Attachment 04

Contractor's Insurance Requirements

Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance. The Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, policies of insurance as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York ("admitted" carriers) 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. OGS may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require OGS to accept insurance placed with a non-authorized carrier under any circumstances.

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 Contractor of any obligations, responsibilities or liabilities under the Contract.

General Conditions

A. Conditions Applicable to Insurance. All policies of insurance required by this Contract must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the 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. Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to OGS, upon tentative award and within three (3) business days of request. Certificates shall reference the Contract Number. **ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME**: The Office of General Services, Procurement Services Group, 38th floor, Corning Tower, Albany NY 12242 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder). Certificates shall be submitted to the Office of General Services, Procurement Services Group, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 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 as required by law to OGS. 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 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 contract.
c. Specify the Additional Insured and Named Insured as required herein.
d. Refer to this Contract by number and any other attachments on the face of the certificate,
e. When coverage is provided by a non-admitted carrier, be accompanied by a completed ELANY Affidavit, and
f. Be signed by an authorized representative of the insurance carrier or producer.

Only original documents (Certificates of Insurance and other attachments) will be accepted.

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 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 regardless of the "other insurance" clause contained in OGS or the Authorized User's own policy of insurance.

5. Policy Renewal/Expiration. 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 in Paragraph A.3. *Certificates of Insurance/Notices* above. 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. 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 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.

6. 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. The Contractor shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.

7. 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.

All insurance required by the Contract shall name The People of the State of New York, its officers, agents, and employees as additional insured hereunder (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, Disability or Professional Liability coverage.

B. 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** 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 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 basis. Policy shall include bodily injury, property damage and broad form contractual liability coverage.
2. General Aggregate $2,000,000
3. Products – Completed Operations Aggregate $1,000,000
4. Personal and Advertising Injury $1,000,000
5. Each Occurrence $2,000,000

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
- liability resulting from Section 240 or Section 241 of the New York State Labor Law.

The following ISO forms must be endorsed to the policy:

a. CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
b. CG 20 10 11 85 or an equivalent – Additional Insured-Owner, Lessees or Contractors (Form B)

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.

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.

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 polic(ies) 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** with a limit of not less than **$2,000,000.00** each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non owned automobiles.

c) **OCP Insurance*** - Owners and Contractors Protective Insurance Coverage (OCP) is required by the New York Department of Transportation (NYSDOT) on any NYSDOT project on or near active highway right of way.

The OCP insurance required shall be $1,000,000 per occurrence and $2,000,000 in the aggregate.

* Contractor shall provide written proof of such coverage to the Authorized User prior to commencement of work at the Pre-paving/Pre-production conference

A. 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 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 proof of such coverage or a legal exemption will result in a rejection of your bid or renewal.

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 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 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); (Reference applicable IFB 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, **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.
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 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 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 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); (Reference applicable RFP and Group #s on the form.)

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.