

Attachment 5 – INSURANCE REQUIREMENTS

Upon tentative award, a Bidder shall be required to procure at its sole cost and expense all required insurance. In addition, the Contractor shall procure and maintain in force, at its sole cost and expense, at all times during the term of any contract resulting from this solicitation, policies of insurance as herein below set forth, written by companies licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York with an A.M. Best Company rating of “A-” Class “VII” or better. 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 the New York State Office of General Services (“OGS”) and rated at least “A-” Class “VII” in the most recently published Best’s Insurance Report.

The Bidder/Contractor shall deliver to OGS evidence of such policies in a form acceptable to OGS. These policies must be written in accordance with the requirements of the paragraphs below, as applicable. Acceptance and/or approval by OGS does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under any contract resulting from this solicitation.

General Conditions

A. Conditions Applicable to Insurance. All policies of insurance required by any contract resulting from this solicitation must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the Bidder/Contractor are specified in Paragraph B *Insurance Requirements* below.

2. Policy Forms. Except as may be otherwise specifically provided herein or agreed to in writing by OGS, policies must be written on an occurrence basis.

3. Certificates of Insurance/Notices. The Bidder/Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to OGS, upon tentative award and within five (5) business days of request Certificates shall reference the Contract/Solicitation Number. Certificates shall be mailed to The New York State Office of General Services, NYSPRO, Corning Tower- 38th Floor, Empire State Plaza, Albany, New York 12242.

Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment, in which case notice shall be provided as required by law, to OGS. The Bidder/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. At least two (2) weeks prior to the expiration date or renewal date, the Bidder/Contractor shall supply OGS updated replacement Certificates of Insurance, and amendatory endorsements.

Certificates of Insurance shall:

- a. Be in the form approved by OGS;
- b. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the solicitation/Contract;
- c. Specify the Additional Insureds and Named Insured as required herein;
- d. Refer to this Contract by number and any other attachments on the face of the certificate; *and*
- e. Be signed by an authorized representative of the insurance carrier or producer.

Only original documents or electronic documents (Certificates of Insurance and other attachments) that can be directly traced back to the insurance carrier, agent or broker via e-mail distribution or similar means will be accepted.

Attachment 5 – INSURANCE REQUIREMENTS
General Conditions (Continued)

A. Conditions Applicable to Insurance.(Continued)

- 4. Primary Coverage.** All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to OGS or any Authorized User for any claim arising from the Contractor's work under this any contract resulting from this solicitation, or as a result of the Contractor's activities. Any other insurance maintained by OGS or any Authorized User shall be excess of and shall not contribute with the Contractor's insurance.
- 5. Policy Renewal/Expiration.** At least two (2) weeks prior to the expiration of any policy required by any contract resulting from this solicitation, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS and/or any Authorized User than the expiring policies shall be delivered to OGS in the manner required in Paragraph A.3. *Certificates of Insurance/Notices* above. If, at any time during the term of any contract resulting from this solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth herein or proof thereof is not provided to OGS, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by OGS. Any delay, time lost, or additional cost incurred as a result of the Contractor not having insurance required by any contract resulting from this solicitation or not providing proof of same in a form acceptable to OGS, shall not give rise to a delay claim or any other claim against OGS or any Authorized User. Should the Bidder/Contractor fail to provide or maintain any insurance required by any contract resulting from this solicitation, or proof thereof is not provided, OGS and/or Authorized Users may withhold further contract payments, treat such failure as a breach or default of the Contract.
- 6. Self-Insured Retention/Deductibles.** Certificates of Insurance must indicate the applicable deductible/self insured retention on each policy. The Bidder/Contractor shall be solely responsible for all claim expenses and loss payments within the deductible or self- insured retention.
- 7. Subcontractors.** Should the Bidder/Contractor engage a Subcontractor, the Bidder/Contractor shall require all Subcontractors, prior to commencement of an agreement between the Bidder/Contractor and the Subcontractor, to secure and keep in force during the term of any contract resulting from this solicitation the insurance requirements set forth herein on the Subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the Subcontractor. Proof thereof shall be supplied to OGS.
- 8. Additional Insureds.** All insurance required by this solicitation and any contract resulting from this solicitation shall name The People of the State of New York, its officers, agents, and employees as additional insureds thereunder (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number **CG 20 26 11 85** or the equivalent). The additional insured requirement does not apply to Workers' Compensation and Disability coverage.

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General Conditions (Continued)

B. Insurance Requirements:

The Bidder, upon tentative award, and the Contractor, throughout the term of any contract resulting from this solicitation, or as otherwise required by any such 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 solicitation or any contract resulting from this solicitation, 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 **\$2,000,000.00** each occurrence. Such liability shall be written on the ISO occurrence form **CG 00 01 01 96**, or a substitute form providing equivalent coverage, and shall cover the liability of the Bidder/Contractor arising from premises operations liability, independent contractors, products-completed operations for a term of not less than 3 years, commencing upon acceptance of the products, as required by any contract resulting from this solicitation, broad form property damage, personal & advertising injury, contractor means and methods, cross liability coverage, blanket contractual liability, including tort liability of another assumed in a contract, defense and/or indemnification obligations, including obligations assumed under this contract, cross liability for additional insureds, and explosion, collapse & underground coverage.

1. General Aggregate	\$2,000,000.00
2. Products – Completed Operations Aggregate	\$2,000,000.00
3. Personal and Advertising Injury	\$1,000,000.00
4. Damage to Rented Premises	\$50,000.00
5. Medical Expense	\$5,000.00
6. Each Occurrence	\$1,000,000.00

The following ISO forms must be endorsed to the policy:

- I. CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
- II. CG 20 10 11 85 or an equivalent – Additional Insured-Owner, Lessees or Contractors (Form B)
- III. Waiver of Subrogation Endorsement

- b) Comprehensive Business Automobile Liability Insurance covering liability arising out of the use of any motor vehicle in connection with the Contractor's obligations under any contract resulting from this solicitation, including owned, leased, hired and non-owned vehicles bearing or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least **\$2,000,000.00** and shall name The People of the State of New York, its officers, agents, and employees as additional insureds thereunder. The limits may be provided through a combination of primary and umbrella/excess liability policies.

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WORKERS’ COMPENSATION INSURANCE AND DISABILITY BENEFITS REQUIREMENTS

Workers’ Compensation Law (WCL) §57 & §220 requires the heads of all municipal and state entities to ensure that businesses applying for permits, licenses or contracts document that they have appropriate workers’ compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals, whether the governmental agency is having the work done or is simply issuing the permit, license or contract. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of your bid.**

**1. Proof of Compliance with Workers’ Compensation Coverage Requirements:
An ACORD form is NOT acceptable proof of workers’ compensation coverage.**

In order to provide proof of compliance with the requirements of the New York State Workers’ Compensation Law pertaining to workers’ compensation coverage, a Bidder/Contractor shall:

- A) Be legally exempt from obtaining Workers’ Compensation insurance coverage; or
- B) Obtain such coverage from an insurance carrier; or
- C) Be a Workers’ Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan.

A Bidder/Contractor seeking to enter into a contract with the State of New York shall provide **one of the following forms** to OGS at the time of bid submission or within three (3) business days of bid opening date.):

- 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.ny.gov); (Reference applicable IFB/RFP and Group #s on the form.)
- B) Certificate of Workers’ Compensation Insurance:
 - 1) **Form C-105.2** (9/07) if coverage is provided by the Bidder/Contractor’s insurance carrier, the Bidder/Contractor must request its carrier to send this form to OGS, *or*
 - 2) **Form U-26.3** if coverage is provided by the State Insurance Fund, the Bidder/Contractor must request that the State Insurance Fund send this form to OGS.
- C) Form **SI-12**, Certificate of Workers’ Compensation Self-Insurance available from the New York State Workers’ Compensation Board’s Self-Insurance Office.
- D) Form **GSI-105.2**, Certificate of Participation in Workers’ Compensation Group Self-Insurance available from the Bidder/Contractor’s Group Self-Insurance Administrator.

2. Proof of Compliance with Disability Benefits Coverage Requirements:

In order to provide proof of compliance with the requirements of the New York State Workers’ Compensation Law pertaining to disability benefits, a Bidder/Contractor shall:

- A) Be legally exempt from obtaining disability benefits coverage; or
- B) Obtain such coverage from an insurance carrier; or
- C) Be a Board-approved self-insured employer.

Attachment 5 – INSURANCE REQUIREMENTS

C. Workers’ Compensation Insurance and Disability Benefits Requirements (Cont’d)

2. Proof of Compliance with Disability Benefits Coverage Requirements (Cont’d)

A Bidder/Contractor seeking to enter into a contract with the State of New York **shall provide one of the following forms** to OGS at the time of bid submission or within three (3) business days of bid opening date.):

- 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.ny.gov); (Reference applicable IFB/RFP and Group #s on the form.)
- B) **Form DB-120.1**, Certificate of Disability Benefits Insurance. The Bidder/Contractor must request its business insurance carrier to send this form to OGS; *or*
- C) **Form DB-155**, Certificate of Disability Benefits Self-Insurance. The Bidder/Contractor must call the Board’s Self-Insurance Office at 518-402-0247 to obtain this form.

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ALL OF THE ABOVE REFERENCED FORMS, (EXCEPT CE-200, SI-12 & DB-155) MUST NAME The Office of General Services, NYS Procurement, 38th floor, Corning Tower, Albany NY 12242 as the Entity Requesting Proof of Coverage.