

## Attachment 4 Contractor's Insurance Requirements

Upon tentative award, a Bidder shall be required to procure, at its sole cost and expense, all required insurance. Proof of Workers' Compensation Insurance and Disability Benefits Insurance (d. Workers' Compensation Insurance and Disability Benefits Requirements) shall be provided at the time of bid submission or within five (5) days of request and proof of all contract specific Insurance Requirements (2. Insurance Requirements) are required within twenty (20) business days of notice of tentative award. The Contractor shall procure and maintain in force at all times during the term of this Contract, at its 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.

The 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 the Bidder/Contractor of any obligations, responsibilities or liabilities under any contract resulting from this solicitation.

### 1. Conditions Applicable to Insurance.

All policies of insurance required by this Contract must meet the following requirements:

- a) **Coverage Types and Policy Limits.** The types of coverage and policy limits required from the Contractor are specified in Paragraph B *Insurance Requirements* below.
- b) **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.
- c) **Certificates of Insurance/Notices.** Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to OGS, for Workers' Compensation and Disability Benefits insurance (C. Workers' Compensation Insurance and Disability Benefits Requirements) at the time of bid submission or within five (5) days of request. Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to OGS for all other insurance requirements (2. Insurance Requirements) within twenty (20) business days of request at time of tentative award. Certificates shall reference the Contract Number.
  - i) Only original documents (Certificates of Insurance & other attachments) or electronic forms, which can be directly traced back to the insurance carrier, agent or broker via e-mail distribution or similar means, will be accepted.
  - ii) Certificates shall be submitted to the Office of General Services, New York State Procurement, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.  
Certificates shall be mailed to:  
**The New York State - Office of General Services  
NYS Procurement (NYSPro)  
Corning Tower- 38th Floor  
Empire State Plaza  
Albany, NY 12242**
  - iii) Certificates shall reference the Solicitation Number and Contract Number (upon subsequent award).
  - iv) As applicable, the requested forms **must name the New York State Office of General Services, New York State Procurement, 38<sup>th</sup> Floor, Corning Tower, Albany, New York 12242 as the entity requesting proof of coverage** (the entity being listed as the Certificate Holder).
  - v) Certificates of Insurance shall:
    - (1) Be in the form approved by OGS;
    - (2) Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the Solicitation/Contract;
    - (3) Specify the Additional Insured and Named Insured as required herein;
    - (4) Refer to this Contract by Solicitation Number and Contract number (when assigned) and any other attachments on the face of the certificate; and

(5) Be signed by an authorized representative of the insurance carrier or producer.

**d) Cancellations/changes/suspensions/expiration/renewals**

- i) Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be cancelled, 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.
  - ii) At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice noted in paragraph 1.c.ii.
  - iii) 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.
  - iv) Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply OGS updated replacement Certificates of Insurance, and amendatory endorsements.
  - v) If, at any time during the term of this Contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the Contract or proof thereof is not provided to OGS, the Contractor shall immediately cease work.
  - vi) 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.
  - vii) Should the Contractor fail to provide or maintain any insurance required by this Contract, 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.
    - (a) 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.
    - (2) 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 this Contract, or an Authorized User's immediate termination of a procurement hereunder, subject only to a five (5) business day cure period.
    - (3) Any termination by OGS or Authorized User under this section shall in no event constitute or be deemed a breach of this Contract 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.
- e) 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.
- f) Self-Insured Retention/Deductibles.**
- i) Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy.
  - ii) Deductibles or self-insured retentions above \$100,000 are subject to approval from OGS.
  - iii) The Contractor shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.
- g) 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 this Contract the insurance requirements of this document 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.
- h) 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/or Disability coverage.

## 2. Insurance Requirements:

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.**

- i) A limit of not less than **\$1,000,000.00** each occurrence.
- ii) 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 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.

If such insurance contains an aggregate limit, it shall apply separately on a per job basis.

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

1. General Aggregate	\$2,000,000
2. Products – Completed Operations Aggregate	\$1,000,000
3. Personal and Advertising Injury	\$1,000,000
4. Each Occurrence	\$1,000,000

- iii) Coverage shall include, but not be limited to, the following:
  - premises liability,
  - independent contractors,
  - 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
  - products/completed operations for a term of no less than 3 years, commencing upon acceptance of the work, as required by the contract
  - explosion, collapse, and underground hazards,
  - contractor means and methods
- iv) The following ISO forms must be endorsed to the policy:
  1. CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
  2. CG 20 10 11 85 or an equivalent – Additional Insured-Owner, Lessees or Contractors (Form B)
- v) Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.
- vi) Policies shall name The People of the State of New York and the New York State Office of General Services as Additional Insureds, and such coverage shall be extended to afford Additional Insured status to those entities during the Products/Completed Operations term.
- vii) The CGL policy, and any umbrella/excess policies used to meet the “ Each Occurrence” limits specified above, must be endorsed to be primary with respects to the coverage afforded the Additional Insureds, and such policy or policies shall be primary to, and non-contributing with, any other insurance maintained by OGS. Any other insurance maintained by OGS shall be excess of and shall not contribute with the Contractor's or Subcontractor's insurance, regardless of the “Other Insurance” clause contained in either party's policy of insurance.

### b) **Comprehensive Business Automobile Liability Insurance.**

- i) A limit of not less than **\$1,000,000.00** each accident.
- ii) Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles. The limits may be provided through a combination of primary and umbrella/excess liability policies.

c) **Workers' Compensation Insurance and Disability Benefits.**

The New York State Workers' Compensation Law (WCL) §57 & §220 require 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.**

i. **Proof of Compliance with Workers' Compensation Coverage Requirements:**

1. 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) Obtain such coverage from an insurance carrier; or
  - (b) Be a Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan, or
  - (c) Be legally exempt from obtaining Workers' Compensation insurance coverage
2. **One of the following forms must be submitted** to NYSPRO at the time of bid submission or within three (3) business days as noted in paragraph 1.c.ii:
  - (a) **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 NYSPRO, or
  - (b) **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 NYSPRO, or
  - (c) **Form SI-12**, Certificate of Workers' Compensation Self-Insurance available from the New York State Workers' Compensation Board's Self-Insurance Office, or
  - (d) **Form GSI-105.2**, Certificate of Participation in Workers' Compensation Group Self-Insurance available from the Contractor's Group Self-Insurance Administrator, or
  - (e) **Form CE-200**, Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Insurance Coverage available on the New York State Workers' Compensation Board's website ([www.wcb.ny.gov](http://www.wcb.ny.gov))

**An ACORD form is NOT acceptable proof of workers' compensation coverage.**

ii) **Proof of Compliance with Disability Benefits Coverage Requirements:**

1. 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) Obtain such coverage from an insurance carrier; or
  - (b) Be a Board-approved self-insured employer, or
  - (c) Be legally exempt from obtaining disability benefits coverage.
2. **One of the following forms** must be submitted to NYSPRO at the time of bid submission or within three (3) business days as noted in paragraph 1.c.ii:
  - (a) **Form DB-120.1**, Certificate of Disability Benefits Insurance. The Contractor must request its business insurance carrier to send this form to OGS; or
  - (b) **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.
  - (c) **Form CE-200**, Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Insurance Coverage available on the New York State Workers' Compensation Board's website ([www.wcb.ny.gov](http://www.wcb.ny.gov))

**An ACORD form is NOT acceptable proof of workers' compensation coverage.**

The contractor may submit one CE-200 covering both New York State Workers' Compensation and Disability Benefits Insurances.