



DIVISION OF FINANCIAL ADMINISTRATION

ADDENDUM #1

Request for Proposal (RFP) #1757

Date: May 2, 2012

Subject: Addition/Clarifications/Questions and Answers

Title: Asset Management System for the New York State Board of Elections

Bid Due Date: **Tuesday, May 8, 2012 @ 2:00 PM EST**

Address Bids to: Warren Joscelyn, Purchasing Officer
NYS Office of General Services
40th Floor, Corning Tower
Empire State Plaza
Albany, New York 12242
Email: warren.joscelyn@ogs.ny.gov

Addition:

The following clause is hereby added to Section 6 of the RFP as 6.20:

6.20 IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the

time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the Office of General Services receive information that a person is in violation of the above-referenced certification, The Office of General Services will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Office of General Services shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The Office of General Services reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award 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.

Clarifications:

The following Sections of the RFP are hereby revised:

Section 6.3 Contractor Insurance Requirements

Primary / Non-contributory: Workers' Compensation / Employers Liability, and Professional Liability coverages are primary, but non-contributory language is not available for these coverages.

Section 3.4.1 Limited Enterprise License

After Final Acceptance (Section 3.3.1) the Proposer awarded the Contract will provide the NYSBOE a limited enterprise license to the Asset Management System software. Such license shall allow a minimum of 1200 users (at separate locations) of the software for all NYSBOE-related matters. An unlimited number of installs and instances shall be made on behalf of the NYSBOE. For the purposes of this license the term "enterprise" is defined as all NYSBOE business units and all County Boards of Elections. The license fee shall be billable after Final Acceptance (Section 3.3.1) on an Annual basis. The payment shall be at the beginning of each license year in 5 equal payments.

Section 5.2.9 Limited Enterprise License

The selected contractor will provide a limited enterprise license that can be utilized by a minimum number of 1200 users and New York State Counties and be billed on an annual basis. (See Section 3.4.1 Limited Enterprise License and Attachment A Compliance Matrix #3)

Attachment A Compliance Matrix #3

The asset management system shall accommodate a minimum of **1200** registered users.

Section 6.7 General Requirements 4th Bullet is revised to read as follows:

- It shall be mutually agreed that the Contractor has included cost to remedy all deficient items in their proposal and they will be responsible for satisfactory functioning of the equipment without extra compensation except to the extent of mutually agreed to errors in NYSBOE furnished information. The Contractor may at their option provide with their bid, a detailed explanation of work intended to be performed under this clause.

Questions & Answers:

Q1. Would it be possible to obtain this RFP in Word format?

A1. No.

Q2. The Proposers shall demonstrate that they have been normally engaged for a period of at least (3) consecutive years of providing asset management systems in performing the type of work, and addressing the processes as required under this solicitation.

Regarding this point, how can we prove this? Also, what is your definition of an asset management system? We can prove experience building similar software systems, but I want to make sure we are meeting your exact requirements.

A2. See Section 2.3.2 of the RFP, bidders should submit sufficient information to validate experience requirements. Asset Management System is described throughout the RFP document.

Q3. The RFP doesn't address the question of proprietary information; can we include a Declaration of Confidential sections?

A3. See Section 6.6 of the RFP.

Q4. The RFP doesn't address the question of addendums; should we include an addenda section?

A4. It is unclear what is meant by this question. Please see Sections 2, and 3.11 of the RFP.

All of these questions are related with requirement #31 in Requirements Compliance Matrix.

Q5. What maintenance events are assumed?

A5. None. Maintenance would occur if the system breaks down or fails. Testing is done on a quarterly basis.

Q6. Are there any testing statuses needed to track in the system?

A6. Yes. See Item #30 of Attachment A Compliance Matrix.

Q7. What documents are formed after testing process?

A7. We expect that an electronic record would be maintained and information may be printed at a later date.

Q8. What exactly reports needed to provide these activities?

A8. We expect the system to have the ability to print pre-defined reports for capturing this information and have the ability to capture the information via the handheld scanner.

Q9. How many state-wide county warehouses store voting assets?

A9. See Section 3.13 "Storage."

Q10. What type of assets make up the voting system and how many? I.e. what assets will be tagged?

A10. See Section 3.13 "Tags" and "Machine Units."

Q11. What is the estimated number of voting locations which need to be tracked?

A11. There are between 10,000 and 12,000 polling places statewide.

Q12. What information is required to be printed on the delivery/retrieval receipts?

A12. See attachment H.

Q13. Is the receipt associated with pick up/delivery generated from handheld?

A13. From both the handheld and the main asset system.

Q14. What is the structured of the data to be imported?

A14. See Section 5.2.4.

Q15. Please list all industry standard formats from which bulk data may be imported.

A15. See Section 5.2.4.

Q16. Please list all standard formats from which data should be able to export.

A16. See Attachment A Compliance Matrix Section 4.2 Reports #51.

Q17. What is the required minimum read distance which a RFID / barcode handheld must read an asset tag?

A17. See Section 5.2.15.

Q18. Would NYSBOE be interested in 2 different models of RFID / barcode scanners to address issues around dropping and the heat, cold, dust and water elements...Ultra rugged vs. semi rugged?

A18. See Section 5.2.15.

Q19. What systems exist which the Asset Management System must integrate with?

A19. Some counties have “home grown” systems and the new system must accept data in a standard format provided by the asset vendor.

Q20. As it is required to print barcode labels for asset tags, Transport Manifests, or Security Seal Tag Reports do any barcode printers need included in proposal?

- a. If so, are these to be desktop style printers or wearable printers for mobile applications?
- b. If not, what model printers will the Asset Management System need to communicate to?

A20. This procurement does not include printers, the proposal can include what printers are compatible with the system for information purposes. However, the printer’s specifications and price will not be evaluated.

Q21. Attachment A: ID 7: The asset management system shall comply with the New York State Office for Technology Web policies and guidelines established at http://www.cio.ny.gov/procurement_rules

NYS-P08-005 is the only document we find on this site that deals with Web Policies. Is that correct?

A21. Yes for Web Policies.

Q22. Attachment A: ID 50: The asset management system shall allow authorized users the capability to create, modify and save custom reports and queries to a specified location.

How many individuals will need the capability, have the responsibility, and require the training to create custom reports?

A22. At least two at each of the 62 counties.

Q23. Attachment A: ID 62: The asset management system shall record/log (for display or printing) the user name, IP address, date and time of access to any entry within the system. (Access to records includes creating, viewing, adding, modifying and deleting record contents.)

The second half of the requirement appears that you want to be able to modify the audit trail of who did what. This is a direct violation of most standards of maintaining an audit trail and would allow alterations to chain of custody data. Can you please clarify?

A23. The requirement remains unchanged.

Q24. Is the New York Office of General Services authorized to purchase under a General Services Administration (GSA) schedule?

A24. OGS purchases from GSA schedules are considered open market and subject to applicable procurement rules and thresholds.

Q25. The six sections below appear somewhat repetitive. Can you elaborate your expectations of these sections?

Page 8 - 2.2.2

Executive Summary

Provide a brief description of the proposed approach and work effort.

Page 9 – 2.2.2

Approach to Meeting Requirements

Supplement the completed requirements table with additional details describing how the solution will meet the requirements. Use the order of headings and requirements in

Attachment A.

Where appropriate include schematics and diagrams that provide both conceptual and technical explanations of the proposed solution.

Page 9 – 2.2.2

Management Plan and Schedule

The Management Plan shall identify and describe the following:

- how the project will be planned, directed and controlled;
- proposed Project Management methodology;

Page 10 – 2.2.2

Approach

The Proposer shall describe the approach for performing the Project and accomplishing the scope and objectives as identified in Section 1.1 Overview. Specifically this section will address the Proposer's

approach to completing the tasks and deliverables identified in Section 5. Scope of Services and Deliverables. Match the order of headings in Section 5. and reference the relevant Task/Deliverable ID. Address the following items in a sufficient level of detail to permit NYSBOE to evaluate the goals and objectives of this solicitation:

1. Project Plan
2. Design and Planning

Page 24 -5.2.1- Project Plan

The Proposer shall develop a Project plan for the deployment of the Asset Management System. The Proposer shall provide the following tasks and deliverables:

Page 25 – 5.2.2 – Design and Planning Phase

The Proposer will be expected to design and plan for the testing and implementation of the new system (pilot county trials, for example) before any build-out occurs. NYSBOE will make available appropriate staff as needed to participate in design sessions with the Proposer. The Proposer shall provide the following tasks and deliverables:

A25. These requirements remain unchanged.

Q26. This software system was out for bid in 2010 and we responded with a proposal. Can you please detail why the winning proposal for that RFP was not awarded the contract with the State, and why this RFP is going out for bid again?

A26. There is not a current contract for this requirement.

Q27. Is there an estimated budget in place for this initiative? If so, what is that budget?

A27. Providing a budget interferes with receiving the best possible price.

Q28. Can you explain the security seal and firmware verification process in further detail? (#9 on p.106)

A28. For the firmware verification we expect to store the current certified hash value in the system so that when the counties perform the hashing procedure they can compare their current hash value to the certified value. Typically they would cut and paste the certified value into excel and populate their current hash value for comparison.

Q29. On page 109, Example AM System Data fields, the list includes fields such as "Date of Election" and "opening polls, closing polls". Can you provide a narrative of how you envision the new AMS tracking this type of information? Are these details to be maintained on the transfer manifest (to the polls)?

A29. These pieces of information will be entered by the county when setting up the election. The times are the same based on the type of election so the system should have the ability to pre-populate the values. See attachment H for a sample of the transfer manifest.

Q30. Are the inventories conducted only at the County level?

A30. See Section 3.13 "Tags."

Q31. Are the inventories coordinated in any way by the SBOE?

A31. See Section 3.13 "Tags."

Q32. Are the voting systems tagged? Is this tagging done at the state level or the county level?

A32. See Section 3.13 "Tags."

Q33. Would it be useful to assign tag numbers when the counties receive the voting systems from the state?

A33. See Section 3.13 "Tags."

Q34. On page 96, can you please further explain technical requirement number 34? What is the full procedure and reason for entering a new Master, County, and/or applicable change in serial numbers?

A34. It is possible that an authorized administrator or authorized user might need to edit these fields (or any field for that matter). If such actions are required, the system must accommodate same.

Q35. On page 97, is technical requirement number 40 referring to flagging entire asset records or solely sections of the records, such as documents and photos?

A35. Only sections of records will be archived. Assets remain until disposition.

Q36. When is the expected date of completion for this new asset management system? When is the expected "go-live"?

A36. No later than 6 months from the contract execution; "Go Live" and "Completion" are the same event.

Q37. In regards to the Cost Proposal, line items 2-7, is it the intention to pay all costs upfront upon delivery to NYSBOE of a final product? Because all costs are to be rolled into a Total 5-Year Price, is it the intention for there to be a 1 time payment for all 5 years? If not, what is the payment schedule of these line items?

A37. See Sections 3.3 and 3.4 which set forth specific payment information for each deliverable.

Q38. Item 12 – What form must the signature(s) take? Is there an electronic signature standard that they will adhere to?

A38. We need the ability to capture electronic signatures.

Q39. Item 40 – What are the retention schedules defined by NYSBOE?

A39. New York's current retention schedule is a 2-year period, HOWEVER we require that all data recorded in the system be available to designated users for the life of the asset. See section 3.1 of the matrix for additional insight.

Q40. In the RFP proposers are instructed to respond to the requirements in Attachment A indicating either that the software "meets the requirements 'out of the box,'" or "does not meet the requirement." Given the limitation to these two options, we interpret it to mean that meeting the requirements out of the box includes when configuration is required to meet the requirement, but that if customization is required, the system does not meet the requirement. Configuration uses the inherent flexibility of the enterprise software to add fields, change field names, modify drop-down lists, or add buttons. Configurations are made using built-in tool sets. Customizations require changes to the software code. Please confirm this interpretation.

A40. That is a correct interpretation.

Q41. The RFP states that the system must include an unlimited enterprise license, allowing unlimited access for an unlimited number of users. Typically, much of the functionality can be met using other options that are more cost effective for the client. Please confirm whether NYSBOE will consider other licensing options if they meet the requirements listed in Attachment A.

A41. Yes, we would consider other options as long as they meet the requirements.

All other terms and conditions remain unchanged.

If submitting a proposal, this Addendum #1 for IFB #1757 must contain an original signature, be dated, attached to, and made a part of your proposal.

Company Name

Address (include City, State, Zip)

Bidders Name (please print)

Title

Signature

Date



REQUEST FOR PROPOSAL (RFP) 1757 RE-BID OF (RFP) 1730 SOLICITED BY
THE

NEW YORK STATE OFFICE OF GENERAL SERVICES

ON BEHALF OF

THE NEW YORK STATE BOARD OF ELECTIONS

FOR AN

ASSET MANAGEMENT SYSTEM

IN

PROPOSAL DUE DATE: MAY 8, 2012 @ 2:00 P.M

ISSUE DATE: APRIL 2, 2012

Designated Contact:

Warren Joscelyn

Voice: 518-474-5981

Fax: 518-473-2844

E-mail: warren.joscelyn@ogs.ny.gov

Alternate Contact:

Diane Robinson

Same

Same

diane.robinson@ogs.ny.gov

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Appendices

Appendix A Standard Clauses for New York State Contracts

Appendix B General Procurement Forms

Appendix C Standard Technology Clauses

Appendix D Sample Contract

Attachments:

Attachment A: Requirements Compliance Matrix

Attachment B: Asset Management System Context Diagram

Attachment C: Asset Management Workflow

Attachment D: Example Asset Management System Data Fields

Attachment E: Certified Voting System Device Configuration

Attachment F: Hosting Services Agreement

Attachment G: Cost Proposal Form

Attachment H: Exhibits

1. Introduction

1.1 Overview

The New York State Board of Elections (NYSBOE) was established in the Executive Department June 1, 1974 as a bipartisan agency vested with the responsibility for administration and enforcement of all laws relating to elections in New York State.

With the current implementation of the Help America Vote Act (HAVA), the NYSBOE is responsible for the requirements contained within the “Common Rule.” The Common Rule (General Services Administration - 41 CFR Part 105-71) contains the uniform administrative requirements for grants and cooperative agreements with states and local governments. As a result of using federal funds for the purchase of voting system equipment there are requirements to track these assets in anticipation of future federal audits. The NYSBOE is seeking a vendor hosted Asset Management System (AMS) to track and inventory County Board of Elections (CBOE) voting system equipment for accountability and maintenance history, as well as track the movement of these items between locations. This will enable the NYSBOE the ability to meet the requirements of the Common Rule. Furthermore, the AMS will assist the CBOE in their quarterly maintenance activities as defined in Subtitle V of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York Part 6210.

The major objectives of the Asset Management System are to:

- provide each CBOE and NYSBOE with individual access to one centralized system;
- give each CBOE access to **only** their data, with NYSBOE having access to **all** data.
- fully account for each voting system (detailed inventory);
- provide a complete chain of custody record (from initial purchase to future disposal) for the life of the voting system;
- provide the ability to log trouble calls/associate issues to voting system assets;
- provide robust reporting/manifest generation capabilities; and
- provide the ability to maintain voting system history (i.e. maintenance activities and software/hardware upgrades).

Refer to Section 5 – Detailed Scope of Work/Service Requirements for the detailed service requirements to be included under this contract.

1.2 Designated Contact

In compliance with the Procurement Lobbying Law, Warren Joscelyn, Purchasing Officer, New York State Office of General Services, Division of Financial Administration has been designated as the PRIMARY contact for this procurement solicitation and may be reached by email, voice or fax for all inquiries regarding this solicitation.

Warren Joscelyn, Purchasing Officer
New York State Office of General Services
Financial Administration, 40th Floor
Corning Tower, Empire State Plaza
Albany, New York 12242
Voice: 1-518-474-5981 Fax: 1-518-473-2844
Email: warren.joscelyn@ogs.ny.gov

In the event the designated contact is not available, the alternate designated contact is:

Diane Robinson, Senior Purchasing Agent
New York State Office of General Services
Financial Administration, 40th Floor
Corning Tower, Empire State Plaza 40th Floor, ESP
Albany, New York 12242
Voice: 1-518-474-5981
Fax: 1-518-473-2844
Email: diane.robinson@ogs.ny.gov

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

Tryphina Ramsey, Compliance Specialist 2
NYS Office of General Services
Minority and Women-Owned Business Enterprises
Corning Tower, 35th Floor, ESP
Albany, NY 12242
Voice: 1-518-473-7083
Fax: 1-518-486-2679
Email: Tryphina.Ramsey@ogs.ny.gov

1.3 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 qualification(s) to be a pre-requisite in order to be considered as a qualified proposer for purposes of this solicitation.

The Proposer shall submit satisfactory evidence and NYSBOE and the Commissioner or his/her designated representative shall have the right to reject responses to this solicitation of any Proposer who is unable to provide satisfactory evidence as to the following qualification(s):

- The Proposers shall demonstrate that they have been normally engaged for a period of at least (3) consecutive years of providing asset management systems in performing the type of work, and addressing the processes as required under this solicitation.
- Proposer has provided at least two references that confirm the vendor's cited project work for other clients.
- The proposer has indicated that they can meet all of the requirements of the Requirements Compliance Matrix (Attachment A).

1.4 Key Events

The Table below outlines the tentative schedule for important action dates.

Table 1, Key Events

Action	Date
OGS issues Asset Management System Request for Proposal (RFP) #1757	April 2, 2012
Proposer questions due to OGS Question Deadline	April 24, 2012 @ 12:00 PM EST
OGS Issues a Response to questions (Estimated)	May 1st, 2012
Proposal Due Date to OGS	May 8th, 2012 by 2:00 PM EST
Proposer Presentations (Estimated)	Week of May 21 st 2012
Vendor Selection (Estimated)	Week of May 28 th 2012
Contract start date Start Date	Upon OSC Approval

2. Bid Submission

2.1 Proposal Exceptions

The Issuing Office will consider all requests to waive any proposal requirement. However, proposers should be aware that failure to obtain a waiver of any proposal requirement in advance of proposal submission may result in rejection of Proposer's proposal and disqualification from the 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 1.4 – 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 via addendum (if the response results in a change to the RFP), or directly to the requesting Proposer. Submissions that include any exceptions, qualifiers, include items not accounted for on the bid form, etc., will be rejected.

2.2 RFP Questions and Clarifications

Questions and requests for clarification regarding this RFP shall only be directed to:

Warren Joscelyn, Purchasing Officer
OGS Division of Financial Administration
40th Floor, Corning Tower, ESP
Albany, NY 12242
Phone: 1-518-474-5981
Fax: 1-518-473-2844
e-mail: warren.joscelyn@ogs.ny.gov

Questions and requests for clarification are only accepted via e-mail. Official answers to questions will be provided via Addendum utilizing the Bidder Notification System (BNS). The party responsible for the question will not be identified in the public response.

Deadline for submission of questions will be as stated in Section 1.4 - Key Events.

2.3 Proposal Format and Content

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 and format may necessitate rejection of the proposal.

2.3.1 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 solicitation. Furthermore, it shall state that should the proposal be selected, both technical and pricing components shall remain valid for at least 365 days.

1. Contract be awarded to your company, you would be prepared to begin services on the date indicated in Section 1.4 – Key Events. The cover letter must include the full contact information of the person(s) NYSBOE 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 whether or not subcontractors will be used, and the name and address of each proposed subcontractor.
2. **Minimum Qualification(s).** Proposers must submit information to confirm their ability to meet the minimum qualification(s) to provide the services requested in this RFP as set forth in Section 1.3 – Minimum Proposer Qualifications.

2.3.2 Technical and Management Proposal

Title page

Indicating: Name, address and phone number of the Proposer including a contact person, and name of the person(s) who prepared the Proposal.

Table of Contents:

Executive Summary

Provide a brief description of the proposed approach and work effort.

Ability to Meet Requirements

Requirements Compliance Matrix (Attachment A):

Using the Requirements table provided as **Attachment A** and using the following scale, the Proposer must provide its indication as to whether their solution meets NYSBOE's requirements with respect to features, functions and system requirements using one of the following responses in the "Proposer Compliance" column:

- *Y - meets the requirement "out of the box"; or*
- *N - does not meet the requirement.*

Proposer Comments

If the Proposer's response to the "Proposer Compliance" column requires explanation or clarification, it should be provided in this column.

Priority Definitions:

Mandatory – This requirement must be met by the Proposer or its Proposal will be rejected as non-responsive.

Desired – This item is a desired feature. The extent to which the proposed system exceeds the mandatory requirements and can provide these desired features will be an important part of NYSBOE's evaluation.

Approach to Meeting Requirements

Supplement the completed requirements table with additional details describing how the solution will meet the requirements. Use the order of headings and requirements in **Attachment A**. Where appropriate include schematics and diagrams that provide both conceptual and technical explanations of the proposed solution.

Management Plan and Schedule

The Management Plan shall identify and describe the following:

- how the project will be planned, directed and controlled;
- proposed Project Management methodology;
- arrangements for, and coordination of, any sub-consultants or joint ventures;
- anticipated needs for equipment space, etc;
- define the anticipated relationship of NYSBOE management and staff to vendor, and responsibilities of each, including an explanation of what NYSBOE staff may be required, utilization, and how overall coordination between the vendor and NYSBOE will be achieved;
- reporting methodology and frequency;

- suggest strategies for effective implementation of the Asset Management System throughout NYSBOE. Strategies should, when possible, be based upon practical experience in settings similar to that of NYSBOE and should identify problems which may be encountered and proposed solutions; and schedule for the modification, testing and roll-out of the proposed Asset Management System. Identify suggestions or recommendations for condensing the project schedule and the trade-offs involved.
- A timeframe for deliverables shall be agreed upon at or subsequent to the in person on-site project kickoff meeting (to be scheduled). Certain deliverables require several levels of review. (See Section 3.6 Acceptance of Deliverables)

Approach

The Proposer shall describe the approach for performing the Project and accomplishing the scope and objectives as identified in Section 1.1 Overview. Specifically this section will address the Proposer’s approach to completing the tasks and deliverables identified in Section 5. Scope of Services and Deliverables. Match the order of headings in Section 5. and reference the relevant Task/Deliverable ID.

Address the following items in a sufficient level of detail to permit NYSBOE to evaluate the goals and objectives of this solicitation:

1. Project Plan
2. Design and Planning
3. Installation and Configuration of Hardware and Software
4. Data Migration
5. Testing
6. Implementation
7. Training
8. Documentation
9. Software Maintenance
10. Hardware Maintenance
11. Technical Support
12. Hosting

Staffing Plan

Describe how staffing will be provided to meet the obligations of this engagement. The discussion must address how the Proposer intends to allocate key personnel by phase and task, as well as the level of effort associated with such key personnel. The staffing plan must also address any assumptions that the proposer has made about the expected level of effort of NYSBOE staff on the project.

The staffing plan shall also indicate the degree to which it is anticipated that staff will be located on-site (at NYSBOE’s offices) or remotely. Include a staffing schedule using the following format:

Note: Any and all personnel substitutions whether temporary or permanent must first be discussed and approved by NYSBOE.

Table 2, Staffing Schedule

		Month 1	Month 2	Month 3	etc
Phase 1		Hours	Hours	Hours	
	Staff Role 1				
	Staff Role 2				
	Staff Role 3				
	Staff Role 4				
	etc				

Also include:

- A resume for the Project Manager,
- A resume for the Lead Technical Specialist,
- Biographies for additional proposed key personnel (which must include a Security Specialist whose expertise will be utilized to ensure the solution's compliance with NYSBOE's security policies), and
- An organization chart indicating how the Proposer's project organization will be structured.

Note: Submission of false or inaccurate information concerning a candidate shall result in disqualification of the candidate and, if appropriate, of the entire Proposal. During the Evaluation Process, should it become necessary to replace the Project Manager or the Lead Technical Specialist named in your Proposal, Proposer is under a continuing obligation to promptly provide NYSBOE with full information about a comparable replacement.

Proposer shall certify that all candidates for whom resumes have been submitted have been interviewed, have had references checked, and all such interviews and reference checks have been documented. NYSBOE reserves the right to request this documentation at any time either during the evaluation process or during the term of the contract.

Description of Company Experience

Direct, prior experience in the provision of Asset Management System to clients with complex, distributed work environments with large numbers of users is essential. Describe previous experience providing Asset Management System and related services as well as describing the client in each case. Provide the following required information regarding:

- Number of years providing Asset Management System software;
- Size of clients (including number of end-users, number of locations, annual revenues etc.);
- Type of clients (e.g. higher education institutions, government entities, private companies etc.);
- Number of installations of the product proposed for use by NYSBOE (to include operating system and database versions deployed);
- Number of years providing hosting solutions;
- Relationships with all companies, vendors, and/or sub-contractors that the Proposer partners with and the benefits/purpose of such partnerships that deal specifically to asset system management software or hardware in this RFP shall be specifically outlined.; and Additionally, it shall be made clear what entity is the developer of the software proposed, who has ownership/rights to the software, any agreements that exist where the terms and conditions could affect this contract during its term, what limitations may or may not exist as a result thereof and what remedies will be implemented should a problem arise. The developer of the product(s) services/consultation shall be made available at no additional cost to the State under any circumstance in which NYSBOE deems it necessary.
- Complexity of previous implementations (e.g. large projects, multi-year, multi-site).
- If the Proposer's experience includes at least one (1) year of providing asset management system support for voting system assets specifically associated with the administration of a state or local level election, and/or has provided any New York State agency at least two (2)

years of asset management system support, in general, they shall receive an additional scoring consideration towards their final score.

Company References

The Proposer should provide a minimum of two references for services/products comparable to those that will be provided to NYSBOE. Include names, e-mail addresses, and phone numbers of contact points with the listed clients. NYSBOE reserves the right to request information from other sources and will check references at its discretion.

Provide a minimum of two (2) references for each proposed Sub-Consultant. At least one (1) of such references shall be for projects (comparable in size, scope and complexity to this effort) in which you and such Sub-consultant have worked together. Both references shall be for projects currently in progress or completed within the last five years and that are relevant to this Project. Indicate whether any of your Sub-Contractors are Minority and Women-Owned Business Enterprises, and if so, whether they are New York State or New York City certified.

3. **Pricing.** Proposer shall submit a completed Attachment G - Cost Proposal Form.
4. All other required completed forms from Appendix B.

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.

2.4 Proposal Preparation

All proposals must be completed in ink or machine produced. Proposals submitted handwritten in pencil will be disqualified.

2.5 Packaging of RFP Response

Please submit four (4) originals of Attachment G - Cost Proposal Form clearly marked **“Cost Proposal”** **in a separate sealed envelope** from the technical proposal. No overt statements about costs shall be included in the technical proposal. Submit a total of 10 copies of the technical proposal, 4 originals and 6 copies.

Also, submit 4 originals of all other documents found in Appendix B – Required Forms, as well as any bid addenda.

The bid 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 – 1757 (this document)
- Proposal Due Date and Time: (as indicated in Section 1.4 - Key Events)
- Proposal for Asset Management System NYSBOE

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

2.6 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, 40th Floor
Albany, NY 12242
Attn: Warren Joscelyn
Bid # 1757

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 the date and time indicated in Section 1.4 - 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 proposal must allow sufficient mail delivery time to ensure receipt of their proposal 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 proposing entity shall not excuse late Proposal submissions. Similar types of delays, including but not limited to, bad weather or security procedures for parking and building admittance shall not excuse late Proposal submissions. Proposers are cautioned that receipt of proposals 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.

Proposals must remain open and valid for 365 days from the due date, unless the time for awarding the contract is extended by mutual consent of NYS OGS and the Proposer. A proposer shall continue to remain an effective offer, firm and irrevocable, subsequent to such 365 day period until either tentative award of the contract(s) by issuing Office is made or withdrawal of the proposal 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 48 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://www.ogs.state.ny.us/parking/forVisitor/visitor.html>

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 the New York State Board of Elections (NYSBOE).

3.2 Method of Award

Award under this RFP shall be made to the responsive and responsible Proposer affording the best value to the State, more specifically to the Proposer receiving the highest point total using the evaluation criteria listed in Section 4 – Evaluation and Selection Process. Upon determination of the best value proposal, a contract will be delivered to the successful proposer for signature and shall be returned to the issuing office to obtain all necessary State approvals. Once final approval is given by the Office of the State Comptroller, the completely executed contract will be delivered to the awarded contractor.

The Grand Total bid amount of the successful proposer shall be used to establish the contract value. The established contract value shall not be exceeded.

The State reserves its right to make no award resultant from this RFP.

3.3 Pre-Implementation Pricing & Retainage

The following correspond to Deliverable 1 on (Attachment G Cost Proposal Form). Proposers must provide one price for Deliverable 1 which includes: Project Plan, Design and Planning, Installation and Configuration, Testing, Implementation, All Phases of Training and Documentation. The one time price shall be deemed to include all auxiliary costs, such as printing, secretarial, program entry, and costs for travel, meals and lodging, product licenses, product maintenance etc. NYSBOE does not anticipate vendor travel to all sixty-two (62) counties, but there may be an occasion to visit a particular county, if they are having a problem.

3.3.1 Pre-Implementation, Implementation Tasks & Deliverables, to include:

Project Plan → Payment of 2.5% of Item #1 (Attachment G Cost Proposal Form) upon completion and acceptance.

Design and Planning → Payment of 2.5% of Item #1 (Attachment G Cost Proposal Form) upon completion and acceptance.

Installation and Configuration (for all business units) and Initial and Periodic Data Migration → Payment of 10% of Item #1 (Attachment G Cost Proposal Form) upon completion and acceptance.

Testing → Payment of 20% of Item #1 (Attachment G Cost Proposal Form) upon completion and acceptance.

Implementation → Payment of 20% of Item #1 (Attachment G Cost Proposal Form) upon completion and acceptance.

Training Phase 1 Phase 2 and Phase 3 → Payment of 15% of Item #1 (Attachment G Cost Proposal Form) upon completion and acceptance of all 3 Phases.

Documentation → Payment of 5% of Item #1 (Attachment G Cost Proposal Form) upon completion and acceptance.

3.3.2 Final Acceptance (Retainage)

Upon deliverance and acceptance in writing by NYSBOE of all of the deliverables (as outlined in section 3.3.1); the remaining 25% of the total cost as bid in (Item #1 Attachment G Cost Proposal Form) shall be payable.

3.4 Post-Implementation Deliverables

The following correspond to Deliverable Items 2-6 on (Attachment G Cost Proposal Form). Proposers shall provide separate pricing for Items 3.4.1 – 3.4.6. Prices shall be deemed to include all auxiliary costs, such as printing, secretarial, program entry, and costs for travel, meals and lodging, product licenses, product maintenance etc. These deliverables would not begin or be billable until final acceptance of deliverable Item 1. (See Section 3.3.1)

3.4.1 Enterprise-wide License (Recurring)

After Final Acceptance (Section 3.3.1) the Proposer awarded the Contract will provide the NYSBOE an enterprise-wide license to the Asset Management System software. Such license shall allow unlimited use by an unlimited number of users (at unlimited locations) of the software for all NYSBOE-related matters and an unlimited number of installs and instances on behalf of the NYSBOE. For the purposes of this license the term “enterprise” is defined as all NYSBOE business units and all County Boards of Elections. The license fee shall be billable after Final Acceptance (Section 3.3.1) on an Annual basis. The payment shall be at the beginning of each license year in 5 equal payments.

3.4.2 Technical Support

Technical Support shall be bid as a Total 5 Year Price. However, it shall be payable on a monthly basis for the work performed during that month in arrears.

3.4.3 Software Maintenance

Proposers shall provide software maintenance for the Asset Management System. The software maintenance shall be billable on an annual basis at the beginning of each year of the contract in 5 equal payments.

3.4.4 Hardware Devices and 5 Year Maintenance

The selected contractor will provide 2 scanners for each of the 62 counties and 2 scanners for the New York State Board of Elections Total= (126). NYSBOE will select either the smart reader or the basic reader at its discretion. Full warranty and maintenance is included for the 5 year period from acceptance. Each Proposer must submit pricing for one standard bar code reader and one smart reader along with the following information:

For each device the Proposer should present the following:

- Model #;
- Description and capabilities;
- List Price;
- Discounted Price per unit offered to NYSBOE;
- Total cost for 126 Devices

Proposers shall clearly indicate which device is a standard reader and which is a smart reader. If more than one device for each category is submitted the State will use the highest proposed product/price for evaluation. Any additional products and their corresponding price will not be evaluated.

Hardware devices shall be billable and payable as a one-time purchase after acceptance by NYSBOE.

3.4.5 Hosting – Additional Resources

The software shall be a contractor based hosted product. Standard contractor incurred costs for additional resources needed for hosting (e.g. storage, database instances, database refreshes, servers, miscellaneous labor etc.) shall be included in the proposed total 5 year cost. For the purposes of

payment and billing hosting shall be compensated on an annual basis at the beginning of each year of the contract in 5 equal payments. See (Attachment F) Hosting for additional specifics.

3.4.6 Additional/Enhancement Services

Proposers must submit hourly rates for individual staff roles (e.g. Project Manager, Business Analyst), that include all labor, overhead and fee costs. If NYSBOE deems it necessary and requests additional work to be undertaken by the selected proposer, NYSBOE will request a proposal of the work to be performed to be provided by the contractor including proposed pricing based upon an agreed upon number of hours multiplied by the individual title rates as bid in Attachment G (Cost Proposal Form). Additional/Enhancement services shall be billable/payable on a monthly basis for work performed during that month in arrears.

3.5 Method of Payment

Payments will not be processed by the State until the deliverables have been delivered to NYSBOE's satisfaction and accepted in writing.

Invoices will be processed in accordance with established procedures of the New York State 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** be itemized and include the following information: Contract ID number (i.e.: C00XXXX); Company FEIN; Date; and actual number of hours worked; a detailed description of services performed; and itemized costs for services provided. (as applicable) (Also see Acceptance of Deliverables - Sec 3.6) and (Price Sections 3.3 and 3.4).

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 and will not be due and owing until a corrected invoice is received and approved by NYSBOE.**

All Invoices or Vouchers are to be submitted for payment to:

The Claims Unit
Office of General Services
Division of Financial Administration -or- claimsunit@ogs.ny.gov
Empire State Plaza Station
P. O. Box 2117
Albany, New York 12220 -0117

Also, a copy of the Invoice/Voucher must be forwarded to NYSBOE.

3.6 Acceptance of Deliverables

Each deliverable must be reviewed and accepted in writing by NYSBOE. A signed letter from an authorized NYSBOE representative(s) will serve as the sole methodology utilized in acceptance. No other form(s) of acceptance or approval shall be deemed proof of a deliverable. What is proposed shall be exactly the same as what is delivered unless NYSBOE pre-approves a substitution or modification.

A timeframe for deliverables will be agreed upon at/or subsequent to the **on-site** (to be scheduled) project kick-off meeting. The face to face Project Kickoff Meeting shall be held within 15 business days of notice of award unless expressly extended in writing by the NYSBOE. Meetings such as the Project Kickoff, Demonstrations or Evaluations shall not constitute any portion of the training required under the resultant contract.

3.7 Term of Contract

This contract will commence upon OSC approval and will be in effect for five (5) years from acceptance of Item 1, with NYSBOE's option for one additional 5 year renewal period.

The New York State Board of Elections retains the right to cancel this contract for convenience, provided that the Contractor is given at least thirty (30) days written notice of NYSBOE's intent to cancel. Any cancellation by NYSBOE 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 NYSBOE, its agents and employees therefore for lost profits or any other damages resulting there from. This provision should 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.

3.7.1 Price Adjustments

In the event of a five year renewal any pricing increase shall not exceed either: the difference in the CPIU for All Urban Consumers over the five year period from Acceptance to the fifth year anniversary date; or any nationally published price list.

3.8 Electronic Payments

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 Co-executives, in the Co-executives 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, the Office of the State Comptroller 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.

3.9 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.

3.10 Dispute Resolution

For purposes of this RFP it is the intention of the Office of General Services' Financial Administration (OGS) and the New York State Board of Elections (NYSBOE) to provide Proposers with an opportunity to administratively resolve disputes, complaints or inquiries related to proposals, this solicitation or contract awards. OGS and NYSBOE encourage vendors to seek resolution of disputes through consultation with OGS Financial Administration staff. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of the OGS Financial Administration Dispute Resolution Procedures for Vendors may be obtained by contacting the designated contact person identified on the front of the solicitation document.

3.11 Examination of Contract Documents

- Each Proposer 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 Proposer 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 Proposer to fulfill every detail of all the requirements of the documents governing the work. The Proposer, 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 addendum issued prior to the bid due date must be acknowledged by signature, dated and be submitted on or before the bid due date. In awarding a contract any written addenda will become a part thereof.
- Any verbal information obtained from, or statements made by, representatives of the State (NYSBOE/OGS) at the time of examination of the documents shall not be construed as in any way amending contract documents. Only such corrections or addenda as are issued, in writing, shall become a part of the contract.

3.12 Prime Contractor Responsibilities

The State will contract only with the successful Proposer 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 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. The Contractor accepts full responsibility for the actions of any employee or subcontractor who carry out any of the provisions of any contract resulting from this RFP.

3.13 Glossary of Terms

“Issuing Office” shall mean the Office of General Services Division 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 and/or the New York State Board of Elections.

“Co-executives” shall mean 2 persons or duly authorized representative.

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

“Receipt” The receipt is a travel manifest to be generated when devices are ready to be shipped.

“Tags” All units currently have tags. Tagging will continue to be a County function. The following details apply to the current State applied asset tags on the units:

- XWC277 CRAFTMARK barcode label
- MC53FL Pressure Sensitive Adhesive
- .003 White Polyester

- 2.00" x 0.75"
- One Color (black)

"Machine Units" There are currently approximately 20,000 Machine Units.

"Storage" Each of the 62 Counties have their own central storage location.

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 Overview

NYSBOE intends award one contract based upon an evaluation of all aspects of the proposals. Proposals will be evaluated and scored based upon the method and criteria set forth in this Section to determine the proposal that best fits the needs of NYSBOE and the best interests of the State of New York.

The award will go to the contractor whose proposal provides the best value as determined by NYSBOE. If two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient.

Overall Breakdown of Points:

- ✓ Cost – 20% (200 points)
- ✓ Technical – 70% (700 points)
- ✓ Executive – 10% (100 points)

4.2 Evaluation Committee

NYSBOE has established evaluation committees to perform the evaluation. The following teams have been created for this process:

Team A: OGS Financial Administration

Team B: NYSBOE Technical Evaluation Team

Team C: Executive Review Team

Note: Team A and B's personnel shall be non-overlapping with any other team.

4.3 Stage 1 Vendor Qualifications

At Stage 1, vendors' submissions will be reviewed by Team A on a pass/fail basis, described below, in order to determine that a vendor meets the minimum qualifications to perform the scope of work.

4.3.1 Check for Completeness

Members of the evaluation Team A - OGS Financial Administration will review the submissions for completeness.

4.3.2 Qualifying Review

Firms will be passed or failed on the basis of meeting the following minimum bidder criteria:

- The Proposers shall demonstrate that they have been normally engaged for a period of at least (3) consecutive years of providing asset management systems in performing the type of work, and addressing the processes as required under this solicitation.
- Proposer has provided at least two references that confirm the vendor's cited project work for other clients.
- The proposer has indicated that they can meet all of the requirements of the Requirements Compliance Matrix (Attachment A)

4.4 Stage 2 Evaluations

All qualifying proposals will be evaluated and scored in stage 2. At Stage 2, NYSBOE will review each proposal that cleared Stage 1 and initially re-confirm whether it is responsive to the requirements of the RFP.

4.4.1 Evaluation of Technical Proposal

70% (700 points) of the Stage 2 evaluation's total 1,000 available points will be allocated for the scoring of the Technical Proposal. The breakdown of this percentage will be:

- 20% for the Firm/Staff Qualifications (skills and experience of the vendor and the project team, including all subcontractors, in relation to the project requirements)
- 50% for the proposed Scope of Work / Work Plan, Product / System, and Schedule.

4.4.2 Evaluation of Cost Proposal

Up to 20% (200 points) of the total 1,000 available points will be allocated for the scoring of the Cost Proposal. The cost evaluation will be conducted separately from the Technical evaluations.

The Grand Total price shown on, Attachment G Cost Proposal, will be used for evaluation purposes. Each vendor's cost proposal (Grand Total) will be evaluated in relation to the lowest proposer's bid. The formula to be utilized by Team A for the cost proposal will be: The lowest bid divided by the bid being evaluated multiplied by 200.

4.4.3 Preliminary Score

For each technical proposal, the preliminary technical scores of each evaluator will be averaged to yield a preliminary technical score for each proposal.

4.5 Identifying Finalists

Team A will determine those finalist firms eligible to provide presentations to the evaluation team by calculating each firm's preliminary score according to the following formula: Preliminary technical score + cost score = preliminary score. The finalists will be the firms with the five highest preliminary scores and any additional firms within or equal to 50 points of the highest preliminary score.

4.6 Presentations by Finalists

A post-proposal presentation/demonstration will be required of the five finalists and/or any other additional eligible firms as outlined in (Section 4.5). The purpose is to provide an overview of the proposed technical solution and provide clarification on any aspect of the technical proposal, including its proposed solution, capabilities, and experience.

Members of Team B may adjust their technical scores following the finalist presentations. The presentation shall cover the major points of the vendor's proposal. The presentations will be given on a date, time, and location to be designated by NYSBOE. The revised technical scores of each evaluator will be averaged to yield a final technical score

4.7 Recalculating Cost Proposals

The cost proposal scoring will be recalculated. This recalculation will only include the finalists and will yield a final score for each of the finalists' cost proposals.

4.8 Executive Committee Scoring

The Executive Committee will be privy to all pertinent proposal materials and up to 10% (100 points) may be assigned to each finalist firm. This review is intended to evaluate the overall viability of the proposals and will be based on all factors encompassing quality, cost, and efficiency.

4.9 Final Scoring and Ranking

Team A will determine each firm's final score using the following formula: Final Technical Score + Final Cost Score + Executive Committee Score = Final Score. Finalist firms will be ranked according to their final scores. A firm will be selected for award based upon having the highest final score.

4.10 Notification of Award

After the evaluation, all Proposers will be notified of the name of the selected Proposer and debriefings will be offered per Section 6.12. The selected Proposer 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. Detailed Scope of Work/Service Requirements

5.1 Overview

The Proposer shall provide an Asset Management software application, devices and related hardware and related services to include: installation; data conversion (initial and future periodic); implementation; data interfaces; training; support; maintenance (the “Asset Management System”); and hosting. The Proposer will install the software and hardware in the applicable operational environment, convert the existing and future periodic data, provide software and hardware training to NYSBOE and CBOE personnel initially and as needed throughout the term of the contract, provide technical support and user help services, provide training and support documentation and provide software upgrades during the term of the contract.

Staffing Plan

Describe how staffing will be provided to meet the obligations of this engagement. Any and all personnel substitutions whether temporary or permanent must first be discussed and approved by NYSBOE. The discussion must address how the Proposer intends to allocate key personnel by phase and task, as well as the level of effort associated with such key personnel. The staffing plan must also address any assumptions that the proposer has made about the expected level of effort of NYSBOE staff on the project. A timeframe for deliverables shall be agreed upon at or subsequent to the on-site project kickoff meeting. (to be scheduled) Certain deliverables require several levels of review. (See Section 3.7 Acceptance of Deliverables)

The staffing plan shall also indicate the degree to which it is anticipated that staff will be located on-site (at NYSBOE’s offices) or remotely. Include a staffing schedule using the following format:

Table 1, Staffing Schedule

		Month 1	Month 2	Month 3	etc
Phase 1		Hours	Hours	Hours	
	Staff Role 1				
	Staff Role 2				
	Staff Role 3				
	Staff Role 4				
	etc				

Also include:

- A resume for the Project Manager,
- A resume for the Lead Technical Specialist,
- Biographies for additional proposed key personnel (which must include a Security Specialist whose expertise will be utilized to ensure the solution’s compliance with NYSBOE’s security policies), and

An organization chart indicating how the Proposer’s project organization will be structured

The system provided by the Proposer shall comply with the Technical Requirements found in Attachment A.

The potential scope of the project is represented by **Attachment B**: Asset Management System Context Diagram. This diagram illustrates the potential people, systems and information that will be entered and generated for various tasks associated with the election process.

Attachment C: Asset Management Workflow and **Attachment D:** Example Asset Management System Data Fields provide examples that should serve as the basis for the Oral Presentation and Demonstrations. **Attachment C** describes the process of a voting system being initially entered into the AMS and tracked through its use in its first election. The accompanying narrative provides details of the tasks that will be performed at each step. **Attachment D** provides example data fields that the system shall have the ability to track.

Attachment E: Certified Voting System Device Configuration provides the certified voting system device configuration information that should be used as the basis for the asset description. This information will be used by each County Board of Elections (CBOE) to audit their inventory to assure that all components are present for the upcoming elections. This information will need to be editable in case a CBOE purchases additional components for the device’s configuration (e.g. additional Sip & Puff device). **Attachment E:** Certified Voting System Device Configuration also contains the voting system security seal information that will be used to help maintain the chain of custody.

5.2 Deliverables

5.2.1 Project Plan

The Proposer shall develop a Project plan for the deployment of the Asset Management System. The Proposer shall provide the following tasks and deliverables:

Table 2, Project Planning Tasks and Deliverables

Task 1	Task	Deliverable
1.1	<p>The Proposer shall develop an overall plan that will ensure that NYSBOE’s requirements are met within the desired timeframe. The plan should include:</p> <ol style="list-style-type: none"> 1. Scope Statement; 2. Work Breakdown Structure; 3. Project Schedule; 4. Quality Management Plan; 5. Risk Management Plan; 6. Change Control Plan; 7. Acceptance Management Plan, including Requirements Matrix 8. Issue Management Plan; 9. Implementation Plan for each business unit; 10. Security Plan; 11. Communication Plan; and 12. Staffing Plan (including roles and responsibilities for Proposer staff and NYSBOE staff¹). 	Project Plan

¹ NYSBOE will provide its own Project Manager for the project. Subject Matter Experts will be available on an as-needed basis.

5.2.2 Design and Planning Phase

The Proposer will be expected to design and plan for the testing and implementation of the new system (pilot county trials, for example) before any build-out occurs. NYSBOE will make available appropriate staff as needed to participate in design sessions with the Proposer. The Proposer shall provide the following tasks and deliverables:

Table 3, Design and Planning Tasks and Deliverables

Task 2	Task	Deliverable
2.1	The Proposer shall develop a design for the Asset Management System that meets NYSBOE's requirements. The design shall include schematics to illustrate the relationship of major solution components.	System Design
2.2	The Proposer shall develop an implementation plan.	Implementation Plan
2.3	The Proposer shall develop a system acceptance test plan (SAT) that clearly identifies the roles and responsibilities of both Contractor and NYSBOE staff.	System Acceptance Test Plan
2.4	The Proposer shall develop a Quality Control/ Quality Assurance Plan.	Quality Control/Quality Assurance Plan

5.2.3 Installation and Configuration Phase

Installation and configuration of the Asset Management System will occur in accordance with the implementation plan developed during the design and planning phase. The Proposer shall provide the following tasks and deliverables:

Table 4, Installation and Configuration Tasks and Deliverables

Task 3	Task	Deliverable
3.1	The Proposer shall install all test and development environment software in order to provide a fully functional development environment.	System Installation
3.2	The Proposer shall configure and customize the solution based on the System Design (see Design and Planning Phase above) and the Requirements (see Attachment A), as approved by NYSBOE. The Proposer shall allow NYSBOE, or any of its representatives, to monitor the configuration and customization of the software as necessary. The Proposer shall be expected to work with existing end-users who will be involved in approving the configuration of the solution. Final approval will rest with NYSBOE.	

5.2.4 Data Migration Assistance Phase

Data Migration for the Asset Management System will occur in accordance with the implementation plan developed during the design and planning phase. NYSBOE currently collects data pertaining to county voting systems across New York State. This data is captured in MS Excel spreadsheets.

NYSBOE currently has Excel spreadsheets containing asset data for each county. Entries with data could range to 10 lines for the smallest counties to almost 2000 line entries for some of the largest counties. We are expecting an industry-standard process for importing asset information based on a standardized data format provided by the vendor. There are sixty-two (62) counties and up to eight (8) spreadsheets per county. The Proposer shall provide the following tasks and deliverables:

Table 5, Data Migration Tasks and Deliverables

Task 4	Task	Deliverable
4.1	<p>The Proposer shall convert and migrate existing (and period future) data into the new system.</p> <ul style="list-style-type: none"> • The Proposer shall map data from the existing MS Excel spreadsheets and/or other existing data formats to the new asset management system. • The Proposer shall convert existing (and period future) data and, with NYSBOE’s assistance, validate that the data has been migrated successfully into the new system. 	Data Migration

5.2.5 Testing Phase

The Proposer is expected to conduct testing of the Asset Management System in accordance with the System Acceptance Test plan developed in the Design and Planning phase (see above). The test plan shall designate roles and responsibilities for the Proposer, NYSBOE and CBOE staff. NYSBOE will make available appropriate staff members as needed to participate in acceptance testing. The Proposer shall provide the following tasks and deliverables:

Table 6, Testing Tasks and Deliverables

Task 5	Task	Deliverable
5.1	<p>The Proposer shall perform testing to ensure that the solution works as intended. The Proposer shall adhere to the System Acceptance Test Plan as described previously. Testing will be conducted in the NYSBOE test environment.</p> <ul style="list-style-type: none"> • The Proposer shall document detailed test cases traced to all requirements in the Scope of Services section of this RFP and to the detailed requirements documented within Attachment A. • The test case descriptions shall include expected results of each test. • The Proposer shall provide actual test results for all test activity. All test results shall be documented in a test log. • The Proposer shall provide weekly reports of testing progress and the status of corrective actions resulting from test activities. <p>Testing will not be considered complete until approved by NYSBOE.</p>	Testing

5.2.6 Implementation Phase

Implementation of the Asset Management System will occur in accordance with the implementation plan developed during the Design and Planning phase (see above). Implementation in the production environment will only occur once acceptance testing has occurred to NYSBOE's satisfaction. The Proposer shall provide the following tasks and deliverables:

Table 7, Implementation Tasks and Deliverables

Task 6	Task	Deliverable
6.1	<p>Once testing has been approved, the Proposer will be responsible for installing a fully functional production environment.</p> <p>The Proposer shall implement the system in the production environment in accordance with the Implementation Plan. Implementation will include:</p> <ul style="list-style-type: none"> • Conversion and migration of existing data to the new system, and • Transition of all existing users to the new system 	System Implementation

5.2.7 Training Phases

The Proposer shall develop and implement a plan for conducting end-user and technical training (to include knowledge transfer). The intent is that the proposed activities will result in well-trained technical and end-user NYSBOE and CBOE personnel, and will provide adequate training materials for recurring training needs. Training must address all components of the solution including software, hardware devices and server administration. Training methods that minimize the cost per end-user are preferred (for example, web-based training, and train-the-trainer approaches). The State is divided into 6 geographic regions. Counties can get to and/or reside in any of these different regions. Specific training sites within these regions will be determined later. Only Phase 3 training will be held at one centralized location (the NYSBOE in Albany, NY).

The Proposer shall provide the following training phases:

Table 8, Training Tasks and Deliverables

Task 7	Task	Deliverable
7.1	<p>Phase 1 – County-based Training:</p> <p>a. The Proposer shall develop training materials that can be deployed at each of the 62 counties. Web-based or DVD-based training is preferred. NYSBOE will not entertain solutions that involve in-person training in each county.</p> <p>Phase 2- Regional Training</p> <p>b. The Proposer shall develop in-person training that will be delivered at each of the 6 NYSBOE regions (individual counties will attend the training appropriate to their region).</p> <p>Phase 3 – Central Office Training</p> <p>c. The Proposer shall train NYSBOE staff (i.e. central office staff) in the use of the system using a “train-the-trainer” approach. NYSBOE Staff should be trained to the point where they themselves are equipped to train county staff in the use of the system.</p>	User Training

5.2.8 Documentation

The Proposer shall provide documentation materials to NYSBOE to enable NYSBOE staff to understand and make full use of the Asset Management software and hardware. The Proposer shall provide the following tasks and deliverables:

Table 9, Documentation Tasks and Deliverables

Task 8	Task	Deliverable
8.1	Product installation guide	Documentation
8.2	Description of user screen layout and content	Documentation
8.3	Application access procedure	Documentation
8.4	Description of standard report layouts and content	Documentation
8.5	Application security	Documentation
8.6	Operating specifications and system flowcharts	Documentation
8.7	Program module descriptions	Documentation
8.8	Detailed run books (if hosted) or operating procedures (if in-house)	Documentation

5.2.9 Enterprise License

The selected contractor will provide an enterprise license that can be utilized by an unlimited number of users and New York State Counties and be billed on an annual basis. (See Section 3.4.1 Pricing)

5.2.10 Technical Support

The Proposer shall provide help desk services to support the NYSBOE staffs that support the user community. The anticipated period of performance for technical support is 5 years, plus any contract renewals from Final Acceptance. The Proposer shall provide the following tasks and deliverables:

Table 11, Technical Support Tasks and Deliverables

Task 11	Task	Deliverable
11.1	Help-desk support.	Technical Support
11.2	Availability and use of product-trained technicians.	Technical Support
11.3	Help-desk ticket response time standards (follow-up and resolution).	Technical Support
11.4	Help-desk ticket escalation and resolution model.	Technical Support
11.5	Help-desk ticket status reporting.	Technical Support
11.6	Schedule of Help-desk hours of operation and availability (at minimum help-desk support must be provided from 8.00 a.m. to 6.00.p.m. – Eastern Time – Monday to Friday. Enhanced support requirements are presented in Attachment G – Enhanced Technical Support Requirements).	Technical Support
11.7	Performance metrics (e.g. status, resolution etc.).	Technical Support

5.2.10.1 Enhanced Technical Support Requirements

The Proposer shall provide enhanced help desk services to support NYSBOE and CBOE during the following peak timeframes:

- a. For the period of Pre-Election day 30 up to Pre-Election Day 15, the Contractor shall provide phone support which shall be available on each of said days, from 7:00 am to 10:00 pm, Eastern Time.
- b. For the period of Pre-Election day 15 to Pre-Election Day 1, telephone support shall be provided 24 hours a day, seven days a week.
- d. For the period including Election Day minus 1, Election Day and Election Day plus 1, telephone support must be available during this entire 72-hour period.
- e. For the post election period, which is defined as Election Day plus 1 through Election Day plus 15, phone support shall be provided by the Contractor, on each of said days, between the hours of 7:00 am until 10:00 pm, EST.
- f. For non-critical periods, except during the conduct of quarterly maintenance processes, phone support shall be made available by the Contractor, on each business day, between the hours of 8:00 am and 6:00 pm Eastern Time.

5.2.11 Software Maintenance

The Proposer shall provide a maintenance agreement that will cover the software components of the Asset Management System. The maintenance agreement will begin immediately following Final Acceptance of the Implementation Phase (see Section 5.2.6). The anticipated period of performance for maintenance is 5 years, plus any additional contract renewals from Final Acceptance. The Proposer shall provide the following tasks and deliverables:

Table 10, Software Maintenance Tasks and Deliverables

Task 9	Task	Deliverable
9.1	Remote diagnostics.	Maintenance
9.2	On-site issue resolution if necessary.	Maintenance
9.3	Fixes to the software (refer to Section 6 Proposer Responsibilities – Fixing Defects).	Maintenance
9.4	Updates to the system.	Maintenance
9.5	Updates to training and technical documentation to support software changes.	Maintenance

5.2.12 Hardware Devices

The selected contractor will provide 2 scanners for each of the 62 counties and 2 scanners for the New York State Board of Elections Total= (126). NYSBOE will select either the smart reader or the basic reader at its discretion. Full warranty and maintenance is included for the 5 year period from acceptance. Each county will scan assets in their central warehouse or when it is leaving their central warehouse however, some counties may choose to also scan when they arrive and depart at poll sites. Any Counties that choose to do multiple scanning can purchase additional scanners at a later time.

5.2.13 Hosting

The Contractor must provide details of their proposed hosting solution. A Hosting Schedule will be put into effect that defines with greater specificity NYSBOE expectations of the hosting service. The Hosting Schedule will be based on the document provided as **Attachment F – Hosting Services Agreement**. Please refer to this document for a detailed description of specific tasks and deliverables to be provided. All data will be hosted as a centralized data-base with each county having access to only their information and the State having access to all information.

5.2.14 Additional/Enhancement Services* (optional to NYSBOE)

NYSBOE may at its discretion elect to utilize additional services or require enhancements to the existing system once it is in place. The contractor must provide the resources necessary to meet the need and propose to NYSBOE a cost effective way to accomplish it. Any such additional services must be pre-approved in writing by NYSBOE. The billable rates will be by title per the (Attachment G Cost Proposal Form) times the actual number of hours of work performed.

5.2.15 Radio Frequency Identification (RFID)

NYSBOE and the County BOEs may desire to use radio frequency identification (RFID) for inventorying/tracking items in the future. Therefore, bidders shall propose systems whose software currently allows for such use or systems that allow for the purchase of an upgrade to their software, allowing for use of RFID in the future. The cost of such an upgrade and all associated hardware should not be included in the bidder's proposal and will not be evaluated for purposes of award under this procurement. Bidders shall include a narrative describing the RFID capability of their system in their response to this solicitation.

Proposer Responsibilities – Fixing Defects

5.2.16 Defect Service Levels Agreement.

Proposer shall provide Services as detailed in the following Defect Service Levels Agreement:

Table 12, Defect Service Levels Agreement

Defect Severity	Maximum Response Time	Maximum Resolution Time	Hours and Days of Coverage
Level 1	15 minutes	48 clock hours	24 hrs/day; 7 days/wk
Level 2	30 minutes	96 clock hours	8:00 a.m. to 8:00 p.m. ET weekdays
Level 3	60 minutes	240 clock hours	8:00 a.m. to 6:00 p.m. ET weekdays

1. A Level 1 Defect is a problem whose nature and/or severity prevent NYSBOE from continuing its business. A Level 1 Defect may have one or more of the following characteristics: (a) a critical function of the Application/Device is not available; (b) the Application/Device hangs indefinitely and/or causes other NYSBOE applications to hang; (c) the Application/Device crashes and/or causes other NYSBOE applications to crash; and/or (d) a security incident has occurred or is suspected to have occurred.
2. A Level 2 Defect may have one or more of the following characteristics: (a) the performance, functionality or usability of one or more of the Application/Device's parts is severely degraded; (b) multiple users are impacted; and/or (c) one or more business functions are unavailable or unusable by the end users.
3. A Level 3 Defect is a failure of a system or part thereof which has a minor impact on a NYSBOE business process and can be handled on a non-immediate basis. Examples may include user requests (e.g., a report is not formatted correctly) and peripheral problems (e.g., output fails to print properly).
4. Proposer shall not close a Defect Fix unless that Fix shall have been demonstrated to either: (a) repair the functionality, performance and usability of the Application/Device to its pre-Defect level or (b) improve the functionality, performance and usability of the Application/Device from its pre-Defect level.
5. Unless, for a particular defect, NYSBOE has provided prior written approval for different response times, Proposer shall, for each calendar month and for each Defect Severity Level: (a) respond to one hundred percent (100%) of reported Defects within the Maximum Response Time during Hours and Days of Coverage and (b) fix ninety percent (90%) of reported Defects within the Maximum Fix Time during Hours and Days of Coverage [Table 1, above].

5.2.17 Liquidated Damages for Failure to Complete Services

If the Contractor fails to timely respond or repair, in accordance with this RFP, NYSBOE will deduct up to a maximum of thirty percent (30%) of the invoice amount to compensate the State for the diminution of services. The rate shall be calculated as follows: For any month's invoice, the Total Percentage Short equals, for that month, the sum, across all Defect Severity Levels, of the percentage points that the Proposer falls short both for responses to, and fixes of, Defects [see Section above]. The Agency Representative will notify the Contractor of any failure and will deduct the appropriate withholding amount from the next monthly invoice(s).

Delay Credit Example

For your convenience, an example of how this will be calculated is provided below:

If a month's invoice amount is \$100 and, during that month:

(a) Deficiencies in Maximum Response Time [see Table 15, second column] are:

- (i) Level 1: One percent (1%) short;**
- (ii) Level 2: Two percent (2%) short; and**
- (iii) Level 3: Three percent (3%) short; and**

(b) Deficiencies in Maximum Fix Time [see Table 15, third column] are:

- (i) Level 1: One percent (1%) short;**
- (ii) Level 2: Two percent (2%) short; and**
- (iii) Level 3: Three percent (3%) short;**

Then the Total Percentage Short is twelve percent (12%) and the delay credit for that month's invoice is twelve percent (12%) of the invoice amount (\$100), equal to twelve dollars (\$12).

6. Contract Clauses and Requirements

6.1 Appendix A / Order of Precedence

Appendix A — Standard Clauses for New York State Contracts, dated June 2011, attached hereto, is hereby expressly made a part of this solicitation document as fully as if set forth at length herein. 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
2. Contract
3. OGS RFP Number 1757 including any appendices and or addenda
4. Selected Contractor's Bid

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 NYSBOE 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 NYSBOE 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/NYSBOE 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/NYSBOE.

Certificate acceptance and/or approval by OGS/NYSBOE does 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/NYSBOE; 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, 40th 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) 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.
- c) 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/NYSBOE 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/NYSBOE, 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.

- i) 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.
- d) 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.
- e) 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/NYSBOE, 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/NYSBOE or (ii) any other form of permission for the release of OGS/NYSBOE.
- f) WORKERS' COMPENSATION / DISABILITY INSURANCE:

Workers' Compensation, Employer's Liability, and Disability Benefits meeting all New York State statutory requirements are required. If coverage is obtained from an insurance company through an insurance policy, the policy shall provide coverage for all states of operation that apply to the performance of the contract. In addition, if employees will be working on, near or over navigable waters, coverage provided under the US Longshore and Harbor Workers' Compensation Act must be included. Also, if the contract is for temporary services, or involves renting equipment with operators, the Alternate Employer Endorsement, WC 00 03 01A, must be included on the policy naming the People of the State of New York as the alternate employer.

PROOF of COMPLIANCE WITH WORKERS' COMPENSATION COVERAGE REQUIREMENTS:

ACORD forms are **NOT** acceptable proof of workers' compensation coverage.

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, contractors shall:

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

Contractors seeking to enter into contracts with the State of New York **shall provide one of the following forms to the Office of General Services** at the time of bid submission or shortly after the opening of bids:

- A) **Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required** which is available on the Workers' Compensation Board's website (www.wcb.state.ny.us);

or

B) *Certificate of Workers' Compensation Insurance:*

1) **Form C-105.2 (9/07)** if coverage is provided by the contractor's insurance carrier, **contractor must request its carrier** to send this form to the New York State Office of General Services;

or

2) **Form U-26.3** if coverage is provided by the State Insurance Fund, contractor must request that the State Insurance Fund send this form to the New York State Office of General Services;

or

C) *Certificate of Workers' Compensation Self-Insurance - Form SI-12*, available from the New York State Workers' Compensation Board's Self-Insurance Office;

or

D) *Certificate of Participation in Workers' Compensation Group Self-Insurance Form GSI-105.2*, available from the contractor's Group Self-Insurance Administrator.

PROOF of COMPLIANCE WITH DISABILITY BENEFITS COVERAGE REQUIREMENTS:

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, contractors shall:

A) Be legally exempt from obtaining disability benefits coverage;

or

B) Obtain such coverage from insurance carriers;

or

C) Be a Board-approved self-insured employer.

Contractors seeking to enter into contracts with the State of New York **shall provide one of the following forms to the Office of General Services** at the time of bid submission or shortly after the opening of bids:

A) **Form CE-200**, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required* which is available on the Workers' Compensation Board's website (www.wcb.state.ny.us);

or

B) **Form DB-120.1**, *Certificate of Disability Benefits Insurance*. Contractor must request its business insurance carrier to send this form to the New York State Office of General Services;

or

C) **Form DB-155**, *Certificate of Disability Benefits Self-Insurance*. The Contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

All forms must name the New York State Board of Elections – 40 Steuben Street, Albany NY 12207, 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/NYSBOE constitutes a material breach of contract and subjects it to liability for

damages, indemnification and all other legal remedies available to OGS/NYSBOE. Contractor's failure to obtain and/or keep in effect any or all required insurance shall also provide the basis for OGS'/NYSBOE's immediate termination of any contract resulting from this RFP, subject only to a five (5) business day cure period. Any termination by OGS/NYSBOE 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 New York State Board of Elections or the Office of General Services, their agents and employees therefore for lost profits or any other damages.

6.4 Tax and Finance Clause

TAX LAW § 5-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 bid 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 bid 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

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A, OGS recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned business enterprises and the employment of minority group members and women 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" ("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.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, OGS hereby establishes an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that OGS may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how OGS will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, 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.

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan on Form #MWBE 100 with the bid or proposal. The Utilization Plan shall list the MWBEs the Contractor intends to use to perform the State contract and a description of the Contract scope of work that the Contractor intends to structure to meet the goals on the State contract, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State Contract that the Contractor intends to be performed by a NYS Certified minority or woman-owned business. Any modifications or changes to the agreed participation by NYS Certified MWBEs set forth in the Utilization Plan submitted with the bid or proposal, 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 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, 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.

D. OGS may disqualify a Bidder 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.

Contractors 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.

Contractors are required to submit a Contractor's Monthly M/WBE Contractor Compliance & Payment Report on Form MWBE 102 to OGS by the 10th day of the month during the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

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 the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, 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 identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), 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, 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.

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 bid will be held in confidence and details of any bid 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 bid 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 bid 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 Proposer agrees to adhere to all State and Federal laws and regulations in connection with the contract.
- The Proposer agrees to notify the Office of General Services of any changes in the legal status or principal ownership of the firm, forty five (45) days in advance of said change.
- The Proposer 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.
- It shall be mutually agreed that the Contractor has included cost to remedy all deficient items in their proposal and they will be responsible for satisfactory functioning of the equipment without extra compensation. The Contractor may at their option provide with their bid, a detailed explanation of work intended to be performed under this clause.
- The Proposer agrees that any contract resulting from this RFP may not be assigned, transferred, conveyed or the work subcontracted without the prior written consent of the NYSBOE.
- 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. It is understood that travel expenses will not be allowed.
- The NYSBOE's interpretation of specifications shall be final and binding upon the Contractor.
- The NYSBOE and -Commissioner of General Services will make no allowance or concession to the Proposer 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 Proposer has based its bid on the more expensive option. Final decision will rest with the NYSBOE and Commissioner of General Services.
- 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, the NYSBOE and the Commissioner of the Office of General

Services 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 - The Commissioner of General Services or the Co-Executives of New York State Board of Elections reserve 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 Proposer is unable or incapable of performing the work to the state's satisfaction. In the event of such stopping, the Office of General Services/NYSBOE 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 Proposer shall be liable to the State of New York for any such costs on account thereof. In the event that the Office of General Services/NYSBOE 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 the Office of General Services/NYSBOE, 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.
- The NYSBOE and/or Office of General Services 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 New York State Board of Elections Co-executives, Attorney General and the Comptroller of the State of New York.

6.9 Subcontractors

The State will contract only with the successful Proposer 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 proposing, any known planned use of subcontractor(s) 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. The total of all Subcontractor work during the term of the Contract, except in the case of an approved joint venture or M/WBE subcontracted work as established in the approved utilization plan, shall not exceed 10% of the total contract value.

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 including, but not limited to the General Conditions and Requirements.

During the term of the Contract, before any part of the contract shall be sublet, the Contractor shall submit to NYSBOE 40 Steuben Street, Albany, NY 12207 Co-executives or their designee 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 NYSBOE may require concerning the proposed subcontractor's ability and qualifications.

6.10 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. If two or more offers are found to be substantially equivalent, the Commissioner of OGS, at his sole discretion, will determine award using established criteria.

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.

6.11 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.

6.12 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 proposal. After contract award, OGS shall, upon request, provide a debriefing to any proposer that responded to the RFP, regarding the reason that the proposal by the unsuccessful proposer was not selected for a contract award. The post award debriefing should be requested by the proposer within 30 days of contract approval as posted on the OSC website (web address below). <http://www1.osc.state.ny.us/transparency/contracts/contractsearch.cfm>.

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

6.13 Termination

Termination

NYSBOE 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, NYSBOE 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, NYSBOE 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 NYSBOE 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 NYSBOE, its agents and employees for lost profits or any other damages.

Procurement Lobbying Termination

NYSBOE 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, NYSBOE 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 Questionnaire For-Profit Business Entity

(hereinafter the "questionnaire")

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

OGS recommends each Proposer file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller's (OSC) website, http://www.osc.state.ny.us/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/contactbuss.htm>. Proposers opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at:
http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

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

The Proposer agrees that if it is found by the State that the Proposer's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, OGS may terminate the Contract. 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 Ethics Compliance

All proposers 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.

6.16 Extension of Use

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

6.17 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 RFP 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 RFP, 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 RFP. Such indemnity shall not be limited to the insurance coverage herein prescribed.

6.18 Attachments, Appendices and Exhibits

The Proposer's attention is directed to the attachments, appendices and exhibit documents attached hereto and hereby incorporated by reference and made part hereto as fully as if it were set forth at length herein. They are part of this solicitation and will be part of the subsequent contract. The proposer is responsible for adhering to all requirements of the appendices and exhibits.

6.19 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.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the 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).

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

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

this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. 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
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

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

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

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

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the

New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

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

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

22. 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.

Appendix B

GENERAL PROCUREMENT FORMS

ASSET MANAGEMENT

FOR THE NEW YORK STATE BOARD OF ELECTIONS

ALBANY, NY

SOLICITATION NUMBER 1757

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CONTRACTOR INFORMATION

SOLICITATION NUMBER 1757

(Authorized Signature)

(Date)

(Print Name)

(Title)

(Company Name)

(Federal 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 Circle One: Yes No

New York State Certified Minority Owned Business Circle One: Yes No

New York State Certified Woman Owned Business Circle One: 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

Does your proposal meet all the requirements of this solicitation? Circle One: Yes No

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 circle):

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 circle):

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 circle):

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)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No ___ Yes ___

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

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

By: _____ Date: _____
Signature

**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)

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



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.

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

Mail completed form to:

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

Privacy notification

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

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

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

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

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

Need Help?

	Internet access: www.nystax.gov (for information, forms, and publications)	
	Fax-on-demand forms:	1 800 748-3676
	Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.	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.	

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)

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF _____ }
COUNTY OF _____ }
SS.:

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

_he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____ ; and further that:

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

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

Notary Public _____

Registration No. _____

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).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF : }
COUNTY OF : } SS.:

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

_he resides at _____,

Town of _____,

County of _____,

State of _____; and further that:

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

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

Privacy notification

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

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

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

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

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

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

Bidder is required to sign both sections on this page.

MACBRIDE FAIR EMPLOYMENT PRINCIPLES

**NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:
MACBRIDE FAIR EMPLOYMENT PRINCIPLES**

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

1. Have business operations in Northern Ireland,

Yes No

If yes:

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

Yes No

(Contractor's Signature)

(Name of Business)

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief: 1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; 2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and 3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

(Contractor's Signature)

(Name of Business)

APPENDIX C

Technology Clauses

PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE

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**THE FOLLOWING CLAUSES PERTAIN TO
TECHNOLOGY & NEGOTIATED CONTRACTS**

1. SOFTWARE LICENSE GRANT Where Product is acquired on a licensed basis the following shall constitute the license grant:

a. License Scope Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up to the capacity measured by the applicable licensing unit stated on the Purchase Order (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by any Authorized Users otherwise licensed to use the Product, provided that any modifications, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or interest in any trademark, trade name, or service mark is granted hereunder.

b. License Term The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the License Term shall be extended by the time period for testing, acceptance or trial.

c. Licensed Documentation If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) based on hard copy instructions for access by downloading from the Internet (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per site
- Processing Capacity - 10 copies per site

Software media must be in a format specified by the Authorized User, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the terms of license.

d. Product Technical Support & Maintenance Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Centralized Contract term. Maintenance term(s) and any renewal(s) thereof are independent of the expiration of the Centralized Contract term and will not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of error corrections, updates, revisions, fixes, upgrade and new releases to Licensee, and (ii) Help Desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line Help Desk accessibility. Contractor shall maintain the Products so as to provide Licensee with the ability to utilize the Products in accordance with the Product documentation without significant functional downtime to its ongoing business operations during the maintenance term.

Authorized User shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current

maintenance term upon notice to Contractor. In the event that Authorized User does not initially acquire or discontinue maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

e. Permitted License Transfers As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior site. There shall be no additional license or other transfer fees due Contractor, provided that: i) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred site (e.g., named users, seats, or MIPS); or ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

f. Restricted Use By Outsourcers / Facilities Management, Service Bureaus / or Other Third Parties Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: 1) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and 2) such party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and 3) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

Any third party with whom a Licensee has a relationship for a state function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

g. Archival Back-Up and Disaster Recovery Licensee may use and copy the Product and related Documentation in connection with: i) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or corruption of the Product or disasters or emergencies which require Licensee to restore backup(s) or to initiate disaster recovery procedures for its platform or operating systems; ii) reproducing a reasonable number of copies of the Product and related

Documentation for cold site storage. "Cold Site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development.

h. Confidentiality Restrictions The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

i. Restricted Use by Licensee Except as expressly authorized by the terms of license, Licensee shall not:

- (i) Copy the Product;
- (ii) Cause or permit reverse compilation or reverse assembly of all or any portion of the Product;
- (iii) Export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

2. PRODUCT ACCEPTANCE Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User(s) shall have thirty (30) days from the date of delivery to accept hardware products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Authorized User(s) as of the expiration of that period. The License Term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Commissioner or Authorized User agrees to accept the Product at completion of trial use.

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User shall have the option to run testing on the Product prior to acceptance, such tests and data sets to be specified by User. Where using its own data or tests, Authorized User must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Authorized User, and shall be made part of the Contractor's standard documentation. The test data shall remain accessible to the Authorized User after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, Authorized User shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional thirty (30) day increment. Authorized User shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Authorized User for damages, loss of profits, expenses, or other remuneration of any kind.

If the Authorized User elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have thirty (30) days to correct the deficiency, and the Authorized User shall have an additional sixty (60) days to evaluate the Product as provided herein. If the Product does not meet the specifications at the end of the extended testing period, Authorized User, upon prior written notice to Contractor, may then reject the Product and return all defective Product to Contractor, and

Contractor shall refund any monies paid by the Authorized User to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the Authorized User's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability Clause for any liability for costs incurred at the direction or recommendation of Contractor.

3. AUDIT OF LICENSED PRODUCT USAGE Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any site where a copy of the Product resides provided that: (i) Contractor gives Licensee(s) at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting fMISs from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit; and (v) if the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the NYS Net Price in effect at time of audit, or if none, then at the Contractor's U.S. Commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall have no further liability of any kind for the unauthorized use of the software.

4. OWNERSHIP/TITLE TO PROJECT DELIVERABLES

a. Definitions

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

(ii) For purposes of this paragraph, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this paragraph, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for Authorized User under the Contract.

b. Title to Project Deliverables Contractor acknowledges that it is commissioned by the Authorized User to perform the services detailed in the Purchase Order. Unless otherwise specified in writing

in the Bid or Purchase Order, the Authorized User shall have ownership and license rights as follows:

(i) Existing Products:

1. Hardware - Title and ownership of Existing Hardware Product shall pass to Authorized User upon Acceptance.

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

(ii) Custom Products: Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to Authorized User the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. Authorized User may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of Authorized User taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all Authorized Users shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

c. Transfers or Assignments to a Third Party Financing Agent It is understood and agreed by the parties that a condition precedent to the consummation of the purchase (s) under the Contract may be the obtaining of acceptable third party financing by the Authorized User. The Authorized User shall make the sole determination of the acceptability of any financing proposal. The Authorized User will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, Authorized User may assign or transfer its rights in Licensed Products (existing or custom) to a third party financing entity or trustee ("Trustee") as collateral where required by the terms of the financing agreement. Trustee's sole rights with respect to transferability or use of Licensed Products shall be to

exclusively sublicense to Authorized User all of its Licensee's rights under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee's rights in such Licensed Product shall terminate immediately and Authorized User's prior rights to such Existing Licensed Product shall be revived.

d. Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS) The Authorized User's sale or other transfer of Custom Products which were acquired by the Authorized User using third party, tax-exempt financing may not occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Authorized User which complies with the terms of this paragraph.

e. Contractor's Obligation with Regard to ISV (Third Party) Product Where Contractor furnishes Existing Licensed Product(s) as a Project Deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Authorized User at Contractor's sole cost and expense.

5. PROOF OF LICENSE The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified License ConMISation Certificates in the name of such Licensee; or (ii) a written ConMISation from the Proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written ConMISation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

6. PRODUCT VERSION Purchase Orders shall be deemed to reference Manufacturer's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by Authorized User and Contractor is willing to provide such version.

7. CHANGES TO PRODUCT OR SERVICE OFFERINGS
a. Product or Service Discontinuance Where Contractor is the Product Manufacturer/Developer, and Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor ("withdrawn support") is no longer going to be offered, Contractor shall be required to: (i) notify the Commissioner, each Licensee and each Authorized User then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) at Authorized User's option, provided that the Authorized User is under contract for maintenance on the date of notice, either: provide the Authorized User with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Authorized User to continue use and maintenance of the Product.

In the event that the Contractor is not the Product Manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of Contractor receiving notice from the Product Manufacturer, and (ii) include in such notice the period of time from the date of

notice that the Product Manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to state approval, to an alternate Subcontractor.

b. Product or Service Re-Bundling In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall be required to: (i) notify the State and each Authorized User in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed rebundling change to the Commissioner for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

8. NO HARDSTOP/PASSIVE LICENSE MONITORING

Unless an Authorized User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all Upgrades do not and will not contain any computer code that would disable the Product or Upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Contractor agrees that in the event of a breach or alleged breach of this provision that Authorized User shall not have an adequate remedy at law, including monetary damages, and that Authorized User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Authorized User shall be entitled.

9. SOURCE CODE ESCROW FOR LICENSED PRODUCT

If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall either: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) will certify to the State that the Product manufacturer/developer has named the State, acting by and through the Authorized User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

Appendix D

Sample Contract

Request for Proposal No. 1757

Sample Contract

**STATE OF NEW YORK
NEW YORK STATE BOARD OF ELECTIONS
AGREEMENT FOR
ASSET MANAGEMENT SYSTEM
WITH
(CONTRACTOR)**

CONTRACT # C00XXXX

THIS AGREEMENT, made this ____ day of _____ 2012 by and between the People of the State of New York, acting by and through the Co-executives of the New York State Board of Elections, whose office is at 40 Steuben Street, Albany, New York 12207 (hereinafter "Commissioner", "NYSBOE" or "State") and (Company Name), (hereinafter "Contractor"), with an office at _____.

WITNESSETH:

WHEREAS, the NYSBOE is responsible for tracking the voting assets of its citizens and in fulfilling its responsibility deems it necessary to obtain an asset management tracking system, and

WHEREAS, NYSBOE 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 an asset management system, 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

NYSBOE shall pay the Contractor for all Asset Management System Related 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.

2. TERM

This Agreement shall commence 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. 1757, 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 RFP attached hereto as Appendix B hereof.

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 NYSBOE 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 New York State Board of Elections.

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 "RFP" 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
- (ii) Appendix B – Solicitation # 1730 including Addenda
- (iii) 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 NYSBOE 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 NYSBOE 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 NYSBOE under this Agreement.

- Contractor shall supply NYSBOE 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 NYSBOE .
- Contractor shall take all steps as set forth in ISBNA to ensure private information shall not be released without authorization from NYSBOE .
- In the event a security breach occurs as defined by ISBNA Contractor shall immediately notify NYSBOE and commence an investigation in cooperation with NYSBOE 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 NYSBOE following the discovery that NYSBOE 's system security has been breached.
- Unless the Contractor is otherwise instructed, Contractor is to first seek consultation and receive authorization from NYSBOE 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. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

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. 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 Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. OGS hereby establishes an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises (“MBE”) participation and 5% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html>
Additionally, Contractor is encouraged to contact the Division of Minority and Woman 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. Pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-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.

III. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. 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 shall:
 - a. Submit an EEO policy statement to OGS with the bid, or
 - b. If Contractor does not have an existing EEO policy statement, the Contractor shall sign and submit Appendix ____, Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement annexed hereto; or
 - c. Contractor shall certify and affirm 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.
 - 3. The Contractor’s EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability

or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

- b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
- c. 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.
- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 3 and Paragraph "E" of this Section II, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. 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.

D. Form EEO 102 - Workforce Employment Utilization Report ("Workforce Report")

(One of these two paragraphs will be included in the final contract but not both)

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.

Contractor and OGS agree that Contractor is unable to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce and that the information provided on the previously submitted Staffing Plan is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

E. 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.

IV. MWBE Utilization Plan

A. Contractor certifies that it has submitted a MWBE Utilization Plan to OGS and will follow such Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

B. Contractor further agrees that a failure to submit and/or use such 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. Waivers

A. If the Contractor, after making good faith efforts, 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 MWBE Contractor Compliance 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.

VI. Monthly MWBE Contractor Compliance Report

Contractor is required to submit a Monthly MWBE Contractor Compliance Report (Form MWBE 102) to OGS by the 10th day of the month during the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

VII. Liquidated Damages - MWBE Participation

- A. Where OGS determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the OGS liquidated damages.
- 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 Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the OGS.

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

Contract No. C00XXXX

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:

THE PEOPLE OF THE STATE OF NEW YORK

By _____
Name:
Title:
Date:

APPROVED AS TO FORM
Eric Schneiderman
Attorney General

APPROVED
Thomas P. DiNapoli
State Comptroller

Appendix A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

[Text not included at this time because it is included elsewhere in the RFP. Will be added when contract is finalized]

Appendix B

Request for Proposal

Appendix C

Contractor's Proposal

Attachment A: Requirements Compliance Matrix

ITEM ID	Asset Management System Requirements	Priority	Proposer Compliance (Y/N)	Proposer Comments
<u>1 GENERAL SYSTEM REQUIREMENTS</u>				
1	The asset management system shall be customizable (i.e., provide the ability to make configuration changes, add / delete / modify fields and screens, etc., without changes to the program code) by the vendor and the New York State Board of Elections (NYSBOE) authorized users.	Mandatory		
2	The asset management system shall be web based, and be accessible from Windows and Mac compatible computers utilizing current or previous current version of Internet Explorer, Safari and Firefox browsers.	Mandatory		
3	The asset management system shall accommodate a minimum of 1000 registered users.	Mandatory		
4	The asset management system shall support up to 275 simultaneous users without negatively impacting system performance that shall include: <ul style="list-style-type: none"> • 6 registered users from the NYSBOE • at a minimum, 4 registered users from each County Board of Elections (CBOE) (62 counties). 	Mandatory		
5	The asset management system shall track a minimum of 300,000 voting systems.	Mandatory		
6	The asset management system shall “time out” the user's session after 30 minutes of inactivity.	Mandatory		
7	The asset management system shall comply with the New York State Office for Technology Web policies and guidelines established at http://www.cio.ny.gov/procurement_rules	Desirable		
8	The asset management system shall be able to attach to files (records, reports, pictures, etc.) in multiple file formats (e.g., .doc, .pdf, .xls) to entries/items.	Mandatory		

9	The asset management system shall accept direct input from wired or wireless barcode scanning devices.	Mandatory		
10	The asset management system shall be able to generate and print bar codes at a minimum on the following: <ul style="list-style-type: none"> • Labels (Asset Tags) • Transport Manifests • Security Seal Tag Reports 	Mandatory		
11	The asset management system shall have the capability to use radio frequency identification (RFID) for inventorying/tracking items.	Desirable		
12	The asset management system shall capture dual political party 'signature' for approvals/signoffs. The New York State Board of Elections is run by both the Democratic and Republican Parties. Signature capture shall occur on Mobile Devices or desktop PCs.	Mandatory		
13	The asset management system shall be capable of generating device delivery/retrieval paper receipts. These receipts are essentially travel manifests that contain list of items that are delivered from the county and returned to the county warehouse.	Mandatory		
14	The asset management system shall be able to import data using the vendor provided data structure.	Mandatory		
15	“The asset management system shall allow for importing data in bulk from a variety of industry-standard formats which include the following examples: comma-separated values (CSV), web services, Sybase proxy tables, or XML format.”	Mandatory		
16	The asset management system shall be able to export data and information in standard formats (e.g., .pdf, MS Word, Excel, XML, .txt, .csv)	Mandatory		
17	The asset management system shall allow a user to assign a voting system to a “location” (warehouse, cart, poll site, truck, etc.), and/or an operational/conditional status (maintenance, testing, out of service, disposed, ready for election, shipped, etc.) .	Mandatory		
18	The asset management system shall prevent a voting system from being assigned to more than one current location and/or status.	Mandatory		
19	The asset management system shall allow a user to reassign a voting system to a location and/or status.	Mandatory		
20	The asset management system shall provide for adding / modifying / deleting	Mandatory		

	voting system information.			
21	The asset management system shall provide for viewing and/or printing of all voting system information and associated inventory.	Mandatory		
22	The asset management system shall prevent the creation of a new voting system device asset if the voting system device asset is already entered in to the system and provide notification to the user (i.e., duplicate entry).	Mandatory		
23	The asset management system shall allow an authorized user to create, modify and delete user defined fields based upon a defined role.	Mandatory		
24	The asset management system shall provide functionality to enable all incomplete records to be saved, at any stage, for completion at a later time.	Mandatory		
25	The asset management system shall provide non-mandatory user-defined fields for the purposes of entering miscellaneous data into a transaction (e.g., text box for comments).	Mandatory		
26	The asset management system shall provide functionality for authorized users to perform mass updates to create, change, or delete selected fields across multiple records with full transaction logging.	Mandatory		
27	The asset management system shall provide functionality for users to copy previously saved transactions to a new transaction.	Mandatory		
28	The asset management system shall provide an online help with capabilities at a minimum, but not limited to: <ul style="list-style-type: none"> • Frequently Asked Questions (FAQ), • Window level help, • Field level help, • Error message help, • Context sensitive help, • Hypertext help, • Indexed help. 	Mandatory		
29	The asset management system shall provide functionality for users to track voting system testing at a minimum, but not limited to: <ul style="list-style-type: none"> • Acceptance • County Receipt • Non-Election Quarter • Pre-Qualification/Election Quarter 	Mandatory		

30	The asset management system shall provide the functionality for users to track the voting system's condition at a minimum, but not limited to: <ul style="list-style-type: none"> • Maintenance • Repair • Replacement • Final Disposition 	Mandatory		
31	The asset management system needs to track any maintenance event at the county level and any testing of the device conducted at the county level. Provided these activities can be captured and/or reported separately, they can be combined.	Mandatory		
32	The asset management system shall allow authorized users to record/input 'static' voting system inventory information (e.g., certification data, polling site location, etc.) for use for pull down menu selection options as defined by the New York State Board of Elections (NYSBOE).	Mandatory		
32	The asset management system shall allow authorized users to record/input voting system financial information.	Mandatory		
33	The asset management system shall allow authorized users to record/input voting system certification information.	Mandatory		
34	The asset management system shall allow authorized users to enter a new Master, County, and/or applicable change in serial numbers when new voting system information is entered.	Mandatory		

2 USER INTERFACE

35	The asset management system shall be compliant with the World Wide Web Consortium (W3C)'s "W3C Recommendations" which can be found at http://www.w3.org/TR/ regarding the development of web-based applications. NYSBOE would expect that this web-based application would adhere to the "recommendation" found on the World Wide Web Consortium website.	Desirable		
36	The system shall be capable of incorporating pull-down selection menus, as well as, multiple manual line inputs (names for 'sign off', etc.) in data fields and/or screens.	Mandatory		
37	The asset management system shall capture/log for each record the following:	Mandatory		

	<ul style="list-style-type: none"> • Time and date created • Time and date updated • Last updated by (user) 			
38	The asset management system shall assign the current date as a default in date fields, and shall allow dates to be changed.	Mandatory		
39	All dates in the asset management system shall carry full four digits for the year.	Mandatory		
<u>3.1 DATA RETENTION</u>				
40	The asset management system shall allow asset information (including attached documents and photos) to be flagged for archiving or deletion, based on NYSBOE retention schedules.	Mandatory		
41	The asset management system shall be capable of backing up/doing historical archiving of entered data.	Mandatory		
42	The asset management system shall allow authorized users to modify the archive and deletion parameters for all asset information.	Mandatory		
43	On the identified date, the asset management system shall delete or archive asset information.	Desirable		
44	The asset management system shall allow authorized users to restore archived asset information.	Mandatory		
<u>4 SEARCHES AND REPORTS</u>				
4.1 Searches				
45	The asset management system shall provide the ability to search on any data stored in the system.	Mandatory		
46	<p>The asset management system shall enable authorized users to perform searches at a minimum, but not limited to :</p> <ul style="list-style-type: none"> • serial number • 'wild cards' • date range • Boolean "AND"; "OR" 	Mandatory		
47	When more than one asset matches the search criteria, the asset management system shall display a list of all of the matching assets, including key information about each, and allow the user to select and view information	Mandatory		

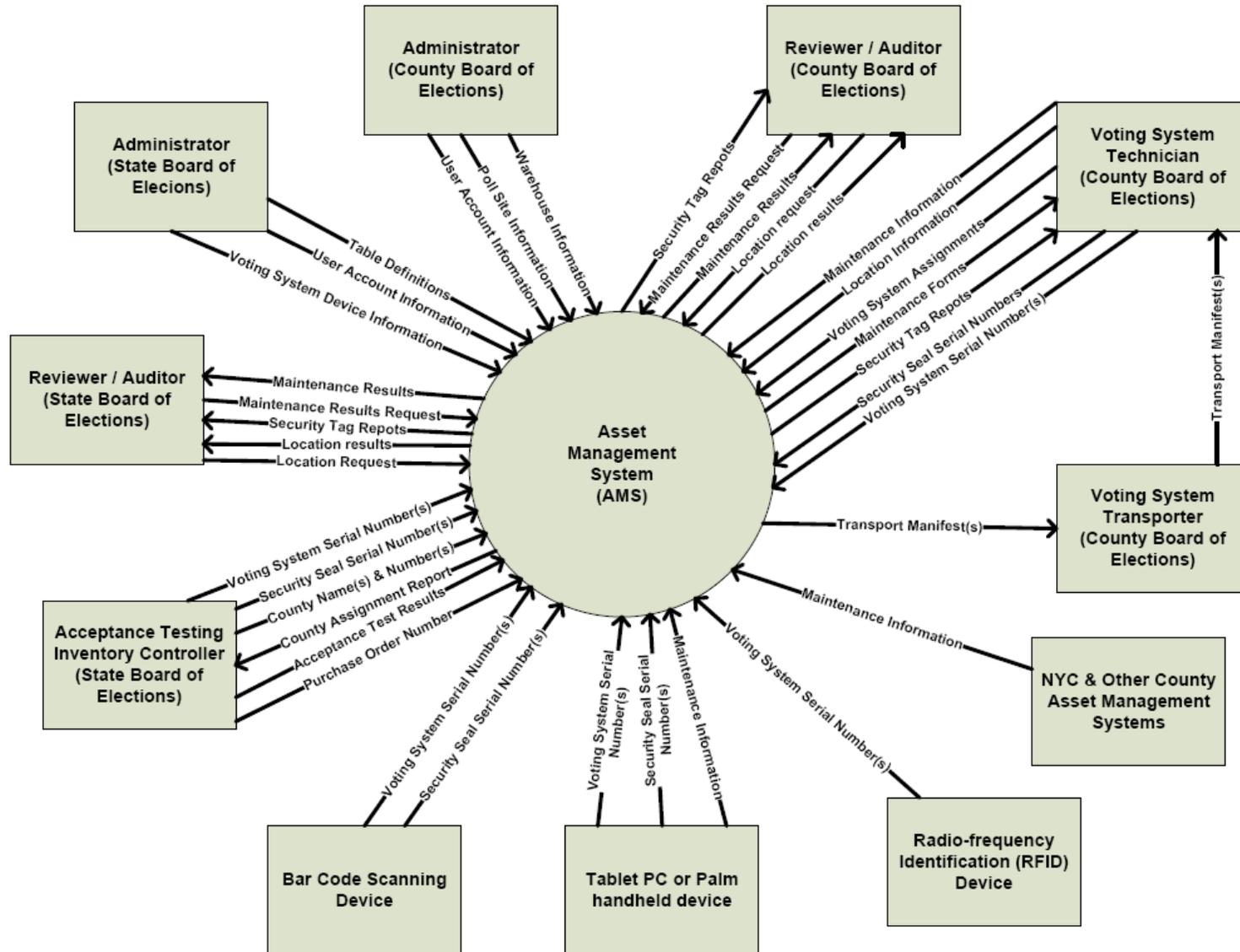
	about an individual asset.			
4.2 Reports				
48	The asset management system shall have report and/or manifest generation capacity based on any defined data fields, at a minimum, but not limited to: <ul style="list-style-type: none"> • Date • County • Election district • Serial number • Maintenance/Repairs • Pre-Qualification Tests • Polling Place 	Mandatory		
49	The asset management system shall provide field and summary report generation.	Mandatory		
50	The asset management system shall allow authorized users the capability to create, modify and save custom reports and queries to a specified location.	Mandatory		
51	The asset management system shall enable producing reports in user-selectable electronic formats including the following, as a minimum: <ol style="list-style-type: none"> 1) Hypertext Markup Language (.html), 2) Microsoft Excel (.xls), 3) Adobe Acrobat Portable Document Format (.pdf), 4) Microsoft Word (.doc), and 5) Rich Text Format (.rtf). 	Mandatory		
52	The asset management system shall allow authorized users to select from a list of available report templates and enter report criteria prior to generating the report.	Mandatory		
53	The asset management system shall allow authorized users to develop new reports and save them as predefined report templates.	Mandatory		
54	The asset management system shall allow authorized users to modify the predefined report templates.	Mandatory		
55	The asset management system shall allow authorized users to view reports before saving or printing them.	Mandatory		

56	The asset management system shall allow including the name of the report, the date generated, and the page number on each page of a report.	Mandatory		
57	The asset management system shall allow an authorized user to forward a report via e-mail.	Mandatory		
58	The asset management system shall allow an authorized user to select report-generation intervals/ranges for pre-defined reports.	Desirable		
59	The asset management system shall automatically generate reports on a scheduled (daily, weekly, monthly, quarterly, yearly) basis.	Desirable		
60	The asset management system shall deliver reports electronically to designated users.	Desirable		
61	The asset management system shall have the capability to generate a report log to display and/or print the following data field activity: <ul style="list-style-type: none"> • Time and date created • Time and date updated • Last updated by • Changes made. 	Mandatory		
5 Information Security				
5.1 User Access				
62	The asset management system shall record/log (for display or printing) the user name, IP address, date and time of access to any entry within the system. (Access to records includes creating, viewing, adding, modifying and deleting record contents.)	Mandatory		
63	The asset management system shall enable assigning a unique name and/or number for identifying and tracking user identity.	Mandatory		
64	The asset management system shall record successful and unsuccessful login attempts.	Mandatory		
65	The asset management system access logs shall include the IP address, user account and timestamp of each attempted login.	Mandatory		
66	The asset management system shall restrict the user to a single login at any point in time.	Mandatory		

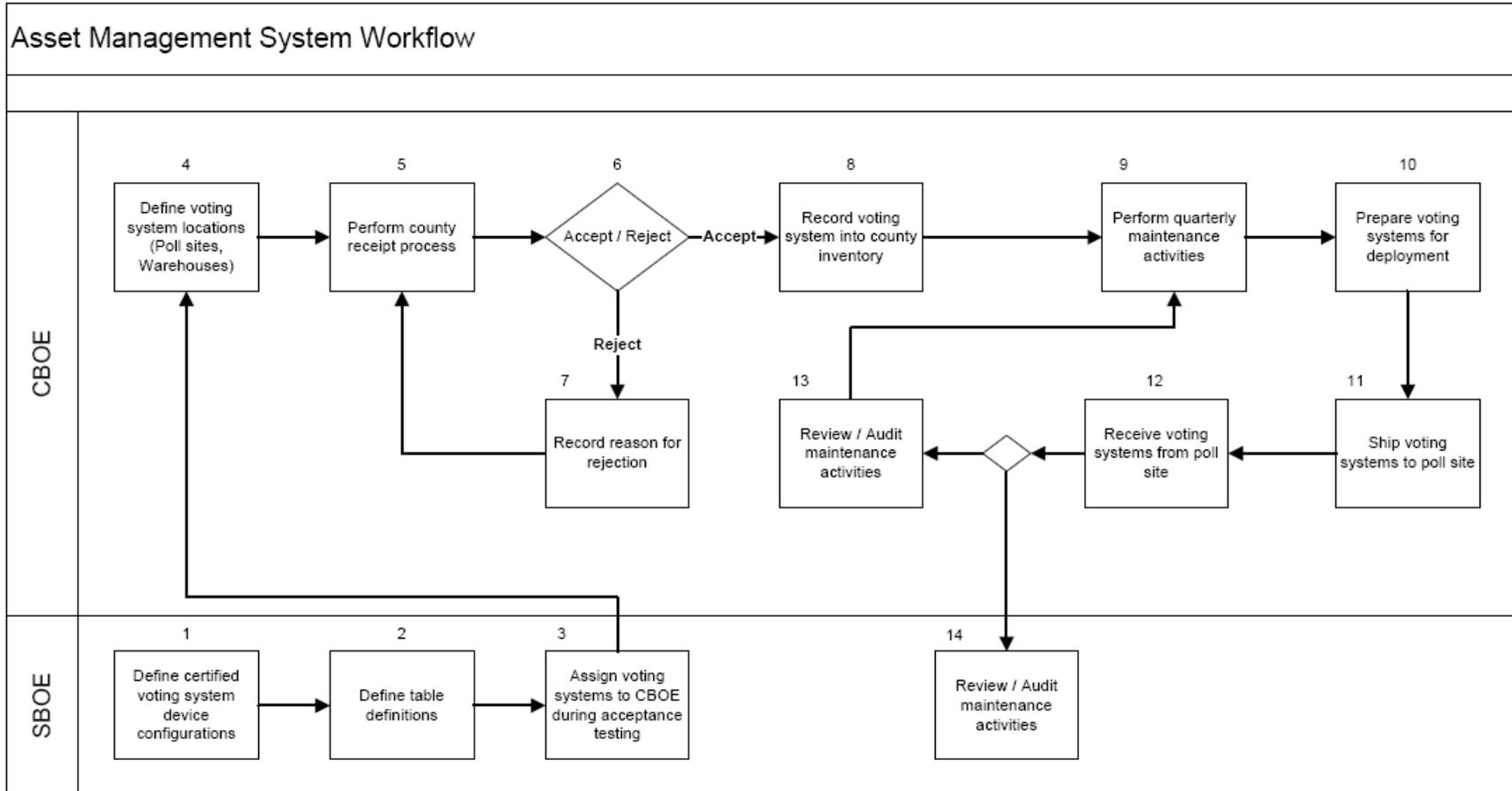
5.2 Passwords			
67	The asset management system shall enforce the policy that passwords cannot be the same as the User-ID.	Mandatory	
68	The asset management system shall enable authorized users to establish minimum password length and complexity.	Mandatory	
69	The asset management system shall enable authorized users to define a maximum password age.	Mandatory	
70	The asset management system shall enable authorized users to define a password reuse history limit.	Mandatory	
71	The asset management system shall enforce the defined minimum password length and complexity, maximum password age, and password reuse history limit.	Mandatory	
72	The asset management system shall lock out a user account after a defined number of invalid login attempts.	Mandatory	
73	The asset management system shall enable authorized users to reset user accounts that have been locked out due to invalid login attempts, and maximum password age.	Mandatory	
74	The asset management system shall include password protected administration functions.	Mandatory	
5.3 Role-based Security			
75	<p>The asset management system shall have the capability for role-based access based upon the following roles (at a minimum):</p> <ul style="list-style-type: none"> • by CBOE technician • by NYSBOE Administration • by CBOE Administration • by NYSBOE system administrator. 	Mandatory	
76	The asset management system shall control and validate a person's access to system resources based on his/her role or function.	Mandatory	
77	The asset management system shall enable authorized users to assign an individual to multiple roles.	Mandatory	
78	The asset management system shall enable authorized users to assign multiple individuals to a role.	Mandatory	

79	The asset management system shall enable restricting access to selected features by user identity and/or user role.	Mandatory		
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Attachment B: Asset Management System Context Diagram



Attachment C: Asset Management Workflow



Workflow Narrative

ID	Activity
1	<p>Define certified voting systems device configurations</p> <p>The certified voting system device configuration information will be used as the base for the asset description. This information will be used by each County Board of Elections (CBOE) to audit their inventory to assure that all components are accounted for. This information will need to be editable in case a CBOE purchases additional components of the device configuration (i.e. additional Sip & Puff device).</p>
2	<p>Define table definitions</p> <p>The asset management system shall be table driven (i.e. drop down / pick lists) which will enable the New York State Board of Elections (NYSBOE) the ability to add, modify and delete choices as appropriate.</p> <ul style="list-style-type: none"> • System administration • User roles • Maintenance items for tracking
3	<p>Assign voting systems to CBOEs during acceptance testing</p> <p>The asset management system shall allow the NYSBOE to assign voting systems to CBOEs during the acceptance testing process.</p> <p>Information entered by NYSBOE includes:</p> <ul style="list-style-type: none"> • Serial Number(s) • Purchase Order Number • Security Seal Information • Shipping location
4	<p>Define voting system locations</p> <p>The asset management system shall allow each CBOE to define voting system locations that will be assigned to each voting system upon completion of the county receipt process. The poll site and warehouse location assignments are for the life of the voting system. The current location specifies where the voting system is presently located.</p> <ul style="list-style-type: none"> • Poll site locations (static) • Warehouse location (static) • Current location (drop down box) <ul style="list-style-type: none"> ○ Poll site ○ Warehouse

	<ul style="list-style-type: none"> ○ Vendor ○ School – if selected, a text box will activate to specify exact location ○ Village – if selected, a text box to specify exact location ○ Other – if selected, a text box to specify exact location
5	<p>Perform county receipt process</p> <p>The asset management system shall provide the ability to easily identify if county receipt activities are complete.</p> <ul style="list-style-type: none"> • The CBOE will inventory each voting system when delivered to the CBOE warehouse. The CBOE will determine if this system is complete / incomplete and record the result. • The CBOE will inspect each voting system when delivered to the CBOE warehouse. The CBOE will determine if the system passes / fails the inspection and record the result. • The CBOE will conduct a functional verification on each voting system delivered to the warehouse. The CBOE will determine if the voting system passes / fails the functional verification and record the result.
6	<p>Decision Point: Accept / Reject</p> <ul style="list-style-type: none"> • CBOE will either accept the voting system into their inventory or reject the voting system.
7	<p>Record reason for rejection</p> <p>The asset management system shall provide the ability for CBOEs to track exceptions in the county receipt process (i.e. log).</p> <ul style="list-style-type: none"> • CBOE will record the reason for rejection • If the voting system is incomplete, the asset management system shall provide the ability to track the exceptions. • If the voting system fails the inspection, the asset management system shall provide the ability to track the exceptions. • If the voting system fails the functional verification, the asset management system shall provide the ability to track the exceptions.
8	<p>Record into county inventory</p> <p>Asset management system shall allow the CBOE to transfer the asset from the vendor and log the voting system (change status) into the county inventory.</p> <p>Define statuses</p> <ul style="list-style-type: none"> • CBOE will record the voting system

	<ul style="list-style-type: none"> • Assign storage location • Assign poll site location
<p>9</p>	<p>Perform required periodic maintenance activities</p> <p>The asset management system shall allow the CBOEs the ability to track maintenance activities based on NYS 6210.</p> <p>Voting system maintenance occurs during the following quarters:</p> <ul style="list-style-type: none"> • January 15 – April 15 • April 16 – July 15 • July 16 – September 15 • September 16 – November 15 <p>Common activities performed and tracked are:</p> <p>Non-Election Quarter</p> <ul style="list-style-type: none"> • Security Seal Verification • Inventory • Inspection • Firmware Verification • Functional Verification <ul style="list-style-type: none"> ○ Standard – generate test deck log • Prepare for storage • Track problems/issues resulting from quarterly testing <p>Pre-Qualification (Election Quarter)</p> <ul style="list-style-type: none"> • Security Seal Verification • Inventory • Inspection • Firmware Verification • Functional Verification <ul style="list-style-type: none"> ○ Perform Pre-Qualification testing ○ Standard – generate test deck log ○ Comprehensive – generate test deck log ○ Dual Party Signoff • Prepare for shipment • Track problems/issues resulting from quarterly testing
<p>10</p>	<p>Prepare voting systems for deployment</p> <p>The asset management system shall allow the county the ability to track pre-election activities.</p> <ul style="list-style-type: none"> • Verify security seal information • Verify assignment of polling location

	<ul style="list-style-type: none"> • Create Transport Manifest • Create Security Seal Reports
11	<p>Ship voting systems to poll site</p> <p>The asset management system shall allow the county the ability to track the delivery of the voting system to the poll site.</p> <p>The CBOE transporter will use the transport manifest generated from the Asset Management System to deliver the voting systems to the correct poll site.</p> <p>Transport Manifest:</p> <ul style="list-style-type: none"> • County • Town/City/AD • Poll Site • Seal/Tag Numbers • Election District • Voting Machine ID
12	<p>Receive voting systems from poll site</p> <p>The asset management system shall allow the county the ability to track post-election activities.</p> <ul style="list-style-type: none"> • Inventory • Inspection • Verify security seals • Change location status
13	<p>Review / Audit maintenance activities</p> <p>The asset management system shall allow the CBOE to review maintenance activities.</p> <ul style="list-style-type: none"> • Inventory • Inspection
14	<p>Review / Audit maintenance activities</p> <p>The asset management system shall allow the NYSBOE to review CBOE maintenance activities.</p> <ul style="list-style-type: none"> • Inventory • Inspection

Attachment D: Example Asset Management System Data Fields

ID	Example Asset Management System Data Fields
1	Device
2	<p>The asset management system shall provide for the entry, editing and storing of voting system device information. Voting system device information includes:</p> <ul style="list-style-type: none"> • Manufacturer/vendor • Device Name (part or system) • Model Number • Hardware version number(s) • Software version number(s) • Firmware version number(s) • Hash code approved value(s) • Serial Number(s) • Description • Type of use
3	Financial
4	<p>The asset management system shall provide for the entry, editing and storing of voting system financial information. Voting system financial information includes:</p> <ul style="list-style-type: none"> • Purchase Order Number • Cost Percentage of Federal Money used for purchase • Cost • Purchase order fields (file input/scanned image) • County ordered by • Date ordered • Date received • Vendor contact information
5	Certification Information
6	<p>The asset management system shall provide for the entry, editing and storing of voting system certification information. Voting system certification information includes:</p> <ul style="list-style-type: none"> • Hardware version number(s) • Software version number(s) • Firmware version number(s) • Hash code value(s)
7	Asset Tracking
8	<p>The asset management system shall provide for the entry, editing and storing of asset tracking information. Voting system asset tracking information includes but is not limited to:</p> <ul style="list-style-type: none"> • Device location (needs to be specific as possible)

ID	Example Asset Management System Data Fields
	<ul style="list-style-type: none"> • Task assignments (what is done by assigned staff in the storage/security area) • Staff assignments (who is responsible for these assigned tasks in the storage/security area) • Access - Time in (any access by individual is recorded) • Access - Time out (any access by individual is recorded) • Device related chain of custody (voting system, memory device, programming device, system components) • Date of election • County • Poll site (voting site device location) • Address (poll site) • Election district (ED) used • Assembly district (AD) used • Election event (General; Primary; Special; School District; Other) • Transportation company <ul style="list-style-type: none"> • Contact name • Contact number • Delivery date from storage • Delivered by • Device/items delivered • Name (part or system) • Manufacturer/Vendor Model number • Serial number (Manufacturer/Vendor) • Tracking number (S/CBOE, etc.) • Description (must also identify here if part of a larger system, and languages stated) • Received/accepted at voting site location by • Inspection for damage - voting site location (issues should automatically trigger device repair ticket & acceptance/maintenance) • Inspected for damage by • Setup/configuration date • Setup/configuration by • Polling place supervisor (as a record for site delivery) • Voting system operational issue/problem/resolution (on/during election) • Return to storage date • Return to storage authorized by • Location • Opening Polls / Closing Polls • Master Serial Number • County Serial Number • Shipped Date • Receive Location • Received Date • Received By
9	Asset Testing
10	<p>The asset management system shall provide for the entry, editing and storing voting system testing information. Voting system testing information includes but is not limited to:</p> <ul style="list-style-type: none"> • Test type (Acceptance; Non Election Quarter; Pre-Qualification Quarter) • Test level (Standard; Comprehensive)

ID	Example Asset Management System Data Fields
	<ul style="list-style-type: none"> • Test description • Test deck Log <ul style="list-style-type: none"> • Date of test • Name/Test performed by (accommodate for more than one person) • Role (Performed Test; Recorded Results) • System Make • System Model • System Serial Number • Protective Counter Start • Protective Counter Finish • Test Result (Pass; Fail) • Testing issues • Test location • Software hash check • Verification of seals • Hash Code Result • Test approved by (accommodate for more than one person) • Inaccurate test results • Cause of inaccurate test results • Corrective action to fix test results • Results of errorless counts
11	Maintenance
12	<p>The asset management system shall provide for the entry, editing and storing of voting system maintenance information. Voting system maintenance information includes but is not limited to:</p> <ul style="list-style-type: none"> • Condition • Maintenance type (vendor-prescribed maintenance/diagnostic; unforeseen maintenance/repair) • Maintenance work order number • Maintenance description • Maintenance required date • Maintenance start date • Maintenance completion date • Maintenance location • Maintenance work performed • Parts used (identify all parts) • Cause of problem • Maintenance performed by (accommodate for more than one person) • Maintenance approved by • Received date (from voting or storage site location) • Delivered by (from voting or storage site location) • Received at storage facility by • Inspection for damage (from voting or storage location) • Inspected for damage by • Use status (Available for use, Needs repair, Being repaired, Replaced) • In/return to service date • In/return to service reason • In/return to service by

ID	Example Asset Management System Data Fields
	<ul style="list-style-type: none">• Out of service date• Out of service reason• Out of service by• Disposed of date• Disposed of by• Sale/salvage price• Results of comparison of software (SHS – Hash Check)• Results of re-calibration of equipment• Maintenance log (file/form input)

Attachment E: Certified Voting System Device Configuration

The certified voting system device configuration information will be used as the base for the asset description. This information will be used by each County Board of Elections (CBOE) to audit their inventory to assure that all components are accounted for upcoming elections. This information will need to be editable incase a CBOE purchases additional components of the device configuration (i.e. additional Sip & Puff device).

Dominion ImageCast Precinct Scanner

Configuration 1	
Quantity	Component
1	ICP (optical scanner)
1	Ballot Box
4	Ballot Box Compartment Keys
2	Security Keys (iButtons)
2	Compact Flash (CF) Cards

Configuration 2	
Quantity	Component
1	ICP (optical scanner)
1	Ballot Box
1	BMD Printer
1	BMD Monitor
1	ATI
1	ATI Connector Cable
1	Sip & Puff
4	Ballot Box Compartment Keys
2	Security Keys (iButtons)
2	Compact Flash (CF) Cards
1	Set of Headphones
1	Paddles

ES&S DS200 Scanner

Configuration 1	
Quantity	Component
1	DS200 Optical Scanner
1	Ballot Box
1	Set of DS200 Scanner Keys (ballot box & round keys)
1	Power Cord
2	USB Flash Drives
1	Cart

ES&S AutoMARK Ballot Marking Device (BMD)

Configuration 1	
Quantity	Component
1	BMD Unit
2	Compact Flash Door Keys
2	AutoMARK Operation Keys
1	Sip & Puff
1	Set of Headphones
1	Power Cord
1	Paddles

Each voting system device configuration will also contain the following information:

- Manufacturer/vendor
- Device Name (part or system)
- Model Number
- Hardware version number(s)
- Software version number(s)
- Firmware version number(s)
- Hash code approved value(s)
- Description
- Type of use

Voting System Security Seals

The asset management system shall provide for the entry, editing and storing of voting system security seal information. Security seal information includes location and serial numbers for the certified voting system device configurations. They are items (possibly election materials) that need to be tracked. These seals provide visual inspection as to whether the unit and/or specific materials have been tampered with.

Security Seal Serial Numbers
DS200 Optical Scanner
DS200 optical scanner security seal information includes location and serial numbers for the following: <ul style="list-style-type: none">• Security Seal Location #1 - LCD Lid• Security Seal Location #2 - USB / Printer Compartment• Security Seal Location #3 - USB Compartment Top• Security Seal Location #4 - USB Port Back
DS200 Plastic Ballot Box

DS200 plastic box security seal information includes location and serial numbers for the following:

- Security Seal Location #1 - Ballot Box Door
- Security Seal Location #2 - Emergency Ballot Box Door
- Security Seal Location #3 - External Top Lid
- Security Seal Location #4A - Side Seal #1
- Security Seal Location #4B - Side Seal #2
- Security Seal Location #5 - Hinged Access Door

DS200 Steel Ballot Box

DS200 steel box security seal information includes location and serial numbers for the following:

- Security Seal Location #1 - Ballot Box Door #1
- Security Seal Location #2 - Ballot Box Door #2
- Security Seal Location #3 - Emergency Ballot Box Door
- Security Seal Location #4 - Hinged Access Door

AutoMark BMD

AutoMARK BMD security seal information includes location and serial numbers for the following:

- Security Seal Location #1 - Compact Flash (CF) Card Door
- Security Seal Location #2 - Printer Compartment - USB Port

ImageCast

ImageCast security seal information includes location and serial numbers for the following:

- Security Seal Location #1 - Metal Cover
- Security Seal Location #2 - Ballot Box
- Security Seal Location #3 - ATI Port
- Security Seal Location #4A - CF Card Door #1
- Security Seal Location #4B - CF Card Door #2
- Security Seal Location #5A - Ballot Box Shield Gap
- Security Seal Location #5B - Ballot Box Shield Gap
- Security Seal Location #6 - BMD Printer CF Card
- Security Seal Location #7 - Thermal Printer

Attachment F: Hosting Services Agreement

1. Overview of Hosting Services Agreement

1.1 General. This Hosting Services Agreement (HSA) provides the terms and conditions on which Vendor will provide the hosting services, support functions and other responsibilities described in this HSA, the Attachments attached to this HSA, and the Work Orders to be performed by Vendor for NYSBOE (collectively, the "**Hosting Services**").

1.2 Attachments and Work Order #1. Vendor shall comply with and deliver the Hosting Services in accordance with the following Attachments and **Work Order #1 to HSA:**

- (a) **HSA I** – Operating Environment and Application Service Provider (ASP) Standards;
- (b) **HSA II** – Service Level Agreements (SLA) and SLA Credits;
- (c) **HSA III** – Responsibility Matrix;
- (d) **HSA IV** – Hosting Services Fees and Variable Charges; and
- (e) **Work Order #1** – For Initial Hosting Services.

1.3 Future Work Orders. Future or additional Hosting Services and other Services will be authorized by the issuance of a work order in a format that is mutually agreed between the parties that provides the information set forth in **Section 2.1.2** below, and signed by an authorized representative of both parties (a "**Work Order**" or "**Statement of Work**", as applicable).

2. Services

2.1 Work Orders.

2.1.1 Each Work Order or Statement of Work executed under the Agreement will be a part of the Agreement as if fully included within its body. In the event of any conflict between the body of the Agreement and any Work Order or Statement of Work, the terms and conditions of the Agreement shall prevail and govern.

2.1.2 Unless otherwise agreed by the parties, each Work Order or Statement of Work will include: (a) a description of the Hosting Services and other Services to be performed by Vendor thereunder; (b) NYSBOE's responsibilities relating to Vendor's performance of the Hosting Services and other Services thereunder; (c) a list of significant tasks to be completed, including, without limitation, applicable commencement and completion dates; (d) a listing of any deliverable, associated documentation, materials and other items that Vendor will deliver to NYSBOE thereunder ("**Work Product**"), including, without limitation, any applicable delivery dates and any specifications, templates and/or formats to which the Work Product is required to materially conform; (e) a listing of any data or other information to be submitted by NYSBOE to Vendor, including any applicable submission dates and any instructions, specifications, templates and/or formats governing the submission of such data or other information; (f) method of compensation to Vendor (e.g., time and materials, fixed price or otherwise) and other appropriate pricing terms; (g) a manager for each party who is authorized to give or obtain all information, decisions and approvals of such party relating to such Work Order (the "**Work Order Manager**"); and (h) any other information or provisions the parties agree to include.

2.2 Performance of the Services.

2.2.1 Vendor shall supply and deliver the Work Product and perform the Hosting Services and other Services specified in the Work Order(s) or Statement of Work in accordance with the terms of the Agreement.

2.2.2 Vendor shall provide the Hosting Services and other Services through the dedicated and non-dedicated services of Vendor's full time and part time personnel (the "**Vendor Personnel**"), as specified in the Work Order or Statement of Work. Vendor Personnel will be qualified and capable of performing the tasks assigned to them, and Vendor shall not reassign the project manager, functional lead, technical lead and training lead (collectively, the "**Key Personnel**") provided as part of the implementation Services for as long as the Hosting Services have not achieved System Acceptance. If any of Vendor Personnel become unavailable at any time during the performance of the Hosting Services and other Services, or if NYSBOE requests the replacement of any personnel assigned by Vendor, Vendor shall promptly provide substitute personnel, reasonably acceptable to NYSBOE, who possess similar experience and qualifications. NYSBOE shall have the right to approve any personnel (including all Key Personnel) assigned to provide Hosting Services and other Services to NYSBOE. At its expense, Vendor shall facilitate in-person interviews of Vendor personnel at a NYSBOE location as part of the selection and approval process.

2.2.3 While working on NYSBOE's premises (if applicable), Vendor Personnel will comply with NYSBOE's security and other policies particular to each work location as to which NYSBOE has notified Vendor in advance. Unless otherwise agreed to by the parties, Vendor Personnel will observe the working hours, working rules, and holiday schedules of NYSBOE while working on NYSBOE's premises.

2.2.4 Either party may, through its Work Order Manager, propose changes to the scope of Hosting Services and other Services provided by Vendor under any particular Work Order or Statement of Work. Vendor will analyze each such request and provide a written report to NYSBOE on its feasibility and the effect, if any, that such change will have on the cost of performing the Services and schedule for completing the Hosting Services and other Services. Proposed changes shall be effected through written change orders, which shall constitute amendments to the Agreement, and the applicable Work Order ("**Change Orders**").

2.2.5 Prior to the commencement of any Hosting Services and other Services, the parties shall agree in writing on objective criteria for each Service and/or Work Product (such criteria shall be referred to herein as "**Specifications**").

2.3 Software. Vendor shall install all Software required to perform the Hosting Services, all of which software is owned or licensed by Vendor, excepting the Asset Management System (AMS) software and database software, and all of which shall be listed in the Work Order. Upon expiration or termination of the Agreement, NYSBOE shall have no further rights or licenses to use the Software.

2.4 Hardware.

2.4.1 Hardware at Vendor's Site. Vendor shall provide, install, repair and maintain, at its sole expense, all hardware required to be provided by Vendor to perform the Hosting Services ("**Vendor-Provided Hardware**"). All Vendor-Provided Hardware shall remain the personal property of Vendor, and Vendor shall have the sole responsibility for the maintenance and repair of such Vendor-Provided Hardware.

2.4.2 Hardware at NYSBOE's Site (If Applicable). NYSBOE shall: (a) provide the environment specified in the Work Order or Statement of Work for the operation of any Vendor-Provided Hardware at a NYSBOE location and take reasonable precautions to protect such Vendor-Provided Hardware, provided that NYSBOE shall have no responsibility for normal wear and tear on such Vendor-Provided Hardware, and Vendor shall be responsible for the maintenance of such Vendor-Provided Hardware; and (b) pay for any repairs to or replacements of such Vendor-Provided Hardware caused solely by NYSBOE's negligence. At any time during the Term, upon reasonable advance notice to

NYSBOE, Vendor shall have limited access to the NYSBOE locations for the sole purpose of allowing a Vendor representative to maintain such Vendor-Provided Hardware; provided, that a representative of NYSBOE may accompany Vendor's representative and be present at all times during the performance of any such maintenance. Upon the expiration or termination of the Agreement, upon reasonable advance notice to NYSBOE and during normal business hours, Vendor shall be permitted to enter the NYSBOE locations and remove the Vendor-Provided Hardware. Vendor shall reimburse NYSBOE for any damages caused to NYSBOE's facilities during the installation and removal of the Vendor-Provided Hardware.

2.5 Third Party Support; Upgrades. For Third Party hardware upgrades, Vendor shall ensure that all hardware components are supportable releases and shall generally maintain currency with the manufacturer's release levels.

2.6 System Maintenance. The parties shall agree to regular scheduled downtime to allow Vendor to perform routine maintenance of the System, and for any exceptions to the regular scheduled downtime, shall require NYSBOE's prior consent.

2.7 Disaster Recovery. Vendor shall provide Disaster Recovery Service options as outlined in **HSA Attachment 1**.

2.8 Transfer Assistance.

(a) If the Agreement is terminated, regardless of the reason for such termination, or upon the expiration of the Agreement, at NYSBOE's request: (i) Vendor shall continue to provide Hosting Services to NYSBOE for the time specified by NYSBOE up to a maximum period of twelve (12) months; and (ii) Vendor shall provide Transfer Assistance Services to (for a period not to exceed twelve (12) months or such longer period as the parties may agree), NYSBOE to assist with the orderly transition of the Hosting Services provided by Vendor under the Agreement to another service provider or to NYSBOE itself as provided for in **subsection (b) and (c)** below. "**Transfer Assistance Services**" means services commencing on the effective date of termination to migrate the Services to another service provider or to NYSBOE itself upon the termination or expiration of the Agreement. Transfer Assistance Services shall include Vendor providing: (iii) NYSBOE assistance in obtaining any Third Party services that Vendor may have used in connection with the performance of the Hosting Services; (iv) data files in an industry-standard format specified by NYSBOE; and (v) such other services and assistance as may be agreed to by the parties. NYSBOE will continue to pay to Vendor then current Hosting Services fees during the transfer assistance period.

(b) In connection with the Transfer Assistance Services:

(i) Vendor shall provide a turnover/transition plan to be approved by NYSBOE, and, once approved, shall be followed by the parties; and

(ii) Vendor, with NYSBOE's cooperation, will facilitate transfer and transition of Third Party licenses and contracts to NYSBOE necessary for NYSBOE to continue operations after termination or expiration. NYSBOE will not be responsible for any transfer fees relating to the Application Software or fees related to extracting and providing a copy of NYSBOE's data. NYSBOE shall be responsible for other related fees and costs, provided that Vendor will make reasonable efforts to negotiate any such transfer or access fees in advance so as to minimize costs on termination/expiration.

(c) If the Agreement is terminated by NYSBOE upon a Vendor Event of Default, Vendor shall provide Transfer Assistance Services at its expense.

2.9 Security. Vendor represents and warrants that it currently complies with and will continue to comply with during the Term the standards and requirements of the Agreement, **HSA Attachment 1**, and such other commercially standard security processes and procedures as appropriate for the data being

processed, stored, maintained and managed by Vendor in its data center. In addition to the above: (a) access by Vendor personnel to the Application Software will be limited to those personnel providing Hosting Services or Support Services; (b) access to operating systems, network applications and/or data by Vendor and its authorized subcontractors shall be through Vendor-assigned individual user IDs, and individual user IDs issued to Vendor personnel shall not be shared; (c) Vendor shall install security patches for the Application Software, operating system, database, supporting utility code and all other Software promptly after the release of such patches. The application can reside on shared servers as long as all security requirements are met and it also has a separate instance of the data-base. Antivirus protection will be maintained at up to date levels at all times on all Microsoft Windows-based servers used in the data center to deliver Hosting Services.

2.10 Support Services for Application Software. The terms and conditions of this **Section 2.10** shall be deemed to supplement Vendor's standard support and maintenance services for the Application Software. In resolving any inconsistencies relating to the terms and conditions of this **Section 2.10** and Vendor's standard support and maintenance services, the terms and conditions of this Section shall control and take precedence over Vendor's standard support and maintenance services.

(a) Scope of Service. Vendor shall provide the following support Services ("**Support Services**") to NYSBOE as part of the Hosting Services and at no additional charge.

(b) Enhancements and New Features. Vendor will provide to NYSBOE all Enhancements, and shall implement such Enhancements at such time as the first twenty percent (20%) of Vendor's customers receive such Enhancements; provided, however, that NYSBOE, at its sole discretion, shall have the right to remain on the most recent release of the Application Software or either of the two (2) releases immediately preceding the most recent release of the Application Software. All Services required to install an Enhancement shall be scheduled with NYSBOE in advance in accordance with NYSBOE's change control policies and procedures.

(c) Obligation to Generally Improve the Application Software. Vendor shall generally enhance and improve the features and functionality of the Application Software to extend the capabilities, functionality and features of such Application Software in order to ensure that such Application Software remains functionally rich and competitive with similar products that are then available in the marketplace. If Vendor discontinues improving and enhancing such Application Software as required in the preceding sentence, then Vendor promptly shall provide to NYSBOE and implement, at no cost or expense to NYSBOE, a product that is substantially equivalent to the affected Application Software in terms of functionality and performance capabilities and reasonably acceptable to NYSBOE.

(d) Obsolescence Protection. Without limiting Vendor's obligation to provide Enhancements to NYSBOE as provided in subsection (d) above, if during the Term there is an End of Life Event, then Vendor shall provide, implement, convert data and interfaces, and train and educate NYSBOE and its Authorized Users in the case of the Successor Product, NYSBOE with the Successor Product at no additional cost to NYSBOE.

(e) Reductions in Functionality. If Vendor removes, limits or disables through an Enhancement any feature or functionality that is then being used by NYSBOE and that existed prior to such Enhancement, then at NYSBOE's request and at no cost or expense to NYSBOE, Vendor shall permit NYSBOE to stay on the release of the Application Software that includes such additional functionality and continue to provide Support Services for such prior release of the Application Software until the date on which Vendor provides an Enhancement to the Application Software that includes replacement functionality.

(f) Resolution of Defects.

(i) Defect Levels. NYSBOE shall classify, or reclassify, as applicable, all Defects, and Vendor shall honor such classifications for purposes of responding to such Defects. In the event the parties disagree on the classification of any Defect, such dispute promptly shall be escalated for resolution in accordance with the dispute resolution procedures of the Agreement.

(ii) Reporting of Defects. Reports of Defects (an "**Incident Report**") will be made through Vendor's Customer Support Center via telephone, fax or e-mail at numbers to be supplied by Vendor. Vendor has Customer Support Center coverage twenty-four (24) hours per day, seven (7) days per week, as follows:

(A) Customer Support Center Peak Coverage Hours: 8:00 a.m. to 5:00 p.m., Eastern time, Monday through Friday, excluding New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day and Christmas Day, or the days on which Vendor observes any of these holidays. Calls of a non-emergency nature (anything other than a Level 1 - Critical Defect or a Level 2 - Medium Defect) should be reserved to peak coverage hours. During peak coverage hours, a Vendor Support Analyst will respond to the Incident Report. Incident Reports of Level 1 Defects and Level 2 Defects should be made by telephone during peak coverage hours to facilitate a timely response.

(B) Customer Support Center On-Call Coverage Hours: During on-call coverage hours, an on-call support person will contact NYSBOE within the time periods set forth below after NYSBOE's report of a Defect. Incident Reports of Level 1 Defects and Level 2 Defects should be made by pager number during on-call coverage hours to facilitate a timely response.

The Vendor Customer Support Center will log the reported Defect and provide NYSBOE with an incident tracking number to refer to when making follow-up inquiries. The Incident Report shall contain, to the extent known, applicable and/or possible: (i) the name of the Application Software, the version (for specifications) or release number; (ii) the name/type of affected equipment; (iii) NYSBOE contact name, e-mail address if available, telephone number and fax number; and (iv) the nature of the Defect, a description of the Defect and NYSBOE's classification of the Defect. NYSBOE will exercise commercially reasonable efforts to limit Incident Reports concerning Low Defects to regular business coverage times. If NYSBOE makes a call to the Customer Support Center during on-call coverage hours, the NYSBOE personnel shall remain available to receive a reply from Vendor support personnel. NYSBOE will provide Vendor with as much information and access to systems as possible to enable Vendor to investigate and attempt to identify and verify the reported maintenance issue. NYSBOE will work with Vendor support personnel during the problem isolation process, as reasonably needed. NYSBOE will notify Vendor of any configuration changes, such as network installation/expansion, upgrades, relocations, etc.

(iii) Response Procedures. Based upon the reported Defect's severity level, Vendor shall correct such Defect in accordance with the procedures set forth in this Section. For purposes of this Section:

"Initial Response" means a telephone call (required for all Level 1 Defects) or email from Vendor acknowledging that an Incident Report has been received and that appropriate technical personnel have been assigned to work on the Defect.

"Defect Analysis" means a fax, e-mail or telephone call from Vendor providing details on what Vendor has learned about the Defect to date and Vendor's initial analysis of and action plan for resolving the reported Defect.

"Interim Resolution" means Vendor: (a) restarts the Hosting Services, if the reported Defect caused the Hosting Services to be inoperative; (b) enables NYSBOE to access the Hosting Services, if the reported Defect caused NYSBOE to be unable to access the Hosting Services; or (c) provides NYSBOE with a workaround that solves or mitigates a reported Defect, which workaround must be acceptable to NYSBOE and only involve minimal NYSBOE inconvenience.

"Final Resolution" means Vendor provides a correction or modification of the Hosting Services that corrects the Defect.

(A) Level 1 Defect. Vendor shall: (i) provide an Initial Response for a Level 1 Defect within fifteen (15) minutes; (ii) provide a Defect Analysis for a Level 1 Defect within one (1) hour of receipt of an Incident Report; (iii) provide an Interim Resolution for a Level 1 Defect as soon as possible, using continuous efforts, twenty-four (24) hours a day, seven (7) days a week, and provide progress reports every two (2) hours; and (iv) use best efforts to provide a Final Resolution for a Level 1 Defect within two (2) calendar days after notice thereof.

(B) Level 2 Defect. Vendor shall: (i) provide an Initial Response for a Level 2 Defect within thirty (30) minutes; (ii) provide a Defect Analysis for a Level 2 Defect as soon as possible, but in no event later than four (4) hours of receipt of an Incident Report; (iii) use commercially reasonable efforts to provide an Interim Resolution to a Level 2 Defect within forty eight (48) hours after notice thereof; and (iv) use commercially reasonable efforts to provide a Final Resolution for a Level 2 Defect within four (4) calendar days of notice thereof.

(C) Level 3 Defect. Vendor shall provide an Initial Response to a Level 3 Defect within sixty (60) minutes of receipt of an Incident Report and resolve a Level 3 Defect within ten (10) calendar days of notice thereof.

(iv) Remedies. If Vendor fails to provide Support Services within the time frames set forth in this Schedule, in addition to NYSBOE's other rights, then an equitable reduction in the Hosting Services fees will be taken by NYSBOE for the applicable month. Any such reduction taken by NYSBOE shall be separate and apart from any SLA Credits that may be due and owing to NYSBOE.

I OPERATING ENVIRONMENT AND APPLICATION SERVICE PROVIDERS (ASP) STANDARDS

Application Access – Hosting Services will be available for user access seven days a week, 24 hours per day, 365 days per year, including holidays.

Support Services – See **Section 2.10 of Hosting Services Agreement (HSA)**.

Security – Vendor shall comply with the following requirements:

- 1. Data Security.** Vendor shall keep NYSBOE data secure by maintaining separate database instances for NYSBOE.

- 2. Server Security.**
 - 2.1 Vendor shall ensure that server user accounts are restricted to authorized personnel, and that servers are on a private domain utilized exclusively by Vendor.

 - 2.2 Vendor shall enforce firewall rules to protect servers from external intrusion and shall not allow outside access to any port.

 - 2.3 Vendor shall install anti-virus software on all servers and update signature files on a regular basis.

 - 2.4 Vendor shall limit database server access to DBA console or through the application.

 - 2.5 Vendor shall utilize a network-based intrusion detection system.

 - 2.6 In addition, Vendor shall adhere to all server security measures as specified by NYSBOE.

- 3. Application Security.** Vendor shall adhere to all application security measures.

- 4. Physical Security.** Vendor shall employ physical controls in the server environment, including uninterruptible power supplies, locks, intrusion alarms, fire detection and suppression, and water detection. Vendor shall once in each calendar year test/inspect each physical control employed and certify to NYSBOE in writing the date and result of each test/inspection.

- 5. Authentication.** Vendor shall require encrypted username and password stored in the application for user access, and shall provide configuration options to enforce password standards including number of characters and letters, password length, and expiration.

6. **Encryption.** Vendor shall utilize encryption of at least 128-bit SSL (1024 bit key).

7. **Security Patches.** Vendor shall develop and follow a documented policy for applying security patches to database, web, and application servers.

8. **Notification.** Vendor shall notify NYSBOE within one (1) hour of any event resulting in the compromise of any server containing NYSBOE data. Notification shall include incident details and corrective measures being undertaken.

Disaster Recovery Services

1. **Disaster Definition:** A Disaster is an unplanned event that causes a complete loss of access to and use of NYSBOE’s Production Environment(s) at the Vendor’s primary data center for a period greater than 24 hours, as declared by the Vendor. An outage that impacts a specific sub-set of NYSBOE’s users, but does not cause an impact to all NYSBOE users, is not considered a disaster. Some examples of what might cause a disaster are the following:
 - Natural disasters, such as fire, flood, earthquake or other natural disaster;
 - Complete power outage;
 - Complete network outage; and
 - Terrorist act affecting Vendor’s data center

2. Option for restoration of the production environment within a data center with equal or greater facilities on equipment with equal or greater capacity should include:

Disaster Recovery Service Option	Recovery Time Objective	Recovery Point Objective
1 Day Option	24 Hours	24 Hours

3. Vendor's hot-standby site shall be at least fifty (50) miles away from Vendor's primary site from which the Hosting Services are then provided.

4. Restoration shall include all operating software and NYSBOE and CBOE data.

5. The transition of Hosting Services back to Vendor facilities once those facilities are reconstructed and re-validated.

6. Vendor shall provide to NYSBOE a full and complete copy of its disaster recovery plan(s). Upon the occurrence, and periodically for the duration, of any disaster, Vendor shall provide regular reports and notices to NYSBOE regarding the status of Vendor's response to, and recovery from, the disaster. Vendor shall provide disaster recovery Services as described herein at all times irrespective of whether a Force Majeure Event has occurred, unless the Force Majeure Event prevents the performance of the disaster recovery Services. Vendor shall provide disaster recovery Services if NYSBOE notifies Vendor that a disaster has occurred.

7. Vendor shall test and update the disaster recovery plan (including plans for data backups, storage management and contingency operations), reserving capacity at alternate site facilities and annually testing network connectivity between such alternate site and the applicable end-user sites. NYSBOE shall have the right to participate fully in any disaster recovery testing conducted by Vendor including being physically present at the facilities of Vendor and/or any Third Parties involved in such testing.
8. If Vendor fails to comply with the disaster recovery time frames set forth in above, without limiting any other rights and remedies that may then be available to NYSBOE, NYSBOE shall be entitled to credits equal to five thousand dollars (\$5,000) per hour in excess of the respective Recovery Time Objective.

Data Backup, Recovery, and Redundancy

1. Backup and Recovery. Vendor shall adhere to all backup and recovery measures as specified by NYSBOE.

1.1 Data Loss. In the event of a loss of data requiring recovery that is of sufficient severity as to render the Hosting Services unusable to NYSBOE, such data loss shall be treated as a Critical Defect, and shall be subject to recovery efforts and reporting requirements specified for such Defects in the Agreement.

1.2 Backup and Recovery Testing. At least once each calendar year Vendor shall test the backup and recovery of NYSBOE data by restoring either a full or partial backup to a test environment. NYSBOE shall confirm the completeness and accuracy of the restored data.

1.3 Backup Media Destruction. Vendor shall periodically replace backup media containing NYSBOE data in accordance with vendor policy and life cycle recommendations of the manufacturer. Backup media removed from service shall be destroyed by Vendor following secure procedures. Vendor shall certify to NYSBOE in writing the date and time of all media destroyed and the destruction method used.

1.4 Redundancy. Vendor shall adhere to all redundancy measures as specified by NYSBOE.

II SERVICE LEVEL AGREEMENTS AND SLA CREDITS

If Vendor fails to meet or exceed a SLA for reasons other than an excused performance event (as described below), NYSBOE shall be entitled to receive the applicable amount specified in the applicable SLA below for a SLA failure (a "**SLA Credit**"). Any SLA Credit shall be automatically deducted by Vendor from the next succeeding invoice after such SLA Credit is applicable.

Vendor shall provide NYSBOE with a monthly report of Vendor's compliance (or lack of compliance) with the SLAs. Upon request, Vendor shall provide NYSBOE with back-up materials to demonstrate how Vendor determined its compliance (or lack of compliance) with the SLAs and calculated accrued SLA Credits. NYSBOE, at its sole expense, reserves the right to audit Vendor's determinations of SLA compliance and/or calculation of SLA Credits. NYSBOE shall be entitled to multiple SLA Credits even if a single SLA failure triggers multiple SLA failures; provided, however, that the maximum total SLA Credits that NYSBOE may recover shall be one hundred percent (100%) of the proportionate monthly Hosting Services fees for the applicable month in which the SLAs were not met. Vendor shall maintain complete and accurate records in sufficient detail to enable the amounts due hereunder to be substantiated.

Performance and Uptime

During the Term, the Hosting Services shall be operational twenty-four (24) hours per day, seven (7) days per week, with the sole exception of scheduled maintenance periods or any other excused performance events ("**Hours of Operation**"). "**Downtime**" shall mean that period of time per month (excluding scheduled maintenance periods or periods associated with excused performance events) when the Services are inoperable or materially impaired. "**Uptime**" shall be determined as follows:

$$\text{Uptime (expressed as a percentage)} = \frac{\text{Hours of Operation} - \text{Downtime}}{\text{Hours of Operation}}$$

Service Level Credits shall be determined in accordance with the following table. If Uptime falls within the percentages listed below, then Customer shall be entitled to receive the associated Service Level Credit for that month in proportion to the annual fee.

Application Availability Performance per month	Service Level Credit as % of Annual fees
100% - 99.5%	No credit
99% - 99.4%	2.5% of annual fee
< 99%	5.0% of annual fee

Help Desk Support Response Time

During the Term, Vendor shall meet the following help desk support response times of eighty percent (80%) from initial contact within sixty (60) seconds. For purposes of SLA Credits, Vendor help desk support response time performance shall be measured on a monthly basis, or if there are one hundred (100) or less calls made to the help desk, then the measurement period will be quarterly. In any month (or quarter, as applicable) in which Vendor fails to achieve response time metrics set forth in the Agreement, NYSBOE shall be entitled to a SLA Credit of: (a) ten percent (10%) of the Hosting Services fees paid by NYSBOE to Vendor for the month (or quarter, as applicable) in which Vendor fails to achieve the requisite response time percentages specified above, or (b) twenty-five percent (25%) of the Hosting Services fees paid by NYSBOE to Vendor for the month (or quarter, as applicable) if Vendor fails to achieve a response time percentage of at least seventy percent (70%).

Application Response Time

The application response time SLA measures the time required from the point where a request for data arrives at Vendor's data center and includes the time needed to collect and aggregate the data from Vendor's servers, and then provide the data to the outgoing web server.

SLA Benchmark: Four (4) seconds.

SLA Method of Calculation: Vendor will be in compliance with this SLA if both of the following conditions are met over a one (1) month period:

1. Average response time for all requests is under two (2) seconds.
2. Number of outliers (requests who exceeded five (5) seconds) constitutes less than 10% of all requests.

In any month in which Vendor fails to achieve response time metrics set forth, NYSBOE shall be entitled to a SLA Credit of: (a) 10 % Annual Hosting Services fees paid by NYSBOE to Vendor during the period in which Vendor fails to achieve the requisite response time percentages specified in the SLA; or (b) the proportionate monthly Hosting Services fees shall be waived in months where the response time percentages exceed three (3) seconds for the average response time.

Offsite Backup Storage

Vendor shall provide backup storage that ensures backup will occur ninety nine and nine tenths percent (99.9%) of the time scheduled for such backups. For each month in which this SLA is not met, NYSBOE shall be entitled to a SLA Credit of two point five percent (2.5%) of the total Annual Hosting Services fees paid by NYSBOE to Vendor for the proportionate credit from the month in which such SLA failure occurred.

III RESPONSIBILITY MATRIX

As part of the Hosting Services, Vendor shall ensure that the following Services are available as set forth, but not necessarily limited to, the table below:

Services Responsibility Description	Vendor	NYSBOE
Problem Management		
Manage first contact with users.		X
Interact with NYSBOE staff in a professional, efficient and service oriented manner, consistently.	X	
Provide and maintain a single point of contact for the reporting and tracking of problems.	X	
Log call in a problem ticket system, assign severity, and monitor progress of trouble calls.	X	
Query the user for all relevant information concerning the call, including, user name, user location/department, user phone number, call severity, and description of problem.	X	
Verify no trouble ticket already exists for a trouble call before opening a new ticket.	X	
Solve problem or route problem ticket to appropriate service provider.	X	
Route tickets for all NYSBOE IT Infrastructure Hardware/break-fix or software support problems for resolution within established time frames by severity and Service agreements in accordance with the Agreement.	X	
Provide status and updates on Incident tickets at NYSBOE's request or according to severity guidelines.	X	
Re-route misdirected Incident tickets.	X	
Incident Escalation – Provide Level 2 and higher support to resolve problems (including Third Party provider), if needed).	X	
Report current status on open Incident tickets.	X	X
Report on problems within established time frames.	X	
Provide infrastructure support, on-site at the Vendor hosting environment, from 8:00AM-6:00PM EST M-F. Support during non-business hours will via remote paging.	X	
Provide application support.	X	
Close call management system resolved problem tickets upon acceptable problem resolution as verified by NYSBOE user who opened the call, providing sufficient detail for history of problem and later analysis of trends.	X	
Provide performance metric reports.	X	
Create and maintain a contact list for problem resolution purposes.	X	
Enforce security standards and guidelines for the call management system.	X	
Solve problems with NYSBOE staff.	X	
Send email to NYSBOE management in the event of outages, which email will describe outage issues, resolution, etc.,	X	
Provide NYSBOE with access to Vendor's trouble ticket system, including providing NYSBOE with user ids and passwords.	X	

Services Responsibility Description (cont.)	Vendor	NYSBOE
Monitoring		
Monitor the network.	X	
Monitor servers by confirming connectivity to each server console (including edge servers at the NYSBOE's sites) and contacting the necessary personnel in the event of a down/unreachable condition.	X	X
Administration		
Administer login IDs and reset passwords for data access.		X
Provide passwords and logon IDs		X
Update NYSBOE user profile information in call management system whenever inaccurate profile information is discovered.	X	
Prepare and distribute all reports including monthly SLA reports.	X	X
Attend review meetings according to the schedule specified in the Agreement.	X	X
Audit SLA performance and activity reports as needed.	X	X
Maintain a call management system for the centralized reporting and tracking of Incidents under Vendor's control.	X	
Provide and maintain a method for proper escalation of problems within both the Vendor's and NYSBOE's management.	X	X
Reporting		
Provide statistics and management reports to NYSBOE on a regularly scheduled basis as mutually agreed by the parties.	X	
Provide NYSBOE with detail reporting and statistics on reported problems.	X	
Make changes to NYSBOE escalation documentation within twenty-four (24) hours of a change by Vendor through written or electronic means.	X	
Maintain procedures for Incident escalation	X	
Participate in conducting root cause analysis and review high-impact problems to identify preventative measures, assess risk, and bring to closure.	X	X

Database Administration (DBA) Services	Vendor	NYSBOE
Problem Management		
Recommend and implement appropriate updates and patches.	X	
Serve as point of contact with appropriate vendor Support to determine, review, and resolve any operating system or server issues.	X	
Serve as point of contact with NYSBOE to determine, review and resolve any edge server issues.	X	X
Application Management		
Configuration Management	X	
Customizations (Subject to Separate Change Order)	X	
Administration Maintenance		X
Database Table Maintenance	X	X
User Profiles and Preferences		X
Administration		
Audit log review		X
Job scheduling	X	
Preventive maintenance such as log cleanup	X	
User/Group administration and Security management		X
Backup and Recovery operations	X	

DBA Services (cont.)	Vendor	NYSBOE
Problem Management		
Recommend and implement appropriate updates and patches.	X	
Serve as point of contact with appropriate vendor Support to determine, review, and resolve Service Requests.	X	
Perform database failure analysis and recovery.	X	
Resolve media failure and perform recovery.	X	
Monitoring		
Proactively monitor system usage that may reveal bottlenecks in the System.	X	
Detect/predict structure related performance problems such as chained/migrated rows and object extents.	X	
Ensure efficient space usage in tablespace.	X	
Administration		
Alert Log and Trace File review.	X	
Backup and Export Log review.	X	
Preventive maintenance such as table/index reorganization.	X	
Database (DB) user administration and security management.	X	
Backup and Recovery operations.	X	

Attachment G Cost Proposal Form

Deliverable	Price Type	Proposed Price
Project Plan	N/A	N/A
Design and Planning	N/A	N/A
Installation and Configuration (for all business units)	N/A	N/A
Data Migration (Initial and Periodic)	N/A	N/A
Testing	N/A	N/A
Implementation	N/A	N/A
Training – Phase 1	N/A	N/A
Training – Phase 2	N/A	N/A
Training – Phase 3	N/A	N/A
Documentation	N/A	N/A
1: Pre-Implementation & Implementation Tasks & Deliverables to include all Items listed above (Item 1):	Total One-time Price	\$
2: Enterprise License	Total 5-Year Price	\$
3: Technical Support	Total 5-Year Price	\$
4: Software Maintenance	Total 5-Year Price	\$
5: Hardware Devices* (Including 5 Years of Maintenance)	Total 5-Year Price	\$
6: Hosting	Total 5 Year Price	\$
7: Additional/Enhancement Services * (optional to NYSBOE)	Total 5 Year Price	\$
Grand Total (1-7)		\$

***{Supplemental Form Additional Tab}**

OGS will not consider any Proposal with modifications/customizations/qualifiers/or exceptions deviating from the original content/format of this RFP unless a waiver has been issued per Section 2.1 Proposal Exceptions.

For each device the Proposer should present the following:

Model #	Description and capabilities (1 Barcode Reader, 1 Smart Reader)	Published Price	*Discounted Price to NYSBOE	Estimated QTY 126 Devices (63 for each device for evaluation purposes)	Total Cost
		\$ -	\$ -	63	\$ -
		\$ -	\$ -	63	\$ -

See Section 5.2.12

*Including 5 Years of Maintenance

Hourly Rates for Additional / Enhancement Services

Title	Hourly rate	Number of Hours (Estimated Five Year Total)	Total 5 Year Value
IT Developer	\$ -	1000.00	\$ -
Technical Writer	\$ -	200.00	\$ -
Project Manager	\$ -	200.00	\$ -
Business Analyst	\$ -	200.00	\$ -
Quality Assurance Analyst	\$ -	500.00	\$ -

Dominion ImageCast OS Security Seals/Tags

Election Date: ___/___/2010

County	
Town/City/AD	
Election District	
Voting Machine ID:	

Polls Open Report

Seal/Tag Location	County Board Installed Seal/Tag Number	Opening Seal/Tag Number
#1 Top OS Cover		
#2A CF Card Door #1		
#2B CF Card Door #2		
#3 Ballot Box Shield Gap		
#4 OS BMD Access Door		
#5 Thermal Printer		
#6 Ballot Box		
#7 Emergency Ballot Box		
Peripherals		
#1 Security Pack		
#2 Secure Ballot Storage Container		

Inspector Signature - at least two (2) - one from each party

Print Name (a) Date Signature (a)

Print Name (b) Date Signature (b)

Inspector-
Installed Daytime
Replacement (if any)
Seal/Tag Number

#5	
#6	

Inspector Initial - at least two (2) - one from each party

Polls Close Report

Poll Closed Seal/Tag Number
#1
#2A
#2B
#3
#4
#5
#6
#7
#1
#2

Inspector Signature - at least two (2) - one from each party

Print Name (a) Date Signature (a)

Print Name (b) Date Signature (b)

ES&S AutoMARK Maintenance Checklist

Non-Election Quarter Pre-Qualification Standard Pre-Qualification Comprehensive

County Name & Number

Date

Master Serial #

County Serial #

Poll Site Location (Pre-Qualification Only)

Ballot Styles(s) (Pre-Qualification Only)

		Non-Election	Dry Run	Run for Record
Security Seal Verification		✓ if applicable	✓ if applicable	✓ if applicable
1	• Compact Flash (CF) Card Door Security Seal Intact			
2	• Printer Compartment USB Port Security Seal Intact			
Inventory				
3	• 2 CF Door Keys			
4	• 2 AutoMARK Operation Keys			
5	• 1 Compact Flash Card			
6	• 1 Ink Cartridge			
7	• 1 ADA Paddle			
8	• 1 Sip-n-puff Devices			
9	• 1 Headphones			
10	• 1 Power Cord			
11	• 1 Privacy Sleeve			
Inspection				
12	• Inspect unit for signs of damage			
13	• Verify all housing screws are securely in place			
14	• Verify the access door to the CF memory card is in place			
15	• Verify the rear access door is in place			
16	• Verify top and rear clean-out trays are installed			
17	• Verify the following components mover properly:			
18	○ Top cover latches			
19	○ Top cover			
20	○ LCD touch screen (up and down positions – viewing angles)			
21	○ Paper feed tray			
22	○ All locks with associated keys			
23	• Inspect power cord for evidence of physical damage			

ES&S AutoMARK Maintenance Checklist

Inspection Continued				
Describe Damage:				
		Non-Election	Dry Run	Run for Record
Firmware Verification / Hash Check		✓ if applicable	✓ if applicable	✓ if applicable
24	• Pass Firmware Verification			
Functional Verification				
25	• Verify AutoMARK setup according to vendor documentation and training			
26	• Verify battery charger indicator lights up			
27	• Verify LED indicator is on			
28	• Verify AutoMARK powers up			
29	• Verify touch screen calibration			
30	• Verify setting date and time			
31	• Verify paper tray roller are in the correct orientation based on ballot size			
32	• Verify Test Ballot Print			
33	• Unplug power cord and verify that AutoMARK continues to operate on battery power (plug AutoMARK back in once verified)			
34	• Cast ballots based on type of test:			
35	• <i>Maintenance Test Deck</i>			
36	• <i>Standard Test Deck</i>			
37	• <i>Comprehensive Test Deck</i>			
38	• Verify Ballot Marking			
39	• Verify battery is charged			
40	• Power down AutoMARK			
41	• Copy files for 24 month storage retention			
Prepare Voting Systems for Storage / Shipment to Poll Site				
42	• Confirm all components from <i>Inventory Section</i> are packed			
43	• Record CF Card Door Security Seal			
44	• Record Printer Compartment – USB Port Security Seal			
Official Signoff				
Tech Print Name		Date		
Tech Print Name		Date		

Current label example:





ES&S AutoMARK(i)TM Voter Assist Terminal



ES&S DS200(i)TM Precinct Scanner & Tabulator
(also shown w/ Ballot Box)



dominion | VOTING™

ImageCast Precinct