ATTACHMENT 04

INSURANCE REQUIREMENTS

INSURANCE

Unless otherwise set forth herein, within five (5) business days of notification of tentative award, Bidders shall be required to procure, at their sole cost and expense, all required insurance. In addition, Contractors shall procure and maintain in force at all times during the term of any Contract resulting from this solicitation, at their sole cost and expense, 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. Bidders and Contractors shall deliver to OGS evidence of such policies in a form acceptable to OGS. 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 Bidders and Contractors of any obligations, responsibilities or liabilities under this solicitation or any Contract resulting from this solicitation.

General Conditions

A. **Conditions Applicable to Insurance.**

All policies of insurance required by this solicitation or 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 Bidders and Contractors 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.

Certificates of Insurance/Notices. Bidders and Contractors shall provide a Certificate or Certificates of Insurance, and all applicable endorsements in a form satisfactory to OGS, within five (5) business days of notification of tentative award, and thereafter, within five (5) business days of request (except, it is required that Workers' Compensation Coverage and Disability Benefits forms be submitted at the time of bid, or within three (3) business days of the bid opening date). Certificates shall reference the Solicitation Number and Contract Number (upon subsequent award). As applicable, the requested forms must name the New York State Office of General Services, New York State Procurement, 38th Floor, Corning Tower, Albany, New York 12242 as the Certificate Holder). Certificates shall be submitted to the Office of General Services, New York State Procurement, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.

Unless otherwise agreed to in writing, 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 in cases of cancellation for non-payment, in the event of which notice shall be provided as required by law to OGS. Bidders and Contractors 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, Bidders and Contractors shall supply OGS updated replacement Certificates of Insurance, and amendatory endorsements.

Certificates of Insurance shall:

a. Be in the form approved by OGS (i.e., an Accord);

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; Be accompanied by an Additional Insured and a Waiver of Subrogation Endorsement as required herein;

c. Refer to this solicitation and any Contract resulting from this solicitation by Solicitation Number and Contract number (when assigned) and any other attachments on the face of the certificate; and

d. Be signed by an authorized representative of the insurance carrier or producer.

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

A. Conditions Applicable to Insurance (Continued)

3. 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 Contract, 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.

4. Policy Renewal/Expiration. If, at any time during the term of any Contract awarded as a result of this solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the this solicitation or any Contract resulting from this solicitation 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 the Contract 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. Should the Contractor fail to provide or maintain any insurance required by any Contract resulting from this solicitation, or proof thereof is not provided, OGS or Authorized Users may withhold further contract payments, treat such failure as a breach or default of the contract. Provided, further, that Contractor acknowledges that failure to obtain and/or keep in effect any or all required insurance by this Contract constitutes a material breach of the Contract and subjects it to liability for damages, indemnification and all other legal remedies available to OGS or the Authorized Users. The Contractor's failure to obtain and/or keep in effect any or all required insurance shall also provide the basis for OGS' immediate termination of any Contract resulting from this solicitation, or an Authorized User's immediate termination of a procurement hereunder, subject only to a five (5) business day cure period. Any termination by OGS or Authorized User under this section shall in no event constitute or be deemed a breach of any Contract resulting from this solicitation or any procurement hereunder and no liability shall be incurred by or arise against the OGS or any Authorized User, their officers, agents and employees therefore for lost profits or any other damages.

5. Self-Insured Retention/Deductibles. Certificates of Insurance must indicate the applicable deductible/self- insured retention on each policy. Deductibles or self-insured retentions above $100,000 are subject to approval from OGS. Bidders and Contractors shall be solely responsible for all claim expenses and loss payments within the deductible or self- insured retention.

6. Subcontractors. Should the Contractor engage a Subcontractor, the Contractor shall require all Subcontractors, prior to commencement of an agreement between Contractor and the Subcontractor, to secure and keep in force during the term of any Contract resulting from this solicitation the insurance requirements of this solicitation on the Subcontractor, as applicable. Proof thereof shall be supplied to OGS.

7. Additional Insureds. As applicable, 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.

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 this solicitation and any Contract resulting from this solicitation, 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 and 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 and $2,000,000 in the aggregate. Such liability shall be written on the ISO occurrence form **CG 00 01 01 96**, or a substitute form providing equivalent coverages and shall cover liability of the Bidder/Contractor arising from premises operations liability, independent contractors, products-completed operations for a term of no less than three (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 (including the 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
2. Products – Completed Operations Aggregate	$2,000,000
3. Personal and Advertising Injury	$1,000,000
4. Damage to Rented Premises	$50,000
5. Medical Expense	$5,000
6. Each Occurrence	$2,000,000

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.

In the event that the Contractor is providing maintenance services the following additional insurance requirements shall apply:

c) **Garage Liability Insurance** including coverage for all garage operations of the Contractor, including premises and operations; products and completed operations, and garagekeepers liability coverage with minimum limits of:

- Garage liability insurance-$1,000,000.00 for garage operations; and
- Garagekeepers liability-$100,000.00 per vehicle in custody, $500,000.00 aggregate on a "direct primary" basis.

The policy shall name the People of the State of New York, its officers, agents, and employees and the New York State Office of General Services as additional insureds.

d) **Environmental Liability Insurance**-If the work involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any pollutants, which includes but are not limited to, petroleum, petroleum product, hazardous material or substance including asbestos, lead, fungus and those as defined by applicable state and federal laws and regulations, the Contractor shall procure, or otherwise obtain through an approved subcontractor, and maintain in full force and effect throughout the term of the Contract, and for two years after completion hereof, pollution legal liability insurance with limits not less than $10,000,000.00, 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 the State, OGS or any authorized user arising from the Contractor's work. The People of the State of New York, its officers, agents, and employees and the New York State Office of General Services as additional insureds.

Waiver of Subrogation. The Contractor shall cause to be included in each of the above referenced policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against OGS. A Waiver of Subrogation Endorsement shall be provided upon tentative award, and thereafter, within three (3) days of request.

B. WORKERS' COMPENSATION INSURANCE AND DISABILITY BENEFITS REQUIREMENTS:

The New York State 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 it has 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 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 Contractor seeking to enter into a contract with the State of New York shall provide **one of the following forms** to the OGS at the time of bid submission or within three (3) business days of the 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 New York State 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 Contractor's insurance carrier, the 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 Contractor must request that the State Insurance Fund send this form to OGS, or

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

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

A Contractor seeking to enter into a contract with the State of New York **shall provide one of the following forms** to the OGS at the time of the bid submission or within three (3) business days of the 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 New York State 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 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 Contractor must call the New York State Worker's Compensation Board's Self-Insurance Office at 518-402-0247 to obtain this form.