**ATTACHMENT 05**

**Contractor’s Insurance Requirements**

Proposed Bidders are required to procure at their sole cost and expense policies of insurance as required by this section, and shall maintain in force at all times during the term of any contract resulting from bids, policies of insurance as herein below set forth. All insurance required by this section shall be written by companies that have an A.M. Best Company rating of “A-,” Class “VII” or better.  In addition, companies writing insurance intended to comply with the requirements of this section should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York.  OGS may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company’s strong financial rating. If, during the term of a policy, the carrier’s A.M. Best rating falls below “A-,” Class “VII,” the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above.

The Bidder shall provide proof of compliance with the requirements set forth in this Section for the IFB upon request.

The Bidder shall deliver to OGS evidence of the insurance required by this IFB in a form satisfactory to OGS. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. While acceptance of insurance documentation shall not be unreasonably withheld, conditioned or delayed, acceptance and/or approval by OGS does not, and shall not be construed to, relieve the Bidder of any obligations, responsibilities or liabilities under this Contract.

The Bidder shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the term of the IFB.

1. ***General Conditions Applicable to Insurance.*** All policies of insurance required by this section shall comply with the following requirements:
2. ***Coverage Types and Policy Limits.*** The types of coverage and policy limits required from the Bidder are specified in Section B-*Insurance Requirements.*
3. ***Policy Forms.*** Except as otherwise specifically provided herein, or agreed to in the IFB, all policies of insurance required by this section shall be written on an occurrence basis.
4. ***Certificate of Insurance/Notices.*** The Bidder shall provide OGS with a Certificate or Certificates of Insurance, in a form satisfactory to OGS (e.g., an ACORD certificate), after renewal or upon request. Certificates shall reference the Contract number and shall name the New York State Office of General Services, Procurement Services, Empire State Plaza, Corning Tower, 38th Floor, Albany, New York, 12242 as the certificate holder.

Certificates of Insurance shall:

* Be in the form acceptable to OGS and in accordance with the New York State Insurance Law (e.g., an ACORD Certificate);
* Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this IFB;
* Refer to this IFB by number and any contract resulting from the IFB by number and any other attachments on the face of the certificate;
* Be signed by an authorized representative of the referenced insurance carriers; and
* Contain the following language in the Description of Operations / Locations / Vehicles section: The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees are included as an additional insured on endorsement CG 20 10 11 85 (or endorsements that provide equivalent coverage, such as the combination of CG 20 10 04 13 (covering ongoing operations) and CG 20 37 04 13 (covering completed operations)), and General liability coverage is provided on the current edition of Commercial General Liability Coverage Form CG 00 01 (or a form that provides equivalent coverage).  Additional insured protection afforded is on a primary and non-contributory basis.  A waiver of subrogation is granted in favor of the additional insureds.

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

OGS generally requires Bidders to submit only certificates of insurance and additional insured endorsements; although, OGS reserves the right to request other proof of insurance. Bidders are requested to refrain from submitting entire insurance policies, unless specifically requested by OGS.  If an entire insurance policy is submitted but not requested, OGS shall not be obligated to review and shall not be chargeable with knowledge of its contents.  In addition, submission of an entire insurance policy not requested by OGS does not constitute proof of compliance with the insurance requirements and does not discharge Bidder from submitting the requested insurance documentation.

1. ***Primary Coverage.*** All insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. Any other insurance maintained by the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees shall be excess of and shall not contribute with the Bidder’s insurance.
2. ***Breach for Lack of Proof of Coverage.*** The failure to comply with the requirements of this section at any time during the term of the Contract, resulting from the IFB, shall be considered a breach of the terms of the Contract and shall allow the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees to avail themselves of all remedies available under the Contract or at law or in equity.
3. ***Self-Insured Retention/Deductibles.*** Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above $100,000.00 are subject to approval from OGS. Such approval shall not be unreasonably withheld, conditioned or delayed. The Contractor shall be solely responsible for all claim expenses and loss payments with the deductibles or self-insured retentions. If the Contractor is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.
4. ***Subcontractors.*** Prior to the commencement of any work by a subcontractor, the and any contract resulting from the IFB by number and any other attachments on the face of the Bidder shall require such subcontractor to procure policies of insurance as required by this section and maintain the same in force during the term of any work performed by that subcontractor.
5. ***Waiver of Subrogation.*** For the Commercial General Liability Insurance and Comprehensive Business Automobile Liability Insurance required below, the Bidder shall cause to be included in each of its policies a waiver of the insurer’s right to recovery or subrogation against the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. A Waiver of Subrogation Endorsement evidencing such coverage shall be provided to OGS upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.
6. ***Additional Insured.*** For the Commercial General Liability Insurance and Comprehensive Business Automobile Liability Insurance required below, the Bidder shall cause to be included in each of its policies ISO form CG 20 10 11 85 (or a form or forms that provide equivalent coverage, such as the combination of CG 20 10 04 13 and CG 20 37 04 13) and form CA 20 48 10 13 (or a form or forms that provide equivalent coverage) naming as additional insureds: The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to OGS after renewal and/or upon request. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Bidder who are self-insured, Bidder shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Comprehensive Business Automobile Liability, in the same manner that Contractor would have been required to pursuant to this section had Bidder obtained such insurance policies.

*As clarification, “The People of the State of New York” means the State of New York and its subsidiary governmental entities. This is the name in which the State, as a governmental entity, enters into contracts, takes title to property, and initiates legal actions. Using the term “People” does not mean that the insurer is insuring all residents of New York State; rather, it means that the State government is being insured.*

1. ***Excess/Umbrella Liability Policies.*** Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided after renewal and/or upon request.
2. ***Notice of Cancellation or Non-Renewal.*** Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) business days of receipt of any notice of cancellation or non-renewal of insurance, the Bidder shall provide OGS with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this I.
3. ***Policy Renewal/Expiration*.** Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this IFB shall be delivered to OGS. If, at any time during the term of this IFB, the coverage IFB,, or proof thereof is not provided to OGS, the Bidder shall immediately cease work. The Bidder shall not resume work until authorized to do so by OGS.
4. ***Deadlines for Providing Insurance Documents after Renewal or Upon Request.*** As set forth herein, certain insurance documents must be provided to the OGS Procurement Services contact identified in the IFB Award Notice after renewal or upon request. This requirement means that the Bidder shall provide the applicable insurance document to OGS as soon as possible but in no event later than the following time periods:

* For certificates of insurance: 5 business days
* For information on self-insurance or self-retention programs: 15 calendar days
* For additional insured and waiver of subrogation endorsements: 30 calendar days
* For schedules of forms and endorsements and all forms and endorsements: 60 calendar days

Notwithstanding the foregoing, if the Bidder shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to OGS, OGS shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 calendar days.

1. ***Insurance Requirements:*** Throughout the term of the Contract, resulting from this IFB, the Bidder 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 IFB, or as required by law, whichever is greater.

#### Commercial General Liability Insurance: Commercial General Liability Insurance with a limit of not less than $2,000,000 each occurrence. Such liability shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from bodily injury, 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.

* General Aggregate $2,000,000
* Products – Completed Operations Aggregate $2,000,000
* Personal and Advertising Injury $1,000,000
* Each Occurrence $2,000,000
* Damage to Rented Premises $50,000
* Medical Expenses $5,000

Aggregate limits shall apply on a per location basis, or as otherwise agreed to in the IFB. This aggregate limit applies separately to each location at which the insured works.

Coverage shall include, but not be limited to, the following:

* Premises liability;
* Independent contractors;
* Blanket contractual liability, including tort liability of another assumed in any Contract resulting from this Solicitation;
* Defense and/or indemnification obligations, including obligations assumed under this Contract;
* Cross liability for additional insureds; and
* Explosion, collapse and underground hazards.

1. ***Comprehensive Business Automobile Liability Insurance*** covering liability arising out of any automobile used in connection with performance under the Contract resulting from the IFB, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles 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 each accident. The limits may be provided through a combination of primary and umbrella liability policies.

In the event that the Bidder does not own, lease or hire any automobiles used in connection with performance under the Contract resulting from the IFB, the Bidder does not need to obtain Comprehensive Business Automobile Liability Insurance, butmust attest to the fact that the Bidder does not own, lease or hire any automobiles used in connection with performance under the Contract resulting from this IFB on a form provided by OGS. If, however, during the term of the Contract resulting from this IFB, the Bidder acquires, leases or hires any automobiles that will be used in connection with performance under the Contract resulting from this IFB, the Bidder must obtain Comprehensive Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to OGS in accordance with the insurance requirements of the Contract resulting from this IFB.

In the event that the Bidder does not own or lease any automobiles used in connection with performance under the Contract resulting from this IFB, but the Bidder does hire and/or utilize non-owned automobiles in connection with performance under the Contract resulting from this IFB, the Bidder must: (i) obtain Comprehensive Business Automobile Liability Insurance as required by the Contract resulting from this IFB, except that such insurance may be limited to liability arising out of hired and/or non-owned automobiles, as applicable; and (ii) attest to the fact that the Bidder does not own or lease any automobiles used in connection with performance under the Contract resulting from this IFB, on a form provided by OGS. If, however, during the term of the Contract resulting from this IFB, the Bidder acquires or leases any automobiles that will be used in connection with performance under the Contract resulting from this IFB, the Bidder must obtain Comprehensive Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to OGS in accordance with the insurance requirements of the Contract resulting from this IFB.

# *Workers’ Compensation Insurance & Disability Benefits Coverage:* Sections 57 and 220 of the New York State Workers’ Compensation Law require the heads of all municipal and state entities to ensure that businesses applying for contracts have appropriate workers’ compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals. Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of any contract renewal. Proof of workers’ compensation and disability benefits coverage, or proof of exemption must be submitted to OGS at the time of policy renewal, contract renewal and upon request. Proof of compliance must be submitted on one of the following forms designated by the New York State Workers’ Compensation Board. An ACORD form is not acceptable proof of New York State workers’ compensation or disability benefits insurance coverage.

Proof of Compliance with the Workers’ Compensation Coverage Requirements:

* 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);
* Form C-105.2 (9/07), *Certificate of Workers’ Compensation Insurance*, sent to OGS by the Contractor’s insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to OGS upon request from the Contractor; or
* Form SI-12, *Certificate of Workers’ Compensation Self-Insurance*, available from the New York State Workers’ Compensation Board’s Self-Insurance Office, or Form GSI-105.2, *Certificate of Participation in Workers’ Compensation Group Self-Insurance*, available from the Contractor’s Group Self-Insurance Administrator.

Proof of Compliance with the Disability Benefits Coverage Requirements:

* 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](http://www.wcb.ny.gov));
* Form DB-120.1, *Certificate of Disability Benefits Insurance*, sent to OGS by the Contractor’s insurance carrier upon request; or
* Form DB-155, *Certificate of Disability Benefits Self-Insurance*, available from the New York State Workers’ Compensation Board’s Self-Insurance Office.

An instruction manual clarifying the New York State Workers’ Compensation Law requirements is available for download at the New York State Workers’ Compensation Board’s website, <http://www.wcb.ny.gov>. Once on the site, click on the Employers/Businesses tab and then click on Employers’ Handbook.