STATE OF NEW YORK
OFFICE OF GENERAL SERVICES
DESIGN AND CONSTRUCTION GROUP
THE GOVERNOR NELSON A. ROCKEFELLER
EMPIRE STATE PLAZA
ALBANY, NY 12242

ADDENDUM NO. 1 TO PROJECT NO. Q1547

HVAC WORK
REPLACE VENTS C & I BLOCKS
BUILDING 20 & 46
ELMIRA CORRECTIONAL FACILITY
BOX 500
ELMIRA, NY

August 29, 2012

NOTE: This Addendum forms a part of the Contract Documents. Insert it in the Project Manual. Acknowledge receipt of this Addendum in the space provided on the Bid Form.

BIDDING REQUIREMENTS

1. DOCUMENT 004113 BID FORM: Replace 004113 Bid Form with attached Bid Form, revised 8/29/12.

2. DOCUMENT 002113 INSTRUCTIONS TO BIDDERS: Replace 002113 INSTRUCTIONS TO BIDDERS with attached INSTRUCTIONS TO BIDDERS, revised 8/29/12.

END OF ADDENDUM

James Dirolf, P.E.
Director of Design

DETACH AND USE THIS FORM

BID FORM FOR: Q1547-H

State of New York
Office of General Services
Design and Construction Group
Division of Contract Administration
35th Floor, Corning Tower
The Gov. Nelson A. Rockefeller
Empire State Plaza
Albany, NY 12242

HVAC WORK
REPLACE VENTS, C & I BLOCKS
BUILDING 20 & 46
ELMIRA CORRECTIONAL FACILITY
1879 DAVIS STREET
ELMIRA, NY

THIS IS A 2 PAGE BID FORM. ALL PAGES MUST BE COMPLETED.

THE STATE RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS. EACH BID FORM SHALL BE ACCOMPANIED BY BID SECURITY (AS DESCRIBED IN THE INSTRUCTIONS TO BIDDERS) IN THE AMOUNT STATED IN THE ADVERTISEMENT FOR BIDS.

The Undersigned agrees to complete the Work within the time stated in Section 011000 of the Specifications.

The Undersigned acknowledges his/her understanding of the social policy concerning minority and women business participation in the State building construction program, and pledges to cooperate with the State in the implementation of this policy, and further pledges to exert good faith efforts to achieve participation of minority and female employees.

The Undersigned certifies, as to each of the occupations listed in the Prevailing Rate Schedule applicable to this Project, the ability and willingness to exert good faith efforts to achieve the goal for minority and women workforce participation set forth in the Supplementary Conditions.

The Undersigned certifies the ability and willingness to exert good faith efforts to achieve the goal for Minority and Women-Owned Business Enterprise participation set forth in the Supplementary Conditions.

The Undersigned declares that the Bidding and Contract Documents have been carefully examined and that all things necessary for the completion of the Work shall be provided.

The Undersigned agrees that the bid security shall become the property of the State if this bid is accepted by the State and he/she does not submit executed copies of the Agreement within 10 days of receipt of a written request. A Performance Bond and a Labor and Material Bond, each in an amount equal to the contract sum, shall be supplied with the executed Agreement and shall be the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law.

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/her 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.

(4) This contract shall not cause or result in a violation of Section 73(4) of the Public Officers Law which states: "No officer or employee of a state agency, member of the legislature or legislative employee or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall sell any goods or services having a value in excess of twenty-five dollars to any state agency unless pursuant to an award or contract let after public notice and competitive bidding."

(5) This contract shall not cause or result in a violation of Section 74(3)(e) of the Public Officers Law which states: "No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the State with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties."

(6) The bidder recognizes New York State Finance Law §139-j and §139-k and understands and agrees to comply with all of its requirements and procedures.

(7) The bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law.

Federal Employer I.D. No. _____

Addenda to the Contract Documents are available at:
https://www3.ogs.state.ny.us/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp.

The Undersigned acknowledges receipt and review of all Addenda to the Contract Documents on the above website, listed by number in the space below:

_____

_____

The Undersigned proposes to perform the Work required for this project in accordance with the Contract Documents for the following amount:
BID AMOUNT

1.	All Work except Allowance(s)	$ .00
2.	Allowance(s) (As described in Section 012100)	$ 28,700.00
	Total Bid Amount (Sum of 1. & 2.)	$ .00

SIGN BID HERE _____
Authorized Signature

PRINT NAME OF SIGNER _____

TITLE OF SIGNER _____

OFFICIAL COMPANY NAME _____

MAILING ADDRESS _____
Street

_____
City State Zip Code

TELEPHONE NO. _____ FAX NO. _____
Area Code Area Code

E-MAIL ADDRESS _____

*****

DOCUMENT 002113

INSTRUCTIONS TO BIDDERS

1. EXAMINATION OF DOCUMENTS

1.1. Carefully examine and be familiar with the Bidding and Contract Documents.

1.2. Examine information concerning subsurface or other latent physical conditions. It is presented in good faith but is not intended as a substitute for personal investigation, interpretations, or judgment of the Contractor.

2. VISIT TO THE SITE

2.1. Visit the Site of the Work prior to submitting bid. Refer to the Advertisement for Bids for any special instructions.

2.2. Become familiar with restrictions and regulations established by the facility. Existing restrictions and regulations will not be considered as grounds for any additional cost over the Contract sum.

2.3. Assume the risk of encountering any subsurface or other latent physical condition that can be reasonably anticipated on the basis of documentary information provided by the State and from inspection and examination of the Site.

2.4. Interpretations of contract documents by facility personnel are not binding.

3. DESIGNATED, PERMISSIBLE, IMPERMISSIBLE CONTACTS AND QUESTIONS

3.1. The designated contacts during the restricted period for this procurement will be Frank Peris and Carl Ruppert in the Bureau of Contract Awards, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Director of Contract Administration, fax (518) 473-5221.

3.2. State Finance Law §139-j recognizes a series of permissible contacts that can go to other than the designated contacts, as follows:

3.2.1. The submission of written proposals in response to a request for proposals, invitation for bids or any other method for soliciting a response from offerers intending to result in a procurement contract.

3.2.2. The submission of written questions to a designated contact set forth in a request for proposals, or invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract, when all written questions and responses are to be disseminated to all offerers who have expressed an interest in the request for proposals, or invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract.

3.2.3. Participation in a conference provided for in a request for proposals, invitation for bids, or any other method for soliciting a response from offerers intending to result in the procurement contract.

3.2.4. Complaints by an offerer regarding the failure of the person or persons designated by the procuring governmental entity pursuant to this section to respond in a timely manner to authorized offerer contacts made in writing to the office of general counsel of the procuring governmental entity, provided that any such written complaints shall become a part of the procurement record.

3.2.5. Offerers who have been tentatively awarded a contract and are engaged in communication with a governmental entity solely for the purpose of negotiating the terms of the procurement contract after being notified of tentative award.

3.2.6. Contacts between designated governmental staff of the procuring governmental entity and an offerer to request the review of a procurement contract award.

3.2.7. Contacts by offerers in protests, appeals or other review proceedings (including the apparent successful bidder or proposer and his or her representatives) before the governmental entity conducting the procurement seeking a final administrative determination, or in a subsequent judicial proceeding.

3.2.8. Complaints of alleged improper conduct in a governmental procurement to the attorney general, inspector general, district attorney, or court of competent jurisdiction.

3.2.9. Written protests, appeals or complaints to the state comptroller's office during the process of contract approval, where the state comptroller's approval is required by law, and where such communications and any response thereto are made in writing and shall be entered in the procurement record pursuant to section one hundred sixty-three of the state finance law.

3.2.10. Complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office.

3.2.11. Permissible Contacts are only with the procuring agency unless specifically excepted.

3.3. Impermissible contacts include those that a reasonable person would infer are intended to influence a governmental procurement and occur during the restricted period of a governmental procurement between the offerer and any member, officer or employee of any governmental entity; provided, however, that nothing in this section shall be deemed to prohibit an offerer from communicating with a member of the state legislature or legislative staff about a governmental procurement. Contacting a person or entity other than the designated contact person during the restricted period, when such contact does not fall within one of the exemptions, is also an impermissible contact.

Direct all questions regarding the intent or meaning of the drawings or specifications to the OGS website at:

https://online.ogs.ny.gov/dnc/contractorConsultant/esb/esbplansavailableindex.asp

All responses to appropriate pre-bid inquiries will be communicated via the OGS website. Those inquiries resulting in clarification and or changes to the bid documents will be communicated by Addenda to all persons who have obtained drawings and specifications.

3.4. Pre-bid inquiries answered by means other than Addenda will not be binding.

4. PREPARATION OF BIDS

4.1. Prepare each bid on the official form furnished by the State. ***Enter all amounts in numerals in whole dollar amounts.*** Make no erasures, cross-outs, whiteouts, write-overs, obliterations, or changes of any kind in the Bid Form phraseology, in the entry of unit prices, or anywhere on the Bid Form. Fill in all blank spaces legibly. An illegible entry may disqualify the bid in its entirety. If a mistake is made, use a new Bid Form. No post bid meetings will be afforded to any bidder to explain or clarify illegible or changed entries.

4.2. If the Project Manual contains Section 012300 - Alternates, indicate the amounts to be added to or deducted from the base bid in the spaces provided on the Bid Form. If the Work is to be performed at no change in cost, indicate the word "NONE". Any bid which fails to indicate an amount with the words "ADD" or "DEDUCT" or the word "NONE", for each alternate, will be held to be informal and may be rejected.

4.3. Sign the Bid Form in the space provided. An officer or a principal of a corporation or a partnership signing for the bidder shall print or type the legal name of the person, partnership, or corporation on the line provided and place his/her signature after "SIGN BID HERE". The same procedure shall apply to the bid of joint venture by two or more firms, except that the signature and title of an officer or a principal of each member firm of the joint venture shall be required. All signatures must be original. Mechanically reproduced signatures or copies are not acceptable. Submitted Bid Forms that do not conform to these requirements will be disqualified.

4.4. Mailing Address: Include street address. Addenda sent by other than US Postal Service cannot be delivered to Post Office Boxes.

4.5. Note in the space designated on the Bid Form, the Addenda by numbers and dates, which have been received. If no Addenda have been received, insert the word "NONE".

4.6. All bidders must complete an Offerer Disclosure of Prior Non-Responsibility Determinations, Form DCA-3, and include it with their Bid Form.

4.7. All bids on a multiple trade project or a bid over $200,000 on a single trade project must include the cost of Labor and Material and Performance Bonds. The requirement for Labor and Material and Performance Bonds may be waived on a bid under $200,000 on a single trade project.

5. BID SECURITY INFORMATION

5.1. Bid security is required as a guarantee that the bidder will enter into the Contract and furnish a satisfactory Performance Bond and Labor and Material Bond within the time specified on the Bid Form. Submit bid security in the amount indicated in the Advertisement for Bids in one of the following forms:

5.1.1. Certified check or bank check drawn upon a legally incorporated bank or trust company (payable to the Office of General Services).

5.1.2. Bid Bond on a Design and Construction form to be issued by a Surety licensed in the State of New York.

5.2. Upon submission of a certified check or bank check, the bid security of the successful bidder will be returned (check issued by the NYS Office of the State Comptroller) pending acceptance of the required bonds and the execution of Contract. The second low bidder's bid security will be returned after the low bidder executes the Contract or with the submission of an approved Substitute Bid Bond on the Design and Construction form. The bid security of all other bidders with checks will be returned as soon as possible after the low bidder has been determined.

5.3. Bid Bonds submitted as bid security will not be automatically returned to the Contractor. Firms requesting to have bonds returned may do so in writing provided they are not the first or second low bidder prior to award. Only those requests made in writing, directed to the Bureau of Contract Awards, shall be considered for return.

5.4. Sign the Bid Bond in the space provided. An officer or a principal of a corporation or a partnership signing for the bidder shall print or type the legal name of the person, partnership, or corporation on the line provided and place his/her signature above "Principal". The same procedure shall apply to the bid security of joint venture by two or more firms, except that the signature and title of an officer or a principal of each member firm of the joint venture shall be required. The same procedure shall apply to the signature for the Attorney-in-Fact. All signatures must be original. Mechanically reproduced signatures or copies are not acceptable for either signature. Submitted Bid Security that does not conform to these requirements will be disqualified.

6. SUBMISSION OF BID

6.1. Submit Bid Form, bid security and form DCA-3 – Offerer Disclosure of Prior Non-Responsibility Determinations in a sealed envelope. Use envelope furnished for that purpose by the State. Telephone or telegraph bids will not be accepted.

6.2. All bids must be received before the time specified, and at the place designated for the receipt of bids.

6.3. A late bid will be considered if: (1) its arrival at the place designated after the time specified can be shown by documentary or other proofs to be due to mishandling of the Office of General Services and (2) that absent such mishandling, the bid would have arrived timely. Delays in the mail or any other means of transmittal, including couriers or agents of the State, other than employees of the Office of General Services will not suffice to excuse late arrival.

6.4. A late bid not eligible for consideration will be returned unopened with notification of the reason for its refusal.

7. MODIFICATION OF BID

Bid modifications by amendment will only be considered on condition that: (1) the amendment arrives before the time specified, and at the place designated for receipt of bids, (2) the amendment is in writing and executed by a principal of the bidder firm, and (3) the bid, as amended, conforms in all respects with the Contract Documents.

8. WITHDRAWAL OF BID

8.1. A bid may be withdrawn at any time prior to the time specified for receipt of bids.

8.2. Not more than 5 business days after the bid opening or a scheduled pre-award meeting which ever comes later, a low bidder may request the withdrawal of its bid based on a mistake. The request must be submitted via certified or registered mail to the address to which the bid was directed. The Contracting Officer may conduct or have conducted on his/her behalf a fact-finding proceeding to develop information concerning the request for withdrawal. A request for withdrawal of a bid made after the specified number of days allowed shall result in automatic forfeiture of the bid security.

8.3. Following a timely request for withdrawal of a bid, the bid security will be returned if the bidder establishes by credible evidence, including original documents when requested, the following:

8.3.1. An error, clerical as opposed to judgmental in nature and verifiable by written evidence, occurred in the computation of the bid,

8.3.2. The error constitutes either an unintentional and substantial computational error or an unintentional omission of a substantial quantity of labor and/or material from the final bid computation,

8.3.3. The absence of gross negligence in the preparation of the bid. For the purposes of this subparagraph, gross negligence may include,

i) the apparent failure of a bidder to account for two (2) or more categories (divisions) of work,

ii) the use of multiple erroneous quotations from subcontractors or suppliers,

iii) submission to the Contracting Officer of a bid withdrawal request within the preceding six (6) months.

8.4. If the bidder fails to meet its burden of proof, the request to withdraw without penalty shall be denied and its bid security will be forfeited and become the property of the State. The decision of the Contracting Officer shall be final and conclusive.

8.5. Once a request to withdraw is made, the Bidder is ineligible for award. The Contracting Officer shall continue to progress the award process considering only the remaining bids.

9. DISQUALIFICATION

9.1. Any bid which fails to conform to the requirements of the Bidding and Contract Documents may be rejected.

9.2. The Commissioner may waive any informality or afford the bidder an opportunity to remedy any deficiency resulting from a minor informality or irregularity.

9.3. The State reserves the right to disqualify bidders, before or after bid opening, upon evidence of collusion with third parties or other illegal practices upon the part of the bidder.

9.4. Bidders may review the list of common Bid Informalities and Bid Disqualifications at:

https://online.ogs.ny.gov/dnc/contractorConsultant/esb/informalitylist.asp

10. GOVERNING LAWS AND REGULATIONS ADMINISTERED BY OTHER DEPARTMENTS

10.1. Taxes: All taxes pertaining to the Work must be paid. Address inquiries regarding taxes to the Tax Collecting Agency. For information regarding sales and use taxes contact the Sales Tax Bureau, Department of Taxation and Finance.

10.2. While all applicable laws, rules and regulations of the State of New York are incorporated by reference in this Contract, take special note of the provisions of the Labor Law and Industrial Code Rule 23 relative to the safety of workers and of persons lawfully occupying or using the premises. Address inquiries regarding labor law provisions to the Labor Department.

10.3. Anti-Discrimination Clause: Discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status is prohibited.

11. OPENING OF BIDS

Bids will be opened as announced in the Advertisement for Bids.

12. DETERMINATION OF CONTRACTOR'S RESPONSIBILITY

12.1. The State Public Buildings Law requires that contracts for public work in the State of New York be awarded to the lowest responsible and reliable bidders as will best promote the public interest.

12.2. Each apparent low bidder (for competitively bid contracts of $10,000 or more) and proposed subcontractor (for subcontract work of $10,000 or more) will be required to submit a "New York State Vendor Responsibility Questionnaire For Profit Construction" (Form CCA-2) prior to contract award or subcontractor approval. This will assist the State in determining the responsibility and reliability of the vendor.

The Office of General Services recommends that vendors file the required CCA-2 form online via the New York State VendRep System. Use of this system requires that the vendor have a New York State Vendor Identification Number (Vendor ID). Please note that the Vendor ID is not the Taxpayer ID number.

All bidders are encouraged to obtain a Vendor ID ***in advance of*** the bid opening.

To obtain a Vendor ID, contact the Office of the State Comptroller (OSC) Help Desk at 866-370-4672 or 518-408-4672, or by e-mail at **ciohelpdesk@osc.state.ny.us**.

To enroll in and use the VendRep System, see the **VendRep System Information for Vendors** page at **http://www.osc.state.ny.us./vendrep/info_vrsystem_vendor.htm** or go directly to the VendRep System online at **https://portal.osc.state.ny.us**. For direct VendRep System user assistance, contact the OSC Help Desk; the help desk phone numbers and e-mail address are shown above.

Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website **http://www.osc.state.ny.us/vendrep**, or may telephone the OSC Help Desk.

12.3. After the bids are opened, the apparent low bidder shall complete and file the CCA-2 within five (5) days. Vendors using the online system may certify (or recertify) and file the CCA-2 electronically via the VendRep System (**https://portal.osc.state.ny.us**).

12.4. It is recommended that all bidders become familiar in advance with all of the requirements of the CCA-2. As mentioned in 12.2, all bidders are encouraged to obtain a Vendor ID in advance of the bid opening if they don't currently have one.

12.5. All bidders must submit a completed Offerer Disclosure of Prior Non-Responsibility Determinations (Form DCA-3) along with their Bid Form.

12.6. The determination of responsibility will include a review to ensure the Contractor has not knowingly and willfully violated the provisions of the Procurement Lobby Law or New York State Finance Law §139-j and §139-k.

12.7. New York State Finance Law §139-k (2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations. 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, a Contractor 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.

12.8. As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether a Contractor 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 Contractor 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 time frame.

13. AWARD OF CONTRACT

13.1. The Contract may be awarded to the lowest responsible and reliable bidder as will best promote the public interest.

13.2. If alternates are included in the bidding documents, the State reserves the right to accept or reject any or all alternates. The State shall determine the lowest bid by adding to or deducting, from the Base Bid Amount of the bidders, the additive or deductive alternates, if any, that the State elects to accept after the opening of the bids. Alternates will be accepted in the order they are set forth in the contract documents.

13.3. The State reserves the right to reject any or all bids, and advertise for new bids, if in its opinion the best interest of the State will thereby be promoted. In the event that all bids are rejected, each bidder will be so notified.

13.4. A bidder may withdraw its bid if no award is made within forty-five (45) days after the receipt of bids. A written notice must be submitted via certified or registered mail to the address in Paragraph 3.4 of these Instructions to Bidders prior to approval of the contract by the Comptroller of the State of New York. The notice must clearly state that the withdrawal is based on the fact that the contract was not awarded within 45 days after the receipt of bids.

14. REFUND FOR DRAWINGS AND SPECIFICATIONS

Refunds of deposits for each set of bidding and contract documents obtained will be made as follows:

14.1. Successful Bidder: Refund of full amount of deposit for all sets obtained.

14.2. No refunds of shipping and handling fees will be made.

15. OMNIBUS PROCUREMENT

15.1. 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 (M/WBE's), as bidders, subcontractors and suppliers on its procurement contracts.

15.2. Information on the availability of subcontractors and suppliers for this project may be accessed by first using the following website link:

https://online.ogs.ny.gov/dnc/contractorConsultant/esb/esbplansavailableindex.asp

From this web page, first click on the project number, then on Interested Subcontractors and Suppliers, and follow the prompts. A list of all interested vendors will be provided with their contact information, M/WBE status and construction specialties.

15.3. Other information on minority and women-owned business enterprises, including a directory of M/WBE's, is available from:

NYS Empire State Development
Minority and Women's Business Development Division
30 South Pearl Street
Albany, NY 12245
Telephone: (518) 292-5252
Website: www.esd.ny.gov

16. SURETY BOND

If required, the Contractor shall furnish Performance and Payment Bonds in an amount equal to one hundred percent (100%) of the total Contract price as security for the faithful performance of this Contract, and for the payment of all persons performing labor or furnishing materials in connection with this contract. These bonds are to be executed on the State Comptroller's form and the surety company must be licensed in the State of New York, have a Best Rating of A- or better and appear on the most recent published Department of the Treasury's Listing of Approved Sureties (Department Circular *570*) at the time of filing the bonds.

17. VENDOR PROTEST POLICY

It is the policy of the Office of General Services to provide all vendors, prospective bidders, bidders, suppliers and contractors with an opportunity to resolve complaints or inquiries related to bid solicitations, contract awards, or other associated contract award actions. The Office of General Services encourages vendors to seek resolution of complaints related to bid solicitations, contract awards, or other associated actions through consultation with the agency designated contact(s). All such complaints will be given impartial and timely consideration. Vendors may also file formal written protests. A copy of the Design and Construction Vendor Protest Policy and Procedures may be obtained by contacting the designated contact or by visiting the OGS website at **http://www.ogs.ny.gov**.

18. POLICY ON TIED BIDS

A tie-bid is defined as an instance where bids are received from two or more Bidders who are the low responsive Bidders, and their offers are identical. It is the policy of the Office of General Services to settle the outcome of tie-bids by either drawing a name from a hat or flipping a coin within 24 hours of the bid opening. All affected firms will be notified of the tie, the time and place of the resolution of the tie and shall be invited to witness the outcome. Attendance is not mandatory. The drawing/flip will be held at the Office of General Services, Bureau of Contract Awards, 35th Floor, Corning Tower, Albany, New York. Two impartial witnesses will be provided and shall be present. All attendees will acknowledge the results of the tie-breaker on the bid tabulation sheet. All firms affected by the tied bids will be notified of the results. The results pursuant to this provision shall be considered final.

19. 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 the vendor's bid or renewal.

19.1. Proof of Compliance with Workers' Compensation Coverage Requirements: In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, a contractor shall: (1) obtain such coverage from an insurance carrier; or (2) be a Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan; or (3) be legally exempt from obtaining Workers' Compensation insurance coverage.

An ACORD 25 form is **NOT** acceptable as proof of workers' compensation coverage.

A Contractor seeking to enter into a contract with the State of New York **MUST** provide **ONE** of the following forms to the Office of General Services upon request, prior to award:

19.1.1. 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**, under the heading "Forms"; **OR**

19.1.2. C-105.2 – ***Certificate of Workers' Compensation Insurance*** (the contractor's insurance carrier will send this form to the Office of General Services upon request); contractors insured through the New York State Insurance Fund should use their version of the form, the U-26.3; **OR**

19.1.3. SI-12 – ***Certificate of Workers Compensation Self-Insurance*** (the contractor should call the Workers' Compensation Board's Self-Insurance Office at 518 402-0247), **OR** GSI-105.2 – ***Certificate of Participation in Workers' Compensation Group Self-Insurance*** (the contractor's Group Self-Insurance Administrator will send this form to the Office of General Services upon request).

19.2. 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: (1) obtain such coverage from an insurance carrier; or (2) be a Board-approved self-insured employer; or (3) be legally exempt from obtaining disability benefits coverage.

An ACORD 25 form is NOT acceptable as proof of disability benefits coverage.

A Contractor seeking to enter into a contract with the State of New York **MUST** provide **ONE** of the following forms to the Office of General Services upon request, prior to award:

19.2.1. 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**, under the heading "Forms"; **OR**

19.2.2. DB-120.1 – ***Certificate of Disability Benefits Insurance*** (the contractor's insurance carrier will send this form to the Office of General Services upon request); **OR**

19.2.3. DB-155 – ***Certificate of Disability Benefits Self Insurance*** (the contractor should call the Workers' Compensation Board's Self-Insurance Office at 518 402-0247).

19.3. All of the above-referenced forms, except the CE-200, SI-12 and the DB-155 must show the following as the Entity Requesting Proof of Coverage (entity being listed as the Certificate Holder):

NYS Office of General Services – Design & Construction Group
Division of Contract Administration
35th Floor, Corning Tower, GNARESP
Albany, NY 12242

20. ELECTRONIC CONTRACTOR PAYMENTS (ECP)

20.1. The ECP Program is initiated with an Electronic Contractor Payments (ECP) Certification Form that is forwarded to the contractor with the project agreement and bond forms. This form must be completed, executed and returned with the executed Contract agreement in order for the contractor to participate in the ECP program. The executed ECP Certification Form will remain on file. Note that the certification will apply to this contract and to future ECP-eligible contracts.

20.2. Upon final approval of the contract, an email will be sent to the contractor's designated e-mail address with a hyperlink that will enable the firm to register, using a temporary password, on the OGS Design & Construction Vendor Interface. The temporary password will be sent to the contractor in letter form that is mailed on the same day.

20.3. The OGS Vendor Interface website will provide the ability to view contract information, submit the detailed estimate and payments requests electronically, and communicate with OGS Design & Construction.

21. 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 a Contract or assume the responsibility of a Contract awarded in response to the solicitation, certifies at the time the Contract is renewed or assigned that it or its assignee is not included on the prohibited entities list.

During the term of the Contract, should OGS receive information that a person is in violation of the above-referenced certification, OGS 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 OGS 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.

OGS 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.

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