
- b) Employee dishonesty coverage on property of others in your care, custody or control with a limit of not less than \$5,000,000. The coverage shall include all employees including contract and temporary, whether identified or not, acting alone or in collusion with others. A joint loss payable endorsement shall be attached naming OGS as loss payee to any loss arising out of this contract.
- c) Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.

- d) Inland Marine or Fine Arts coverage in an amount not less than the agreed value of the property of OGS covering the direct physical loss or damage to the property while in transit, storage or otherwise in the care, custody or control of the contractor. OGS shall be named as Loss Payee under the policy.
- e) If the work involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any petroleum, petroleum product, hazardous material or substance, the Contractor shall maintain in full force and effect throughout the term hereof, pollution legal liability insurance with limits of not less than \$5,000,000, providing coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against OGS arising from Contractors work.
1. If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the effective date of this Contract; and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this Contract is completed.
 2. If the Contract includes disposal of materials from the job site, the Contractor must furnish to OGS, evidence of pollution legal liability insurance in the amount of \$2,000,000 maintained by the disposal site operator for losses arising from the disposal site accepting waste under this Contract.
 3. If autos are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered autos (endorsement CA 99 48) as well as proof of MCS 90.
- f) If providing professional services, the Contractor shall maintain, or if subcontracting professional services, shall certify that Subcontractor maintain, errors and omissions liability insurance with a limit of not less than \$5,000,000 per loss.
1. Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services covered by this Contract and, if the project involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any hazardous material or substance, it may not exclude bodily injury, property damage, pollution or asbestos related claims, testing, monitoring, measuring, or laboratory analyses.
 2. If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the effective date of this Contract; and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this Contract is completed.
- g) Waiver of Subrogation. Contractor shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against OGS, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Contractor waives or has waived before the casualty, the right of recovery against OGS or (ii) any other form of permission for the release of OGS.
- h) **WORKERS' COMPENSATION / DISABILITY INSURANCE:**
- Prior to any contract resulting from this RFP becoming effective, Contractor must submit proof that they have the workers' compensation and disability benefits coverage required by the New York State Workers' Compensation Law, or proof that they are legally exempt from obtaining such coverage. Proof of compliance must be demonstrated in accordance with the requirements set forth by the New York State Workers' Compensation Board (An instruction manual clarifying the Workers' Compensation Law

requirements is available to download at the Workers' Compensation Board's website, www.wcb.ny.gov. Once you are on the website, click on *Employers/Businesses*, then *Business Permits/Licenses/Contracts*; from there, click on *Instruction Manual for Businesses Obtaining Permits/Licenses/Contracts*.) Contractor shall notify the Office of General Services, Financial Administration Contracts Unit, at least thirty (30) days prior to material change or cancellation of such coverage.

If employees will be working on, near or over navigable waters, US Longshore and Harbor Workers Compensation Act endorsement must be included.

All forms must name the Office of General Services – Financial Administration, 32nd Floor, Mayor Erastus Corning 2nd Tower, Empire State Plaza, Albany NY 12242, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

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

6.4 Tax and Finance Clause

TAX LAW § 5-A (Attachment A):

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a contract awarded to a contractor meeting the registration requirements but who is not so registered in accordance with the law.

Contractor certification forms and instructions for completing the forms are attached to this RFP. Form ST-220-TD must be filed with and returned directly to DTF. Unless the information upon which the ST-220-TD is based

changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s) a new Form ST-220-TD must be filed with DTF.

Form ST-220-CA must be filed with the proposal and submitted to the procuring covered agency certifying that the contractor filed the ST-220-TD with DTF. Proposed contractors should complete and return the certification forms within two business days of request (if the forms are not completed and returned with proposal submission). Failure to make either of these filings may render a Proposer non-responsive and non-responsible. Proposers shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Vendors may call DTF at **1-800-698--2909** for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF web site: <http://www.nystax.gov>

6.5 M/WBE & EEO Requirements

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES

POLICY STATEMENT

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

Bidder further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract and if awarded a contract, will, upon request, submit to OGS, a workforce utilization report on Form EEO 101, identifying the workforce actually utilized on the Contract if known.

Further, pursuant to 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 and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs)

A. MWBE Contract Goals

For purposes of this procurement, OGS hereby establishes a goal of 0% for Minority-owned Business Enterprises (MBE) participation and 20% for Women-owned Business Enterprises (WBE) participation (collectively referred to as MWBE) for a total Contract MWBE goal of 20%. The total Contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/frontend/diversityusers.asp>. Questions regarding compliance with MWBE participation goals should be directed to the OGS Office for Minority and Women Owned Business Enterprises Designated Contacts identified on the front page of the solicitation.

A Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract (see clause E below) and ensure that the MWBEs utilized under the Contract perform commercially useful functions (see clause B below). Contractor agrees that OGS may withhold payment pending receipt of the required MWBE documentation.

B. Commercially Useful Function Requirement

Pursuant to 5 NYCRR § 140.1(f), a MWBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, a MWBE must, where applicable and in accordance with any State Agency specifications, also be responsible, with respect to materials and supplies used on the contract, for ordering and negotiating price, determining quality and quantity, and installing. A MWBE does not perform a commercially useful function if its role adds no substantive value and is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation. OGS will assess whether a MWBE is performing a commercially useful function by considering the following:

- (1) the amount of work subcontracted;
- (2) industry practices;
- (3) whether the amount the MWBE is to be paid under the contract is commensurate with the work it is to perform;
- (4) the credit claimed towards MWBE utilization goals for the performance of the work by the MWBE; and,
- (5) any other relevant factors.

C. By submitting a bid or proposal, Bidder/Contractor agrees to the following:

1. Breach of Contract and Liquidated Damages

In accordance with 5 NYCRR §142.13, Bidder/Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and OGS may withhold payment from the Contractor as liquidated damages. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and, (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

2. Utilization Plan

a. **Bidders are required to submit a completed Utilization Plan on Form MWBE 100 with their bid or proposal.** The Utilization Plan shall list the MWBEs the Contractor intends to use to perform the State Contract, a description of the Commercially Useful Function the Contractor intends the MWBE to perform to meet the goals on the State Contract, the estimated or, if known, actual dollar amounts to be paid to a MWBE, and performance dates of each component of a State Contract that the Contractor intends to be performed by a MWBE. By signing the Utilization Plan, the Bidder acknowledges that the utilization of MWBEs that do not perform commercially useful functions may not be counted as meeting the MWBE goals of the Contract; and, that making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to OGS.

b. OGS will review the submitted MWBE Utilization Plan and advise the Bidder of OGS acceptance or issue a notice of deficiency within twenty (20) days of receipt.

c. If a notice of deficiency is issued; Bidder agrees that it shall respond to the notice of deficiency, within seven (7) business days of receipt, by submitting to OGS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OGS to be inadequate, OGS shall notify the Bidder and direct the Bidder to submit, within five (5) business days of notification by OGS, a request for a partial or total waiver of MWBE participation goals on Form BDC 333. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

3. OGS may disqualify a Bidder's bid/proposal as being non-responsive under the following circumstances:

- (a) If a Bidder fails to submit a MWBE Utilization Plan;
- (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- (c) If a Bidder fails to submit a request for waiver; or
- (d) If OGS determines that the Bidder has failed to document good faith efforts.

D. Request for Waiver

1. A Bidder who is able to document good faith efforts to meet the goal requirements, as set forth in clause E below, may submit a request for a partial or total waiver on Form BDC 333, accompanied by supporting documentation, at the same time it submits its MWBE Utilization Plan. If a request for waiver is submitted with the MWBE Utilization Plan and is not accepted by OGS at that time, the provisions of clauses C(2)(b& c) and C(3) above will apply.

2. Contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to OGS, but must be made no later than prior to the submission of a request for final payment on the Contract.

3. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the OGS Office for Minority and Women Owned Business Enterprises Designated Contacts identified on the front page of the solicitation for guidance.

E. Required Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of required good faith efforts shall include the following:

- (1) A list of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.

- (2) A list of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
- (3) Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.
- (4) A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
- (5) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
- (6) Other information deemed relevant to the request.

F. Monthly MWBE Contractor Compliance Report

Contractors are required to report Monthly MWBE Contractor Compliance to OGS during the term of the Contract for the preceding month's activity, documenting progress made towards achievement of the Contract MWBE goals. OGS requests that all Contractors use the New York State Contract System (NYSCS) to report subcontractor and supplier payments made by Contractor to MWBEs performing commercially useful functions under the Contract. The NYSCS may be accessed at <https://ny.newnycontracts.com/>. This is a New York State-based system that all State agencies and authorities will be implementing to ensure uniform contract compliance reporting throughout New York State. If a Contractor is unable to report MWBE Contractor Compliance via the NYSCS, Contractor must submit a Monthly MWBE Contractor Compliance Report on Form MWBE 102 to OGS. More information about the NYSCS will be provided if Bidder is awarded a Contract.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

ALL FORMS ARE AVAILABLE AT: <http://www.ogs.ny.gov/MWBE/Forms.asp>

6.6 Freedom of Information Law / Trade Secrets

During the evaluation process, the content of each proposal will be held in confidence and details of any proposal will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process.

SHOULD YOU FEEL YOUR FIRM'S PROPOSAL CONTAINS ANY SUCH TRADE SECRETS OR OTHER CONFIDENTIAL OR PROPRIETARY INFORMATION, **YOU MUST SUBMIT A REQUEST TO EXCEPT SUCH INFORMATION FROM DISCLOSURE.** SUCH REQUEST MUST BE IN WRITING, MUST STATE

THE REASONS WHY THE INFORMATION SHOULD BE EXCEPTED FROM DISCLOSURE AND MUST BE PROVIDED AT THE TIME OF SUBMISSION OF THE SUBJECT INFORMATION.

REQUESTS FOR EXEMPTION OF THE ENTIRE CONTENTS OF A PROPOSAL FROM DISCLOSURE HAVE GENERALLY NOT BEEN FOUND TO BE MERITORIOUS AND ARE DISCOURAGED. KINDLY LIMIT ANY REQUESTS FOR EXEMPTION OF INFORMATION FROM DISCLOSURE TO BONA FIDE TRADE SECRETS OR SPECIFIC INFORMATION, THE DISCLOSURE OF WHICH WOULD CAUSE A SUBSTANTIAL INJURY TO THE COMPETITIVE POSITION OF YOUR FIRM

6.7 General Requirements

- The Bidder agrees to adhere to all State and Federal laws and regulations in connection with the contract.
- The Bidder agrees to notify the OGS of any changes in the legal status or principal ownership of the firm, forty five (45) days in advance of said change.
- The Bidder agrees that in any contract resulting from this RFP it shall be completely responsible for its work, including any damages or breakdowns caused by its failure to take appropriate action.
- The Bidder agrees that any contract resulting from this RFP may not be assigned, transferred, conveyed or the work subcontracted without the prior written consent of OGS.
- For reasons of safety and public policy, in any contract resulting from this RFP, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.
- For purposes of any contract resulting from this RFP, the State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.
- OGS interpretation of specifications shall be final and binding upon the Contractor.
- The Commissioner of OGS will make no allowance or concession to the Bidder for any alleged misunderstanding because of quantity, quality, character, location or other conditions.
- Should it appear that there is a real or apparent discrepancy between different sections of specifications concerning the nature, quality or extent of work to be furnished, it shall be assumed that the Bidder has based its bid on the more expensive option. Final decision will rest with OGS.
- INSPECTION – For purposes of any contract resulting from this RFP the quality of service is subject to inspection and may be made at any reasonable time by the State of New York. Should it be found that quality of services being performed is not satisfactory and that the requirements of the specifications are not being met, OGS may terminate the contract and employ another contractor to fulfill the requirements of the contract. The existing Contractor shall be liable to the State of New York for costs incurred on account thereof.
- STOP WORK ORDER – OGS reserves the right to stop the work covered by this RFP and any contract(s) resulting there from at any time that it is deemed the successful Bidder is unable or incapable of performing the work to the state's satisfaction. In the event of such stopping, OGS shall have the right to arrange for the completion of the work in such manner as it may deem advisable and if the cost thereof exceeds the amount of the bid, the successful Bidder shall be liable to the State of New York for any such costs on account thereof. In the event that OGS issues a stop work order for the work as provided herein, the Contractor shall have ten (10) working days to respond thereto before any such stop work order shall become effective. Provided, however, that if an emergency situation exists, as reasonably determined by OGS, then the stop work order shall be effective immediately.
- It is the Contractor's responsibility to maintain the equipment and materials provided for the work consistent with applicable safety and health codes.
- OGS reserves the right to reject and bar from the facility any employee hired by the Contractor.

6.8 Contract Terms

All provisions and requirements of Appendix A Standard Clauses for New York State Contracts, which is attached hereto and forms a part hereof, will be incorporated into any contract resulting from this RFP, and will be binding upon the parties to such contract.

All provisions and requirements, which are attached hereto and form a part hereof, will be incorporated into any contract resulting from this RFP, and will be binding upon the parties to such contract.

It is stipulated and agreed by the parties that the law of the State of New York shall solely and in all respects govern with relation to any dispute, litigation, or interpretation arising out of or connected with any contract resulting from this RFP.

Any contract resulting from this RFP shall not be deemed executed, valid or binding unless and until approved in writing by the Attorney General and the Comptroller of the State of New York.

6.9 Extent of Services

OGS reserves the right to re-negotiate at its discretion, to reduce the amount of services provided under any contract resulting from this solicitation. This reduction in services shall be effectuated by written amendment to the contract and subject to approval by the Office of the State Comptroller.

6.10 Subcontractors

The State will contract only with the successful Bidder who is the Prime Contractor. The Issuing Office considers the Prime Contractor, the sole Contractor with regard to all provisions of the solicitation and the contract resulting from the solicitation. When bidding, any known / planned use of subcontractors must be disclosed in detail with bid submission. If subcontractors are to be used for base scope services, it shall be understood that the bid price includes the cost of the subcontractor and no additional markups will be allowed. If subcontractors are to be used for Additional Services, they will be subject to the Additional Services clause, and associated markup provision herein.

No subcontract entered into by the Contractor shall relieve the Contractor of any liabilities or obligations in this RFP or the resultant contract. The Contractor accepts full responsibility for the actions of any employee or subcontractor/subcontractor's employee(s) who carry out any of the provisions of any contract resulting from this RFP.

The Contractor's use of subcontractors shall not diminish the Contractor's obligations to complete the work in accordance with the contract. The Contractor shall coordinate and control the work of the subcontractors.

The Contractor shall be responsible for informing the subcontractors of all terms, conditions, and requirements of the contract documents.

During the term of the Contract, before any part of the contract shall be sublet, the Contractor shall submit to the Director of Curatorial Services, Governor Nelson A. Rockefeller Empire State Plaza, Room 121 Concourse, Albany, New York 12242, in writing, the name of each proposed subcontractor and obtain written consent to such subcontractor. The names shall be submitted in ample time to permit acceptance or rejection of each proposed subcontractor without causing delay in the work of this contract. The Contractor shall promptly furnish such information as the Director of Curatorial Services may require concerning the proposed subcontractor's ability and qualifications.

In the event that subcontractors must be used during the term of this contract for Additional Services work, the following guidelines shall apply.

- A. The Contractor shall procure goods and services using commercially reasonable and prudent practices to obtain the most favorable price and terms. The Contractor will make his/her best efforts and shall document same to obtain written proposals or bids from at least three (3) responsible service providers

before selecting the best price and terms. Prior OGS approval is required for all Additional Services. The following conditions apply to competitive bidding for subcontracted additional services:

- 1) Each bid will be solicited in a form and manner conducive to uniformity in all bids. The Contractor will maintain documentation of the solicitation and results.
- 2) If the Contractor desires to accept other than the lowest bidder, or where competitive bids are not feasible, adequate justification must be provided to the State for required prior approval.
- 3) The OGS shall be free to accept or reject any proposal/subcontract submitted for State's approval, and Contractor shall provide OGS with copies of all documentation OGS may request in relation to such approval rights.

6.11 Procurement Rights

The State of New York reserves the right to:

1. Reject any and all proposals received in response to this Solicitation.
2. Disqualify a Proposer from receiving the award if the Proposer, or anyone in the Proposer's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
3. Correct Proposers' mathematical errors and waive or modify other minor irregularities in proposals received, after prior notification to the Proposer.
4. Adjust any Proposer's expected costs of the bid price based on a determination of the evaluation committee that the selection of the said Proposer will cause the State to incur additional costs.
5. Utilize any and all ideas submitted in the proposals received.
6. Negotiate with Proposers responding to this Solicitation within the Solicitation requirements to serve the best interests of the State.
7. Begin contract negotiations with another bidding Contractor(s) in order to serve the best interests of the State of New York should the State of New York be unsuccessful in negotiating a contract with the selected Contractor within 21 days of selection notification.
8. Waive any non-material requirement not met by all Proposers.
9. Not make an award from this Solicitation.
10. Make an award under this Solicitation in whole or in part.
11. Make multiple contract awards pursuant to the Solicitation.
12. Have any service completed via separate competitive bid or other means, as determined to be in the best interest of the State.
13. Seek clarifications of proposals.
14. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB/RFP.
15. Prior to the bid opening, amend the IFB/RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available.
16. Waive any requirements that are not material.

17. If two or more bids are found to be substantially equivalent, the Commissioner of OGS, at their sole discretion, will determine award using the pre-established process. For best value procurements, cost will be the determining factor.

Please Note: The State is not liable for any cost incurred by a Proposer in the preparation and production of a proposal or for any work performed prior to the issuance of a contract.

6.12 Debriefings

Proposers will be accorded fair and equal treatment with respect to their opportunity for debriefing. Prior to contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Proposer's bid or bid. After contract award, OGS shall, upon request, provide a debriefing to any Proposer that responded to the RFP, regarding the reason that the bid or bid submitted by the unsuccessful Proposer was not selected for a contract award. The post award debriefing should be requested by the Proposer within thirty days of contract approval as posted on the OSC website (web address below).

<http://www1.osc.state.ny.us/transparency/contracts/contractsearch.cfm>

6.13 Termination

A) Termination

OGS may, upon thirty (30) days notice, terminate the contract resulting from this RFP in the event of the awarded Proposer's failure to comply with any of the proposal's requirements unless the awarded Proposer obtained a waiver of the requirement.

In addition, OGS may also terminate any contract resulting from this RFP upon ten (10) days written notice if the Contractor makes any arrangement or assignment for the benefit of the creditors.

Furthermore, OGS shall have the right, in its sole discretion, at any time to terminate a contract resulting from this RFP, or any unit portion thereof, with or without cause, by giving thirty (30) days written notice of termination to the Contractor.

Any termination by OGS under this Section shall in no event constitute or be deemed a breach of any contract resulting from this RFP and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

B) Procurement Lobbying Termination

The OGS reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, OGS may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

6.14 NYS Vendor Responsibility

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

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

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

In order to assist the State in determining the responsibility of the Vendor prior to Contract Award, the Vendor must complete and certify (or recertify) the Questionnaire no more than six (6) months prior to the bid due date. A Vendor's Questionnaire cannot be viewed by OGS until the Vendor has certified the Questionnaire. It is recommended that all Vendors become familiar with all of the requirements of the Questionnaire in advance of the bid opening to provide sufficient time to complete the Questionnaire.

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

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS 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.

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

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

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

6.15 Extension of Use

Any contract resulting from the solicitation may be extended to additional State Agencies upon mutual agreement between the requesting agency, OGS, and the contractor, and subject to applicable approvals. OGS reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

6.16 Indemnification

The Contractor shall assume all risks of liability for its performance, or that of any of its officers, employees, subcontractors or agents, of any contract resulting from this solicitation and shall be solely responsible and liable for all liabilities, losses, damages, costs or expenses, including attorney's fees, arising from any claim, action or proceeding relating to or in any way connected with the performance of this Agreement and covenants and agrees to indemnify and hold harmless the State of New York, its agents, officers and employees, from any and all claims, suits, causes of action and losses of whatever kind and nature, arising out of or in connection with its performance of any contract resulting from this solicitation, including negligence, active or passive or improper conduct of the Contractor, its officers, agents, subcontractors or employees, or the failure by the Contractor, its officers, agents, subcontractors or employees to perform any obligations or commitments to the State or third parties arising out of or resulting from any contract resulting from this solicitation. Such indemnity shall not be limited to the insurance coverage herein prescribed.

6.17 Force Majeure

Neither party hereto will be liable for losses, defaults, or damages under any contract resulting from this solicitation which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this solicitation, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, civil strife, fire or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

6.18 Ethics Compliance

All proposers/contractors and their employees must comply with the requirements of §§73 and 74 of the Public Officers Law, other state codes, rules, regulations, and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Contract, the Contractor certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relations, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

6.19 Encouraging use of New State Business in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York

State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

6.20 New York State Vendor File Registration

Prior to being awarded a contract pursuant to this Solicitation, the Bidder(s) must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, unique New York State ten-digit vendor identification numbers will be assigned to your company for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York. If Bidder is already registered in the New York State Vendor File, list the ten-digit vendor ID number on the Contractor Information page included in Appendix B of this solicitation.

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

Form to be completed: http://www.osc.state.ny.us/vendors/forms/ac3237_fe.pdf

6.21 MERCURY-ADDED CONSUMER PRODUCTS:

Offerers are advised that effective January 1, 2005, Article 27, Title 21 of the Environmental Conservation Law bans the sale or distribution free of charge of fever thermometers containing mercury except by prescription written by a physician and bans the sale or distribution free of charge of elemental mercury other than for medical pre-encapsulated dental amalgam, research, or manufacturing purposes due to the hazardous waste concerns of mercury. The law further states that effective July 12, 2005, manufacturers are required to label mercury-added consumer products that are sold or offered for sale in New York State by a distributor or retailer. The label is intended to inform consumers of the presence of mercury in such products and of the proper disposal or recycling of mercury-added consumer products. Offerers are encouraged to contact the Department of Environmental Conservation, Bureau of Solid Waste, Reduction & Recycling at (518) 402-8705 or the Bureau of Hazardous Waste Regulation at 1-800-462-6553 for questions relating to the law. Offerers may also visit the Department's web site for additional information: <http://www.dec.ny.gov/chemical/8512.html>.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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

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
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	4-5
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 New York State Information Security Breach and Notification Act	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

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

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

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

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. 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 (2NYCRR 105.4).

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no 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 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 section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the 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
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS.

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

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 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 Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 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 Section 5-a, if the contractor fails to make the certification required by Tax Law Section 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/Offerors pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

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.

RFP Appendix B

Required Forms

**REQUEST FOR PROPOSALS (RFP) 1904 SOLICITED BY THE
NEW YORK STATE OFFICE OF GENERAL SERVICES**

FOR

ART CONSERVATION AND RESTORATION

IN

ALBANY, NY

Administrative Proposal

The following required forms are to be submitted with the proposer's proposal. The forms include:

- Contractor Information Page
- Corporate Acknowledgement (must be notarized)
- Offerer's Affirmation of Understanding of and Agreement pursuant to New York State Finance Law
- Offerer Disclosure of Prior Non-Responsibility Determinations;
- Offerer's Certification of Compliance with State Finance Law §139-k(5)
- ST-220 -TD Taxation & finance Contractor Certification (**Submit directly to Taxation & Finance**)
- ST-220 -CA Taxation and Finance Covered Agency Certification
- MacBride Principles
- Non/Collusive Bidding Certification
- Diesel Emission Reduction Act
- Small Business Enterprise Certification
- Important Links to: EEO Staffing Plan, MWBE 100, NYS Vendor File and Vendor Responsibility Questionnaire

Contractor Information
SOLICITATION NUMBER 1904

(Authorized Signature) (Date)

(Print Name) (Title)

(Company Name) (Federal I.D. Number)

(NYS Vendor I.D. Number)

(Address)

(City, State, Zip)

(County)

(Telephone Number) Ext. _____

(Toll Free Phone) Ext. _____

(Fax Number)

(Toll Free Fax Number)

(E-mail)

New York State Small Business as defined in Executive Law Section 310(20) and as detailed in the "New York State Required Certifications" included in Appendix B herein.	<u>Circle One:</u>	Yes	No
--	--------------------	-----	----

New York State Certified Minority Owned Business	<u>Circle One:</u>	Yes	No
--	--------------------	-----	----

New York State Certified Women Owned Business	<u>Circle One:</u>	Yes	No
---	--------------------	-----	----

Do you understand and is your firm capable of meeting the insurance requirements to enter into a contract with New York State?

Circle One: Yes No

Will New York State Businesses be used in the performance of this contract?
If yes, identify New York State Business(es) that will be used;

Circle One: Yes No
(Attach identifying information).

Does your proposal meet all the requirements of this solicitation?

Circle One: Yes No

CONTRACTOR INFORMATION ACKNOWLEDGEMENT

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT

STATE OF _____ }
: ss.:
COUNTY OF _____ }

On the _____ day of _____ in the year 20_____, before me personally appeared: _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he resides at _____.

Town of _____, County of _____, State of _____, and further that:

[Check One]

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

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

If a partnership): _he is 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

Registration No. _____ **State of:** _____

Offerer's Affirmation of Understanding of and Agreement pursuant to New York State Finance Law §139-j (3) and §139-j (6) (b)

New York State Finance Law §139-j(6)(b) provides that:

Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer's understanding of and agreement to comply with the Governmental Entity's procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by New York State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

Offerer Disclosure of Prior Non-Responsibility Determinations

Background:

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms "Offerer" and "Governmental Entity" are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

Instructions:

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____ Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?

(Please check):

No ___ Yes ___

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j

(Please check):

No ___ Yes ___

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity?

(Please check):

No ___ Yes ___

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

**Offerer's Certification of Compliance
with State Finance Law §139-k(5)**

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

Offerer Certification:

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

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address:

Procurement Lobbying Termination

The Office of General Services reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.

New York State Department of Taxation and Finance

Contractor Certification (ST-220-TD)
(Bidder - Please submit directly to Taxation & Finance)

Contractor Certification to Covered Agency (ST-220-CA)

ST-220-TD^(6/06)



New York State Department of Taxation and Finance
Contractor Certification
 (Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, *Question and Answers Concerning Tax Law Section 5-a (see Need help? below)*.

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number ()
Covered agency name	Contract number or description		Estimated contract value over the full term of the contract (but not including renewals) \$	
Covered agency address		Covered agency telephone number		

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*, available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Privacy notification

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

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

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

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

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

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Need Help?	
	Internet access: www.nystax.gov (for information, forms, and publications)
	Fax-on-demand forms: 1 800 748-3676
	Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
	To order forms and publications: 1 800 462-8100
	Sales Tax Information Center: 1 800 462-8100
	From areas outside the U.S. and outside Canada: (518) 485-6800
	Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
	Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

ST-220-TD (6/06)

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Make only one entry in each section below.

Section 1 - Contractor registration status

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 - Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 - Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in

excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this _____ day of _____, 20 _____

(sign before a notary public)

(title)

ST-220-CA

(6/06)



New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

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

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

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
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 ()		Covered agency name	
Covered agency address		Covered agency telephone number	
		\$	

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)
of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:
(Mark an X in only one box)

- The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.
- The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)
and, to the best of the contractor's knowledge, the information provided on that previously filed Form T-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this _____ day of _____, 20 _____

(sign before a notary public)

(title)

Instructions

General Information

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

If you have questions, please call our information center at 1 800 698-2931.

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

When to complete this form

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

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

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

DIESEL EMISSION REDUCTION ACT

Pursuant to N.Y. Environmental Conservation Law §19-0323 of the (“the Law”) it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology (“BART”) and ultra-low sulfur diesel fuel (“ULSD”). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by contract vendors “on behalf of” State agencies and public authorities and require certain reports from contract vendors. All heavy duty diesel vehicles must have BART by December 31, 2015 (unless further extended by Law). The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Bidder hereby certifies and warrants that all heavy duty vehicles, as defined in NYECL §19-0323, to be used under this contract, will comply with the specifications and provisions of NYECL §19-0323, and 6 NYCRR Parts 248 and 249.

SMALL BUSINESS CERTIFICATION

In accordance with New York State Finance Law, Section 163(j), the contractor certifies that it:

1. IS NOT a Small Business as defined in New York State Executive Law Section 310(20).
2. IS a Small Business as defined in New York State Executive Law Section 310(20).

“Small business” shall mean a business which:

- A. has a significant business presence in New York demonstrated through one of the following:
 1. pays taxes in New York State, or
 2. purchases New York State products or materials, or
 3. has any payroll in New York State
- B. is independently owned and operated;
- C. not dominant in its field; and,
- D. employs less than three hundred persons.

By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this Certifications document and that all information provided is complete, true and accurate.

Legal Business Name of Company Bidding:	
D/B/A - Doing Business As (if applicable):	
Bidder’s Signature:	Printed or Typed Name:
Title:	Date:

Important Links

Link to EEO 100 Staffing Plan and MWBE 100: <http://www.ogs.ny.gov/MWBE/Forms.asp>

Link to the online Vendor Responsibility Questionnaire: http://www.osc.state.ny.us/vendrep/vendor_index.htm
or to enroll, go directly to the VendRep System online at <https://portal.osc.state.ny.us>

If your company is not currently registered with the New York State Vendor File administered by the Office of the State Comptroller (OSC), please visit: http://www.osc.state.ny.us/vendor_management/ for instructions on how to register.

OGS recommends completing the questionnaire online using the New York State VendRep System. In this case, your company must be assigned a Vendor ID to enroll in the VendRep System. To request assignment of a Vendor ID to access the VendRep System **in advance of submitting your bid**, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us

Appendix C

Sample Contract

Solicitation No. 1904

SAMPLE

STATE OF NEW YORK
OFFICE OF GENERAL SERVICES
AGREEMENT FOR
ART CONSERVATION AND RESTORATION
THROUGHOUT NEW YORK STATE
WITH
(CONTRACTOR)
CONTRACT # C00XXXX

THIS AGREEMENT, made this ____ day of _____, 2014 by and between the People of the State of New York, acting by and through the Commissioner of General Services, whose office is on the 41st Floor, Corning Tower Building, the Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242 (hereinafter "Commissioner", "OGS" or "State"), and (Company Name), (hereinafter "Contractor"), with an office at _____.

WITNESSETH:

WHEREAS, the OGS is responsible for the Art Conservation and Restoration throughout New York State (hereinafter the "State") and in fulfilling its responsibility deems it necessary to obtain art conservation and restoration services therefore, and

WHEREAS, OGS has determined after having solicited proposals from proposers willing to supply these services, that the Contractor submitted the proposal affording the State the best value for such services and that the Contractor possesses the necessary capacity, experience and expertise for provision of art conservation and restoration services, and that Contractor is ready, willing and able to perform such services on the terms hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties do hereby agree as follows:

1. CONSIDERATION

OGS shall pay the Contractor for all art conservation and restoration fees and other fees and expenses in accordance with the amounts and rates put forth in the Contractor's proposal attached hereto as Appendix "C", which Appendix C is hereby incorporated by reference and made a part hereof as fully as if set forth as length herein. This contract will be established with a not to exceed value of \$XXXX. Services performed beyond this amount will not be compensated.

2. TERM

This Agreement shall commence on Upon OSC Approval and will be in effect for five (5) years, unless sooner terminated as herein specified.

3. SERVICES

The Contractor agrees to perform this Agreement and to furnish the services, labor and materials required in connection therewith in accordance with all the specifications, conditions, covenants and representations contained in the Request for Proposals No. 1850, which is annexed as Appendix "B" hereto, and the Contractor's proposal, annexed as Appendix "C" hereto, except as such Appendices B and C have been revised by the terms hereof. Appendix B is hereby incorporated by reference and made a part hereof with the same force and effect as if set forth at length herein.

4. TERMINATION

This Agreement may be terminated in accordance with the termination provisions set forth in the solicitation attached hereto as Appendix B hereof.

A) Termination

The Office of General Services may, upon thirty (30) days notice, terminate the contract resulting from this solicitation in the event of the awarded Bidder's failure to comply with any of the proposal's requirements unless the awarded Bidder obtained a waiver of the requirement. In addition, OGS may also terminate any contract resulting from this solicitation upon ten (10) days written notice if the Contractor makes any arrangement or assignment for the benefit of the creditors.

Furthermore, OGS shall have the right, in its sole discretion, at any time to terminate a contract resulting from this solicitation, or any unit portion thereof, with or without cause, by giving thirty (30) days written notice of termination to the Contractor.

Any termination by OGS under this Section shall in no event constitute or be deemed a breach of any contract resulting from this solicitation and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

B.) Procurement Lobbying Termination

The Office of General Services reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

5. RECORDS

The Contractor will maintain accurate records and accounts of services performed and monies expended under this Agreement. Such records will be maintained for six (6) years following the close of the State fiscal year to which they pertain and will be made available to representatives of OGS or the New York State Comptroller, as may be necessary for auditing purposes, upon request.

6. TAXES

The Contractor will be responsible for all applicable Federal, State and Local taxes and all FICA contributions.

7. INDEPENDENT CONTRACTOR

It is understood and agreed that the legal status of the Contractor, its subcontractors, agents, officers and employees is that of an independent contractor and in no manner shall they be deemed employees or agents of the State of New York and, therefore, are not entitled to any of the benefits associated with such employment or designation.

8. APPENDIX A

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

9. ASSIGNMENT

Contractor agrees that it will not assign this Agreement, or any interest therein without the prior written consent of the Commissioner of General Services.

10. LAW

This Agreement shall be governed by the laws of the State of New York.

11. CONDITIONS PRECEDENT

This Agreement shall not be deemed executed, valid or binding unless and until approved in writing by the Attorney General and the State Comptroller.

12. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be

changed, modified or altered in any manner except by an instrument in writing executed by both parties hereto.

13. EXECUTORY CLAUSE

This Agreement shall be deemed executory only to the extent of money available to the State for performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for purposes thereof.

14. INCONSISTENCIES

In the event of any discrepancy, disagreement or ambiguity between this contract agreement and Appendix B "Solicitation" and/or Appendix C "Proposal", or between any Appendices, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement or ambiguity:

- (i) Appendix A
- (ii) This contract agreement
- (iii) Appendix B – Solicitation #1850 including Addenda
- (iv) Appendix C – Contractor's Proposal

The parties understand and agree that any and all deviations or exceptions taken by Contractor to the State's Request for Proposal are hereby withdrawn except only to the extent that such exceptions or deviations have been explicitly incorporated into this contract agreement.

15. FORCE MAJEURE

Neither party hereto will be liable for losses, defaults, or damages under this Agreement which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this Agreement, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, civil strife, fire or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

16. ASSIGNMENT BY STATE

The State agrees not to assign this Agreement without prior notice to and reasonable consent of the Contractor provided, however, that this Agreement may be assigned without such consent to another agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the pertinent functions of OGS as an agency are transferred to a successor agency or subdivision of the State.

17. NOTICES

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Agreement shall be in writing and shall be validly given when mailed by registered or certified mail, overnight carrier or hand delivered, (i) if to the State, addressed to the State at its address set forth above, and (ii) if to Contractor, addressed to Contractor at its address set forth above. The parties may from time to time, specify any address in the United States as its address for purpose of notices under this Agreement by giving fifteen (15) days written notice to the other party. The parties agree to mutually designate individuals as their respective representatives for the purposes of this Agreement.

18. CAPTIONS

The captions contained in this Agreement are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

19. SEVERABILITY

In the event that any one or more of the provisions of this Agreement shall for any reason be declared unenforceable under the laws or regulations in force, such provision will not have any effect on the validity of the remainder of this Agreement, which shall then be construed as if such unenforceable provision had never been written or was never contained in this Agreement.

20. INFORMATION SECURITY BREACH

In accordance with the Information and Security Breach Notification Act (ISBNA) (Chapter 442 of the Laws of 2005, as amended by Chapter 491 of the Laws of 2005), a Contractor with OGS shall be responsible for all applicable provisions of the ISBNA and the following terms herein with respect to any private information (as defined in the ISBNA) received by or on behalf of OGS under this Agreement.

- Contractor shall supply OGS with a copy of its notification policy, which shall be modified to be in compliance with this provision, as well as OGS's notification policy.
- Contractor must encrypt any database fields and backup tapes that contain private data elements, as set forth in the ISBNA.
- Contractor must ensure that private data elements are encrypted in transit to / from their systems.
- In general, contractor must ensure that private data elements are not displayed to users on computer screens or in printed reports; however, specific users who are authorized to view the private data elements and who have been properly authenticated may view/receive such data.

- Contractor must monitor for breaches of security to any of its systems that store or process private data owned by OGS.
- Contractor shall take all steps as set forth in ISBNA to ensure private information shall not be released without authorization from OGS.
- In the event a security breach occurs as defined by ISBNA Contractor shall immediately notify OGS and commence an investigation in cooperation with OGS to determine the scope of the breach.
- Contractor shall also take immediate and necessary steps needed to restore the information security system to prevent further breaches.
- Contractor shall immediately notify OGS following the discovery that OGS's system security has been breached.
- Unless the Contractor is otherwise instructed, Contractor is to first seek consultation and receive authorization from OGS prior to notifying the individuals whose personal identity information was compromised by the breach of security, the State Office of Cyber Security and Critical Infrastructure Coordination, the State Consumer Protection Board, the Attorney General's Office or any consuming reporting agencies of a breach of the information security system or concerning any determination to delay notification for law enforcement investigations.
- Contractor shall be responsible for providing all notices required by the ISBNA and for all costs associated with providing said notices.
- This policy and procedure shall not impair the ability of the Attorney General to bring an action against the Contractor to enforce all provisions of the ISBNA or limit the Contractor's liability for any violations of the ISBNA.

21. MWBE/EEO

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES

I. General Provisions

- A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State Certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. The Contractor further agrees to be bound by the provisions of Article 15-A and the MWBE Regulations. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- D. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to clause VII of this section or enforcement proceedings as allowed by the Contract.

II. Equal Employment Opportunity (EEO)

- A. Contractor shall comply with the following provisions of Article 15-A:
 - 1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - 2. The Contractor certifies by entering into this Contract that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof is Contractor’s equal employment opportunity policy.
- B. Form EEO 100 - Staffing Plan.

To ensure compliance with this section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their contract.
- C. Form EEO 101 - Workforce Employment Utilization Report (“Workforce Report”)

Contractor agrees it is responsible for updating and providing notice to the OGS of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

- D. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

III. Contract Goals

- a) OGS hereby establishes an overall goal of 20% for MWBE participation, 0% for Minority-Owned Business Enterprises (“MBE”) participation and 20% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.
- b) For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in clause III-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <https://ny.newnycontracts.com/frontend/diversityusers.asp>. Questions regarding compliance with MWBE participation goals should be directed to the OGS Office for Minority and Women Owned Business Enterprises. Additionally, Contractor is encouraged to contact the Division of Minority and Women’s Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.
- c) Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract (see clause VI below) and ensure that the MWBEs utilized under the Contract perform commercially useful functions (see clause III.D below).
- d) **Commercially Useful Function Requirement**
Pursuant to 5 NYCRR § 140.1(f), a MWBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, a MWBE must, where applicable and in accordance with any State Agency specifications, also be responsible, with respect to materials and supplies used on the contract, for ordering and negotiating price, determining quality and quantity and installing. A MWBE does not perform a commercially useful function if its role adds no substantive value and is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation. OGS will assess whether a MWBE is performing a commercially useful function by considering the following:
- (1) the amount of work subcontracted;
 - (2) industry practices;
 - (3) whether the amount the MWBE is to be paid under the contract is commensurate with the work it is to perform;

- (4) the credit claimed towards MWBE utilization goals for the performance of the work by the MWBE; and
- (5) any other relevant factors.

IV. MWBE Utilization Plan

- A. Contractor certifies that it has submitted a completed MWBE Utilization Plan on Form MWBE 100 to OGS and will follow such Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in clause III-A of this Section.
- B. Contractor further certifies that the MWBEs included in its Utilization Plan will perform commercially useful functions under the Contract. Contractor understands that making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Contractor further understands and agrees that MWBEs that do not perform commercially useful functions may not be counted as meeting the MWBE goals of this Contract.
- C. Contractor further agrees that a failure to submit and/or use such completed MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, OGS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Request for Waiver

- A. If the Contractor, after making good faith efforts, as set forth in clause VI below, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form (BDC 333) documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the OGS shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- B. If the OGS, upon review of the MWBE Utilization Plan and updated Quarterly Workforce Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the OGS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.
- C. **Prior to submission of a request for a partial or total waiver, Contractor shall speak to the OGS Office for Minority and Women Owned Business Enterprises for guidance.**

VI. Required Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of required good faith efforts shall include the following:

- (1) A list of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.

(2) A list of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.

(3) Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.

(4) A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.

(5) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.

(6) Other information deemed relevant to the request.

VII. Monthly MWBE Contractor Compliance Report

- A. Contractor is required to report Monthly MWBE Contractor Compliance to OGS during the term of the Contract for the preceding month's activity, documenting progress made towards achievement of the Contract MWBE goals. OGS requests that all Contractors use the New York State Contract System (NYSCS) to report subcontractor and supplier payments made by Contractor to MWBEs performing commercially useful functions under the Contract. The NYSCS may be accessed at <https://ny.newnycontracts.com/>. This is a New York State-based system that all State agencies and authorities will be implementing to ensure uniform contract compliance reporting throughout New York State.
- B. When a Contractor receives a payment from a State Agency Authorized User following a purchase from an OGS NYSPRO contract, it is the Contractor's responsibility to pay its subcontractors and suppliers in a timely manner. On or after the first day of each month, the Contractor will receive an e-mail or fax notification ("audit notice") indicating that a representative of its company needs to log-in to the NYSCS to report the company's MWBE subcontractor and supplier payments for the preceding month. The Contractor must also report when no payments have been made to a subcontractor or supplier in a particular month with entry of a zero dollar value in the NYSCS. Once subcontractor and supplier payments have been entered into the NYSCS, the subcontractor(s) and supplier(s) will receive an email or fax notification advising them to log into the NYSCS to confirm that they actually received the reported payments from the Contractor. It is the Contractor's responsibility to educate its MWBE subcontractors and suppliers about the NYSCS and the need to confirm payments made to them in the NYSCS.
- C. To assist in the use of the NYSCS, OGS recommends that all Contractors and MWBE subcontractors and suppliers sign up for the following two webinar trainings offered through the NYSCS: **"Introduction to the System for Vendors"** and **"Contract Compliance Reporting - Vendor Training"** to become familiar with the NYSCS. To view the training schedule and to register visit: <https://ny.newnycontracts.com/events.asp>

- D. As soon as possible after the Contract is approved, Contractor should visit <https://ny.newnycontracts.com> and click on “**Account Lookup**” to identify the Contractor’s account by company name. Contact information should be reviewed and updated if necessary by choosing “**Change Info.**” It is important that the staff member who is responsible for reporting payment information for the Contractor be listed as a user in the NYSCS. Users who are not already listed may be added through “**Request New User.**” When identifying the person responsible, please add “- **MWBE Contact**” after their last name (i.e John Doe – MWBE Contact) to ensure that the correct person receives audit notices from the NYSCS. NYSCS Technical Support should be contacted for any technical support questions by clicking on the links for “Contact Us & Support” then “Technical Support” on the NYSCS website.
- E. If Contractor is unable to report MWBE Contractor Compliance via the NYSCS, Contractor must submit a Monthly MWBE Contractor Compliance Report on Form MWBE 102 to OGS, by the 10th day of each month during the term of the Contract, for the preceding month’s activity to: OGS MWBE Office, 29th floor Corning Tower, Empire State Plaza, Albany, NY 12242. Phone: 518-486-9284; Fax: 518-486-9285.
- F. It is the Contractor’s responsibility to report subcontractor and supplier payments. Failure to respond to payment audits in a timely fashion through the NYSCS, or by paper to OGS, may jeopardize future payments pursuant to the MWBE liquidated damages clause in clause VIII below.

VIII. Breach of Contract and Liquidated Damages

- A. In accordance with Executive Law Section 316-a and 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to OGS for liquidated or other appropriate damages, as set forth herein.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made, after Contractor has been afforded the process that it is due, which requires the payment of liquidated damages and such identified sums have not been withheld by the OGS, Contractor shall pay such liquidated damages to the OGS within sixty (60) days after such determination unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Women’s Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if the Director renders a decision in favor of the OGS.

ALL FORMS ARE AVAILABLE AT: <http://www.ogs.ny.gov/MWBE/Forms.asp>

23. CONTRACTOR RESPONSIBILITY

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS 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.

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

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

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

CONTRACT NO. C00XXXX

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Agency Certification

"In addition to the acceptance of this Contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

(Company Name)

THE PEOPLE OF THE STATE OF NEW YORK

By: _____
Name:
Title:
Federal I.D. No.:
Date:

By: _____
Name:
Title:
Date:

APPROVED AS TO FORM
Eric Schneiderman
Attorney General

APPROVED
Thomas P. DiNapoli
State Comptroller

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT

STATE OF _____ }
: SS.:

COUNTY OF _____ }

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

[Check One]

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

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

If a partnership): _he is 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

Registration No. _____

State of: _____

ATTACHMENT 1

PAINTINGS AND DECORATIVE ART OBJECTS

PLAZA ART COLLECTION - PAINTINGS

ARTIST	PAINTINGS	LOCATION	ROUTINE PROCEDURE (FREQUENCY PER 5.3.1)	TREATMENT (MINIMUM) Curatorial Staff does weekly walking tours of the Collection; Conservation and/or emergency work will be planned if damage is found.
Richard Anuszkiewicz	<i>Grand Spectra</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Ilya Bolotowsky	<i>Large Tondo</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Lee Bontecou	<i>Untitled</i>	South Concourse		Check for Damage Bi-weekly
James Brooks	<i>Chaco</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Lawrence Calcagno	<i>Red-Black</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Chryssa	<i>Arrow: Homage to Times Square</i>	North Concourse		Cleaning; Check for Damage Bi-weekly
Calvert Coggeshall	<i>Touching</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Allen D'Arcangelo	<i>American Landscape</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Nassos Daphnis	<i>2-68</i>	South Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Gene Davis	<i>Sky Wagon</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Bob Duran	<i>Untitled</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Helen Frankenthaler	<i>Capri</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Change in Restoration
Fritz Glarner	<i>Untitled</i>	Justice Building	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Robert Goodnough	<i>Struggle</i>	South Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Adolph Gottlieb	<i>Orange Glow</i>	Tower, Lobby		Check for Damage Bi-weekly
Philip Guston	<i>Smoker</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Change in Restoration

Grace Hartigan	<i>The-The #1</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Al Held	<i>Untitled</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Change in Restoration
Paul Jenkins	<i>Phenomena: Mistral Veil</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Alfred Jensen	<i>Kronos</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Ellsworth Kelly	<i>Primary Tapestry</i>	Secure Storage	(FREQUENCY PER 5.3.1)	Check annually
Franz Kline	<i>Charcoal Black and Tan</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Nicholas Krushenick	<i>Faster Than Sunshine</i>	Agency 1 Plaza	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Morris Louis	<i>Aleph Series IV</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Alvin D. Loving, Jr	<i>New Morning I</i>	South Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Sven Lukin	<i>Untitled</i>	South Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Conrad Marca-Relli	<i>Black Rock</i>	South Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Joan Mitchell	<i>La Seine</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Robert Motherwell	<i>Burnt Sienna</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Robert Motherwell	<i>Dublin 1916, with Black and Tan</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Change in Restoration
Kenneth Noland	<i>Via Ochre</i>	South Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
David Novros	<i>Untitled</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Kenzo Okada	<i>Hagoromo</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Raymond Parker	<i>Curling Red</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
William Pettet	<i>Untitled</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Jackson Pollock	<i>Number 12</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly

Mark Rothko	<i>Untitled</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Edwin Ruda	<i>Tecumseh</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Ludwig Sander	<i>Pawnee II</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Oli Sihvonen	<i>Untitled</i>	Agency 4 Plaza	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Theodoros Stamos	<i>Iberian Sun Box</i>	South Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Clyfford Still	<i>1964</i>	Tower, Lobby	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
James Sullivan	<i>Sojourno</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Jack Tworkov	<i>Wedding Flags</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
William T. Williams	<i>Sweets Crane</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Jack Youngerman	<i>Eastward</i>	Agency 3 Plaza	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly
Larry Zox	<i>Gemini Series I</i>	North Concourse	(FREQUENCY PER 5.3.1)	Check for Damage Bi-weekly

Collection Title	ROUTINE PROCEDURE (FREQUENCY)	TREATMENT (MINIMUM)
<p>Governors Portraits Collection</p> <p>There are fifty-three portraits in this collection located on the 2nd floor of the Capitol. These works are in good condition and may need minor conservation or repair from vandalism.</p>	<p>Clean and Inspect At the frequencies specified in Section 5.3.1</p>	<p>At the discretion of Director of Curatorial Services</p>
<p>Hall of New York Collection</p> <p>There are 53 loaned paintings in this collection on the Capitol's 2nd floor. The works are in good condition and may need minor conservation or repair.</p>	<p>Clean and Inspect At the frequencies specified in Section 5.3.1</p>	<p>At the discretion of Director of Curatorial Services</p>
<p>Harlem Collection (located in Albany)</p> <p>There are 102 objects of various media and importance from the Harlem State Office Building in collections storage at the Plaza. A condition examination of the collection is needed.</p>	<p>Additional Services (not to be included in Item 1 Pricing)</p>	<p>At the discretion of Director of Curatorial Services</p>
<p>Antique Furniture & Various Decorative Objects at the Executive Mansion</p> <p>Furniture is in good condition at the Executive Mansion. Emergency restoration may be needed.</p>	<p>Additional Services (not to be included in Item 1 Pricing)</p>	<p>At the discretion of Director of Curatorial Services</p>

ATTACHMENT 2

SCULPTURES AND MEMORIALS

Plaza Art Collection - Sculpture

			ROUTINE PROCEDURE (Per Section 5.3.2)	TREATMENT (MINIMUM)
Ronald Bladen	<i>The Cathedral Evening</i>	North Plaza	Inspect Semi-annually	Wash, Touch Up, Recoat
Roger Bolomey	<i>Untitled</i>	Swan Street	Inspect & Dust	Wash, Clean, Repatinate
Roger Bolomey	<i>Untitled</i>	Swan Street	Inspect & Dust	Wash, Clean, Repatinate
Alexander Calder	<i>Four at Forty-five</i>	Tower, Plaza	Inspect & Dust	Touch up, Recoat, Remove Surface
Alexander Calder	<i>Triangles and Arches</i>	Reflecting Pool	Inspect	Clean, Touch Up
Mary Callery	<i>Z</i>	South Concourse	Inspect & Dust	Recoat
Herbert Ferber	<i>Double One on C</i>	South Plaza	Inspect & Dust	Wash and Wax
Naum Gabo	<i>Construction in Space: Spheric Theme</i>	Tower, Lobby	Inspect & Dust	Replace Strings, Cleans
Dimitri Hadzi	<i>Helmet V</i>	South Plaza	Inspect & Dust	Wash and Wax Occasionally
Will Horwitt	<i>Spaces</i>	South Concourse	Inspect & Dust	Dust
Donald Judd	<i>Untitled</i>	NYS Museum	Inspect and Dust	
Ellsworth Kelly	<i>Yellow Blue</i>	North Plaza	Inspect & Clean	Touch Up or Recoat
Lyman Kipp	<i>Wild Rice</i>	North Plaza	Inspect & Clean	Wash, Touch Up, Recoat
Alexander Liberman	<i>Temple II</i>	South Concourse	Inspect & Dust	Dust and clean
Seymour Lipton	<i>The Empty Room</i>	South Concourse	Inspect & Dust	Wash, Touch Up, Recoat

Robert Mallery	<i>Pythia</i>	Justice Bldg.	Inspect & Dust	Dust and Wax
Clement Meadmore	<i>Turn Out</i>	Justice Bldg.	Inspect & Dust	Dust and Clean
Clement Meadmore	<i>Verge</i>	North Plaza	Inspect & Clean	Touch up or Recoat
Antoni Milkowski	<i>Salem #7</i>	South Plaza	Inspect & Clean	Touch Up or Recoat
Forrest Myers	<i>Untitled</i>	South Plaza	Inspect & Clean	Clean
Louise Nevelson	<i>Atmosphere and Environment V</i>	Tower, Plaza	Inspect & Dust	Dust & Clean w/Detergent
Isamu Noguchi	<i>Study for the Sun</i>	North Concourse	Inspect & Dust	Dust & Clean w/Detergent

Plaza Art Collection - Sculpture

Isamu Noguchi	<i>Study for the Sun</i>	North Concourse	Inspect & Dust	Dust & Clean w/Detergent
Isamu Noguchi	<i>Study for the Sun</i>	North Concourse	Inspect & Dust	Dust & Clean w/Detergent
Gyora Novak	<i>Links</i>	Justice Building	Inspect & Dust	Dust, Touch & Recoat
Claes Oldenburg	<i>Geometric Mouse, Variation 1</i>	North Plaza	Inspect & Clean	Clean, Retouch & Recoat
Beverly Pepper	<i>Campond</i>	South Concourse	Inspect & Dust	Dust & Clean
George Rickey	<i>Two Lines Oblique</i>	North Plaza	Inspect & Clean	Oil Gears & Inspect
James Rosati	<i>Heroic Gallery</i>	Agency 2	Inspect & Dust	Clean
James Rosati	<i>Lipincott II</i>	South Plaza	Inspect & Clean	Wash and retouch, recoat
Bernard Rosenthal	<i>Duologue</i>	Tower, Plaza	Inspect & Dust	Wash & Wax
Julius Schmidt	<i>Untitled</i>	North Plaza	Inspect & Clean	Clean
George Segal	<i>The Billboard</i>	Tower, Plaza	Inspect & Dust	Clean
Jason Seley	<i>Colleoni II</i>	Tower, Plaza	Inspect & Dust	Clean
David Smith	<i>VB XXI</i>	Tower, Plaza	Inspect & Dust	Clean
	<i>Voltri Bolton III</i>	Tower, Plaza	Inspect & Dust	Clean
	<i>Volton XIII</i>	Tower, Plaza	Inspect & Dust	Clean
	<i>Volton XVI</i>	Tower, Plaza	Inspect & Dust	Clean
	<i>Volton XVIII</i>	Tower, Plaza	Inspect & dust	Clean
Tony Smith	<i>The Snake is Out</i>	North Plaza	Inspect & clean	Clean, Retouch, Recoat
Francois Stahly	<i>Labyrinth</i>	South Plaza	Inspect	In Restoration

George Sugarman	<i>Trio</i>	South Plaza	Inspect & Clean	Retouch & Recoat
David von Schlegell	<i>West End</i>	South Concourse	Inspect & Dust	Dust & Clean
Peter Voukos	<i>Dunlop</i>	South Concourse	Inspect & Dust	Dust & Wax
James Wines	<i>Grey Disc</i>	South Concourse	Inspect & Dust	Dust & Clean

Sculpture at Binghamton SOB				
Louise Nevelson	<i>Dawn Column</i>	SUNY Binghamton	Inspect	Clean
Masao Kinoshita	<i>T-Beum</i>	Binghamton Plaza	Inspect	Clean, Recoat
Arnoldo Pomodoro	<i>Cono Tronco</i>	Binghamton Plaza	Inspect	Clean

Memorials

Philip H. Sheridan	<i>John Quincy Adams Ward</i>	Capitol	Inspect	Wash & Wax
	Daniel Chester French	East Capitol Park	Inspect	Wash & Wax
Jean-Antoine Houdon	<i>George Washington</i>	West Capitol Park	Inspect	Wash & Wax
	<i>NYS Fallen Firefighters Memorial</i>	Near Egg	Inspect	Wash & Wax
	<i>NYS Women Veterans Memorial</i>	Near State Museum	Inspect	Wash, Wax, Clean Stone
	<i>Dr. Martin Luther King, Jr. Memorial</i>	North Concourse	Inspect	Dust
	<i>NYS Vietnam Memorial</i>	North Concourse	Inspect	Clean
	<i>World War II Memorial</i>	Near Museum	Inspect	Clean Eagle
	<i>NYS Korean War Veterans Memorial</i>	Near Museum	Inspect	Clean Plaques
	<i>NYS Crime Victims Memorial</i>	West Plaza	Inspect	
	<i>Children's Memorial</i>	West Plaza	Inspect	

	<i>NYS Parole Officers Memorial</i>	West Plaza	Inspect	
	<i>Gray Rider</i>	State Campus	Inspect	Wash, Wax, Repatinate
	<i>NYS Police Officers</i>	North Plaza	Inspect	Wash & Clean
	<i>NYS Purple Heart Memorial</i>	Near Museum	Inspect Semi-Annually	Removal of all Graffiti
	<i>NYS Missing Persons Remembrance</i>	Madison Ave. & Swan St	Inspect Semi-Annually	Removal of all Graffiti. Clean every two (2) years because of flame.
	<i>NYS Emergency Medical Services Memorial</i>	Plaza	Inspect Semi-Annually	Removal of all Graffiti.

ATTACHMENT 3A – LOT #1 - COST PROPOSAL FORM

All Bidders must submit an annual bid price to perform the cleaning and inspection services as described in Section 5.3.1. This annual amount is totally inclusive of all costs and expenses to be incurred in the performance of any contract resulting from this RFP for item A.

LOT #1 - Paintings and Decorative Art:

Item A:

A1) Annual Cleaning/Inspection in Winter Total: \$ _____/yr.

A2) Annual Inspection in Fall (technician) Total: \$ _____/yr.

Item A Total(A1+A2) = \$ _____/yr.

Item B (Additional Services):

B1) Conservator *Hourly Rate \$ _____ x est.** 750 hrs./yr: Total: \$ _____/yr.

B2) Technician *Hourly Rate \$ _____ x est.** 250 hrs./yr: Total: \$ _____/yr.

Item B Total (B1+B2)= \$ _____/yr.

LOT #1 TOTAL BID PRICE (Item A+Item B) = \$ _____/yr.

*Hourly rate is inclusive of all costs and overhead such as travel, meals, lodging, etc. Reimbursement for contractor’s travel and meals/lodging expenses, where applicable, is subject to the same limitations, which apply to New York State Management/Confidential (M/C) employees. (Refer to Section 3.3 – Price Clause)

**Number of hours is an estimation and used for evaluation purposes only. There is no guarantee of any amount of hours to be assigned for the contract derived from this solicitation.

Note: Contractor is only paid for actual hours worked and approved by OGS for payment. (Refer to Section 3.6 – Method of Payment)

Company Name

Authorized Signature

Printed Name

Title

ATTACHMENT 3B – LOT #2 - COST PROPOSAL FORM

All Bidders must submit an annual bid price to perform the cleaning and inspection services as described in Section 5.3.2. This annual amount is totally inclusive of all costs and expenses to be incurred in the performance of any contract resulting from this RFP for item A.

LOT #2 – Sculptures and Memorials:

Item A:

A1) Annual Spring Inspection (all locations) Total: \$ _____/yr.

A2) Outdoor Annual Fall Inspection - Albany only (technician) Total: \$ _____/yr.

A3) Indoor Annual Winter Inspection – Albany only (technician) Total: \$ _____/yr.

Item A Total(A1+A2+A3) = \$ _____/yr.

Item B (Additional Services):

B1) Conservator *Hourly Rate \$ _____ x est.** 750 hrs./yr: Total: \$ _____/yr.

B2) Technician *Hourly Rate \$ _____ x est.** 250 hrs./yr: Total: \$ _____/yr.

Item B Total (B1+B2)= \$ _____/yr.

LOT #2 TOTAL BID PRICE (Item A+Item B) = \$ _____/yr.

*Hourly rate is inclusive of all costs and overhead such as travel, meals, lodging, etc. Reimbursement for contractor’s travel and meals/lodging expenses, where applicable, is subject to the same limitations, which apply to New York State Management/Confidential (M/C) employees. (Refer to Section 3.3 – Price Clause)

**Number of hours is an estimation and used for evaluation purposes only. There is no guarantee of any amount of hours to be assigned for the contract derived from this solicitation.

Note: Contractor is only paid for actual hours worked and approved by OGS for payment. (Refer to Section 3.6 – Method of Payment)

Company Name

Authorized Signature

Printed Name

Title

ATTACHMENT 4

COMPANY QUALIFICATIONS AND EXPERIENCE

COMPANY QUALIFICATIONS AND EXPERIENCE FORM

(Use this form in accordance with the requirements of Section 2.2 Proposal Format and Content)

Please complete and, if necessary, attach additional pages:

Name of Firm: _____

Years in Business: _____ # of Employees Dedicated to this Contract: _____

Principal Office Location: _____

Other Office Location(s): _____

- Provide an organizational chart and staffing plan for your firm. Include responsibilities, job qualifications, years experience and resumes for each employee that would be assigned to this contract.
- Provide proof conservator holds appropriate professional degrees, affiliations and proof of membership in the American Institute for Conservation. Company must show that conservator staff have a minimum of 8 years' experience in the conservation and treatment of valuable and sizable collections of art comparable to the State's collection.
- Provide proof technicians have a minimum of 5 years working under the direct supervision of an accredited, program-trained conservator and an Associate's Degree in Fine Arts or other related field.
- Show evidence of firms' capabilities and treatment methods for paintings and sculptures. A description of your firm's experience in conservation service. Provide evidence of treatment of both paintings and sculptures. Also, evidence of capability to perform treatment of approximately 40 objects per year for the state under this contract.
- List of any subcontractors your firm may use in providing the required services of this RFP. A description of any subcontractors and how these subcontracted services will relate to this proposed contract (See Section 6.9 - Subcontractors Clause).

- Provide a list of similar contracts and at least three (3) references for which the vendor provided similar services for within the past five (5) years.
- Evidence that facility is climate/humidity controlled, and large enough to store and treat large works of art.
- Evidence that facility is equipped with security to protect rare, valuable and unique works of art, 24 hours a day, 365 days a year.