



**Office of
General Services**

**Procurement
Services**

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**AGREEMENT FOR
ADMINISTRATIVE SERVICES (STATEWIDE)
BY AND BETWEEN
THE NEW YORK STATE OFFICE OF GENERAL SERVICES
AND**

[REDACTED]

CONTRACT NUMBER **[REDACTED]**

THIS CONTRACT (hereinafter “Contract” or “Centralized Contract”) for the acquisition of Administrative Services (Temporary Personnel) is made between the People of the State of New York, acting by and through the Commissioner of the Office of General Services (hereinafter “State” or “OGS”) whose principal place of business is the 41st Floor, Corning Tower, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242, pursuant to authority granted under New York State Finance Law §163, and [REDACTED] (hereinafter “Contractor”), with its principal place of business at [REDACTED]. The foregoing are collectively referred to as the “Parties” or each individually as a “Party.”

WHEREAS, OGS issued Solicitation #23057 (the “Solicitation”) seeking proposals from qualified and experienced bidders with the capability to provide Administrative Services (Temporary Personnel), as set forth in the Solicitation, to Authorized Users of OGS Centralized Contracts; and

WHEREAS, OGS provided notification of the availability of the Solicitation by placing a notice in the April 26, 2017 edition of the New York State Contract Reporter; and

WHEREAS, the Solicitation set forth the minimum qualifications and requirements that a bidder was required to meet to be eligible for consideration to receive an award; and

WHEREAS, the Solicitation was structured with 11 Lots, and the Solicitation was divided into 10 separate Regions; and

WHEREAS, awards were made to all response and responsible bidders meeting all requirements of the Solicitation and offering reasonable not-to-exceed pricing as determined by the State; and

WHEREAS, the Centralized Contract requires that the Authorized User issue a competitive Request for Quote (RFQ) to be distributed to all eligible Contractors in the applicable Lot and Region, in accordance with the Procurement Instructions specified herein; and

WHEREAS, the State has determined that the Contractor submitted a responsive proposal which met the Solicitation requirements for one or more Lots and Regions; and

WHEREAS, the State has determined that the Contractor’s not-to-exceed pricing is reasonable; and

WHEREAS, Contractor agrees to the terms and conditions set forth in this Centralized Contract and the Contractor is willing to provide the services as set forth herein to Authorized Users.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the Parties hereby agree as follows:

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1 Introduction

1.1 Overview

This Contract is awarded and executed by the New York State Office of General Services (OGS), a New York State (NYS) agency authorized by law to issue Centralized Contracts for use by NYS Agencies and other Authorized Users, as defined by State Finance Law § 163(1)(k). This Contract establishes multiple-award Backdrop Centralized Contracts to provide Administrative Services as further specified herein.

The prices included in this Contract are maximum-not-to-exceed rates that may not change during the life of the Contract, including all extensions. The actual prices proposed to be charged for providing Administrative Services (Temporary Personnel) will be determined by Contractors in response to a detailed Request for Quote (RFQ), identifying the specific needs of an Authorized User relative to qualifications of the temporary personnel being requested.

All Backdrop Contracts have an established set of standardized terms and conditions, guidelines, processes and templates. When an Authorized User needs temporary personnel, they will issue a competitive RFQ in accordance with the Contract terms, the Procurement Instructions specified herein and Attachment 15 – How to Use. The RFQ will include any additional requirements of the positions sought to be filled. The RFQ will be distributed by the Authorized User to all Contractors for the applicable Lot and Region where the work is to be performed. It is in response to the RFQ where the Contractors shall submit the actual proposed prices to be charged. The Authorized User will then either use their NYS Procurement Card (PCard) to obtain temporary personnel, or issue a Purchase Order to the selected Contractor based on the RFQ responses. Procurement Instructions further describing the RFQ process and requirements for Authorized Users to purchase from the Centralized Backdrop Contracts are found in Section 3.3, *Procurement Instructions*.

This Contract establishes the terms and conditions governing the provision of Administrative Services by Contractor to Authorized Users.

1.2 Scope

This Contract includes the following 11 Lots. A description of each Lot and the occupations or job titles included in each Lot can be found in Attachment 10 – Job Descriptions and Qualifications.

1. Lot 1 – “Office Worker Occupations”
2. Lot 2 – “Hearing Reporter Services”
3. Lot 3 – “Transcription Services”
4. Lot 4 – “Financial Occupations”
5. Lot 5 – “Miscellaneous Occupations”
6. Lot 6 – “Translation and Interpretation Services”
7. Lot 7 – “General Health Occupations”
8. Lot 8 – “Physicians and Nurses”
9. Lot 9 – “Dental Services”
10. Lot 10 – “Psychiatric and Psychology Services”
11. Lot 11 – “Light Industrial Occupations”

1.3 Exclusions

For purposes of this Contract, Desktop Publishing is excluded from the Scope. OGS reserves the right to make other exclusions during the term of the Contract in accordance with Section 3.6, *Exclusions*.

1.4 Regions

This Contract includes Ten (10) Labor Market Regions, as established by the NYS Department of Labor and identified in the table below.

| | | |
|-----------|------------------|--|
| Region 1 | Capital Region | Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren, and Washington Counties |
| Region 2 | Central New York | Cayuga, Cortland, Madison, Onondaga and Oswego Counties |
| Region 3 | Finger Lakes | Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates Counties |
| Region 4 | Hudson Valley | Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester Counties |
| Region 5 | Long Island | Nassau and Suffolk Counties |
| Region 6 | Mohawk Valley | Fulton, Herkimer, Montgomery, Oneida, Otsego and Schoharie Counties |
| Region 7 | New York City | Bronx, Kings, New York, Queens and Richmond Counties |
| Region 8 | North Country | Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis and St. Lawrence Counties |
| Region 9 | Southern Tier | Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga and Tompkins Counties |
| Region 10 | Western New York | Allegany, Cattaraugus, Chautauqua, Erie and Niagara Counties |

1.5 Estimated Quantities

This Contract is an Indefinite Delivery, Indefinite Quantity (IDIQ) Contract. No specific quantities are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor must provide the services actually ordered by Authorized Users during the Contract period. There is no anticipated dollar value of the award for this Contract. The individual value of each Contract is indeterminate and will depend upon the number of contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the services and pricing that best meet their needs in the most practical and economic manner. See Appendix B, *Estimated/Specific Quantity Contracts and Participation in Centralized Contracts*.

1.6 Definitions

The terms used in this Contract shall be defined in accordance with Appendix B, *Definitions*. In addition, the following definitions shall apply:

“**Authorized User(s)**” As defined in Appendix B.

“Best Value” shall mean the basis for awarding a contract for services to the Bidder which best optimizes quality, cost and efficiency among Responsive and Responsible Bidders. See State Finance Law § 163(1)(j). Best value may be equated to low price in response to an RFQ.

“Bidder” shall refer to any business entity who submits a response to a Solicitation. At the time that a Bidder executes a Contract with the State for their services, a Bidder shall become a “Contractor.” See also “Contractor.” “Bidder” may also refer to any Contractor who submits a response to an RFQ under the Backdrop Centralized Contract.

“Candidate” shall refer to an individual proposed by a Contractor in response to a Request for Quote from an Authorized User. Upon completion of background check, determination of suitability by the Authorized User, and acceptance by Authorized User, a Candidate will become Temporary Personnel. Also see “Temporary Personnel” and “Contractor.”

“Change Order and Change Notice” shall refer to any issuance of changes made to an originally issued purchase order or purchase made via the New York State Procurement Card (PCard).

“Consecutive Interpretation” shall mean that the interpreter is physically present in the room and translates short utterances, normally a sentence or two at a time. Usually bi-directional between two languages.

“Contract” as defined in Appendix B.

“Contractor” shall refer to a responsive and responsible Bidder who is working under an executed contract with New York State. Contractor is a general term

“Delivery” within Lot 2 – Hearing Reporting and Lot 3 – Transcription shall constitute an original transcript arriving at the Authorized User’s designated location.

“Dialect” shall mean regional or class variations of a given language.

“Interpretation” shall mean oral translation, either in Simultaneous and/or Consecutive time, for parties conversing in different languages. For the purpose of this Solicitation it will mean on an as needed, if needed basis. Interpretation Services shall be provided in-person, over the phone, and/or by remote video.

“Interpreter” shall mean a person who conveys the meaning, tone, and intention of what is expressed from one language into another.

“Lateness” shall be defined as late arrival of the Temporary Personnel to a scheduled engagement; also referred to as “late.”

“Lot” shall mean that organization of job titles within a specified category of service.

“Master File” shall mean an electronic file maintained by Contractor for each Candidate. The Master File must include for each Candidate a resume (except for Lots 2, 3, 6 and 11 unless requested by an Authorized User), qualifications, certifications, licenses, and background checks (except for Lots 2, 3, 6 and 11 unless requested by an Authorized User).

“May” denotes the permissive in a contract clause or specification. “May” does not mean “required.” Also see “Shall” and “Must.”

“Must” denotes the imperative in a contract clause or specification. “Must” is synonymous with “required.” Also see “Shall” and “May.”

“n/a” is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.

“NYS Holidays” refers to the legal holidays for State employees in the classified service of the executive branch, as more particularly specified on the website of the NYS Department of Civil Service. This includes the following: New Year’s Day; Martin Luther King Day; Washington’s Birthday (observed); Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran’s Day; Thanksgiving Day; and Christmas Day.

“NYS Vendor ID” is a ten-character identifier issued by New York State when a vendor is registered on the Vendor File.

“Overtime Pay” shall mean the additional payment to the Temporary Personnel above the hourly wage paid. Time and a half shall be paid above the pay rate for time worked above 40 hours in a single week for Authorized User regardless of time of day, day of the week or holidays. This requirement applies to Lots 1, 4, 5, 7, 8, 9, 10 and for the in-person translation titles contained in Lot 6 (Consecutive Interpreters, Simultaneous Interpreters and American Sign Language). There shall be no overtime for the non-location-specific titles in Lot 6 (Translation – Over the Phone and Written translation) as these services are billed by the minute and the word respectively. There shall be no overtime for Lots 2 and 3 as these services are billed by the page. Overtime Pay for Lot 11 – Light Industrial is determined by the relevant prevailing wage which the engagement is subject to. Any overtime allowed shall be at the sole discretion of the Authorized User.

“Over the Phone Interpretation” shall mean telecommunication service that uses devices such as telephones to provide consecutive interpretation, but in some cases, if the technology is available, may be simultaneous.

“Prevailing Wage Rate” shall mean that part of the requirements of Article 8 (Sections 220-223) and Article 9 (Sections 230-239) of the New York State Labor Law, which requires public work Contractors and subcontractors to pay laborers, workers or mechanics employed in the performance of a public work contract not less than the prevailing rate of wage and to provide supplements (fringe benefits) in accordance with prevailing practices in the locality where the work is performed. Prevailing wage requirements for this Solicitation are contained herein. This term only applies to Lot 11 – Light Industrial titles.

“Procurement Services shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such contracts.

“Region” shall mean the grouping of counties by the State as set forth in Section 1.3.

“Request for Quote” shall refer to the document issued by the Authorized User and used to solicit price quotations for specific services or candidates.

“Shall” denotes the imperative in a contract clause or specification. “Shall” is synonymous with “required.” Also see “Must” and “May.”

“Simultaneous Interpretation” shall mean real time interpreting. The interpreter speaks at the same time as the speaker, usually in a conference or meeting. The interpreter listens to one language and speaks in another. The voices overlap as they are speaking at the same time.

“Solicitation” shall refer to this document, and its appendices and attachments.

“Source Language” shall mean the language in which a document is written prior to translation.

“Standard Language” shall mean a language variety used by a group of people in their public discourse. Standard languages commonly feature: A recognized dictionary (standardized spelling and vocabulary); and a linguistic institution defining usage norms (e.g., Académie Française or the Royal Spanish Academy).

“Suitability” refers to the Authorized User’s review of identifiable character traits and past conduct which are reasonably sufficient to indicate whether a given individual is or is not likely to be able to perform the requirements of a contract without undue risk to the interests of the Authorized User.

“Suitability determination” is a determination by the Authorized User that there are reasonable grounds to believe that a given individual will likely be able to perform the job title requirements without undue risk to the interests of the Authorized User.

“Target Language” shall mean the language into which a document is translated from the source language.

“Temporary Personnel (Temp)” shall refer generically to any individual provided by a Contractor in response to a RFQ issued by an Authorized User and who is hired for the service requested. A Temp can be a direct Temp, a subcontractor or an agent. Also see “Candidate.”

“Translation” shall mean the act or process of converting written words from one language into their complete, accurate, and intended meaning in another language.

“Video Remote Interpretation (VRI)” shall mean a video-telecommunication service that uses devices such as web cameras or videophones to provide spoken language and sign language interpreting services.

“0 (Zero)” is both a number and the numerical digit used to represent that number in numerals. It is the integer immediately preceding 1 (one).

2 Contract Information

2.1 Centralized Contract Term

This Contract will be in effect for an initial term of three (3) years. The Contract term shall commence after all necessary approvals and shall become effective upon mailing or electronic communication of the final executed documents to Contractor (see Appendix B, *Contract Creation/Execution*).

If mutually agreed between OGS and the Contractor(s), the Contract may be renewed under the same terms and conditions for up to an additional 24 months.

2.2 Appendices and Attachments

The following appendices and attachments, attached hereto, are hereby expressly made a part of this Contract as fully as if set forth at length herein:

Appendix A – Standard Clauses for NYS Contracts (January 2014)
Appendix B – General Specifications (April 2016)
Appendix C – Contract Modification Procedure

Attachment 1 – Pricing
Attachment 4 – Insurance Requirements
Attachment 5 – Bidder Information Questionnaire
Attachment 8 – Report of Contract Usage
Attachment 10 – Job Descriptions and Qualifications
Attachment 11 – Background Check Requirements
Attachment 12 – Request for Quote Forms – Lots 1, 4, 5, 7, 8, 9, 10, 11
Attachment 13 – Request for Quote Form – Lots 2 and 3
Attachment 14 – Request for Quote Form – Lot 6
Attachment 15 – How to Use

2.3 Order of Precedence/Conflict of Terms

In the case of any conflict or inconsistency among the elements of this Contract, such conflict or inconsistency shall be resolved by giving precedence to the documents in the following order:

1. Appendix A – Standard Clauses for New York State Contracts (January 2014);
2. The Centralized Contract (this document);
3. Appendix B – General Specifications (April 2016)
4. Appendix C – Contract Modification Procedure
5. Attachment 1 – Pricing
6. Attachment 4 – Insurance Requirements
7. Attachment 5 – Bidder Information Questionnaire
8. Attachment 8 – Report of Contract Usage
9. Attachment 10 – Job Descriptions and Qualifications
10. Attachment 11 – Background Check Requirements
11. Attachment 12 – Request for Quote Forms – Lots 1, 4, 5, 7, 8, 9, 10, 11
12. Attachment 13 – Request for Quote Form – Lots 2 and 3

13. Attachment 14 – Request for Quote Form – Lot 6
14. Attachment 15 – How to Use

2.4 Short Term Extension

In the event a replacement contract has not been issued, this Contract may be extended unilaterally by the State for an additional period of up to three months upon notice to the Contractor, with the same terms and conditions as the original contract, including but not limited to, quantities (prorated for such extension), prices and delivery requirements. Any such extension terminates upon award of a replacement contract.

3 Centralized Contract Terms and Conditions

The terms and conditions set forth in this section are expressly incorporated in and applicable to the Centralized Contract and all purchases by Authorized Users under the Centralized Contract.

3.1 Appendix A

Appendix A, Standard Clauses for New York State Contracts, dated January 2014, attached hereto, is hereby incorporated in, and expressly made a part of, this Contract as fully as if set forth at length herein.

3.2 Appendix B

Appendix B, Office of General Services General Specifications, dated April 2016, attached hereto, is hereby incorporated in, and expressly made a part of this Contract as fully as if set forth at length herein.

3.3 Procurement Instructions

Authorized Users shall first check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law §162, which requires that agencies afford first priority to the services of Preferred Source suppliers such as the New York State Preferred Source Program for People who are Blind and NYS Industries for the Disabled, when such services meet the form, function and utility of the Authorized User and the price offered is within 15% of prevailing market prices. If a preferred source does not meet an Authorized User's form, function and utility or the preferred source price is more than 15% above prevailing market prices, then the Authorize User may use this Contract.

Authorized Users must use the Request for Quote (RFQ) Process, as the rates included in the Contracts are Maximum-not-to-exceed rates. The Authorized User's RFQ is a competitive procurement, based on the development of a specific need in accordance with the contractual terms.

An Authorized User shall review the list of Lots and Regions to determine the applicable Lot and Region for the required service. In addition, the Authorized user will identify in the RFQ any special requirements such as evening or night shifts, work inside a secure facility, specialized training or experience, etc. For Lots 2, 3, 6 and 11, where background checks are not automatically required, the Authorized User shall inform the Contractor at this time if a background check will be necessary. Authorized Users must request quotes, and may request resumes, from each Contractor listed within the applicable Lot/Region for the Title(s) they are seeking. The Authorized User must send the RFQ, using the generic email address listed within the Award, to each of the Contractors within the applicable Lot/Region. If the Contractor was not awarded the specific Title within a Lot, the Contractor is not eligible to respond to the RFQ and no response is needed. A standard RFQ Form for each specific Lot (Attachment 12 – Request for Quote Forms – Lots 1, 4, 5, 7, 8, 9, 10, 11, Attachment 13 – Request for Quote Form – Lots 2 and 3 and

Attachment 14 – Request for Quote Form – Lot 6), must be used and will be available on the OGS Contract Award page.

For all titles, with the exception of Hearing Reporter Services, Transcription Services and Translation and Interpretation Services, where on-demand services may be requested, a minimum of two (2) business days should be given for Contractors to respond to the RFQ or resume requests. The Authorized User will determine the amount of time needed for responses, beyond the two (2) day minimum, by taking into consideration the title(s) and complexity of needs. A minimum of three (3) quotes must be received by the due date and time in order for the Authorized User to proceed. In some Lot/Regions, where the total number of available Contractors may be less than three, this requirement will be waived. Authorized Users are not required to reach out to Contractors that did not respond to the RFQ to find out why they did not respond, unless the minimum number of quotes have not been received. In the event three (3) quotes have not been received by the due date and time provided, where required, Authorized Users must then reissue their request, and may want to consider modifying it, to be more detailed or to address the reasons which may have prevented Contractors from responding to the initial RFQ. In all cases, Authorized Users must document the basis for their selection under the RFQ for the procurement record.

RFQ's should be as detailed as possible, and, at a minimum, contain the following:

- a. Region
- b. Lot
- c. Job title(s)
- d. Location
- e. Duration (not to exceed 24 months)
- f. Hours (start and stop times, and whether overtime is anticipated)
- g. Days of the week requested
- h. Shift
- i. Estimated Start date
- j. Additional specifications, qualifications, experience or skill levels
- k. Authorized User information
- l. Order priority (normal – 7 days, priority – 3 days, overnight – next day, immediate – same day)
- m. Response date and time
- n. Other information and requirements necessary for the particular engagement

Authorized Users must maintain a record of the Contractors they send an RFQ to. It is highly recommended the Authorized User save both an electronic copy, and print-out of their email for the RFQ sent to all Contractors in the applicable Lot and Region for inclusion in their procurement record and submission to the OGS Business Services Center (BSC), should a listing be requested.

Contractor's quotes should be responsive to each of the Authorized User's requirements and contain both a competitive bill rate and a competitive overtime bill rate, if the Authorized User indicates in the RFQ that overtime is needed or anticipated.

Selection of the winning Contractor will be based on a best-value determination considering the Authorized User's needs and Contractors lowest price. Best value can be equated to low price by the Authorized User. The RFQ will result in an Authorized User either issuing a Purchase Order or providing their PCard information to the selected Contractor for Administrative Services. Each Authorized User Purchase Order or PCard transaction for services will be governed first by the terms and conditions specified in the OGS Centralized Contract and second by any terms and conditions added to the Authorized User's RFQ. See Appendix B, Section 26, *Modification of Contract terms*.

A separate RFQ must be used for each different title requested. For example, if requesting the temporary services of a Nurse and an Executive Secretary, the Authorized User must use two separate RFQ's.

Authorized Users should include as much information as possible to allow Contractors to provide complete and appropriate quotes and/or resumes by the due date and time provided. For example, if requesting the temporary services of a Nurse, the Authorized User should include the shift (day, night, weekend, etc.), the level of experience, the type of facility where services are needed (correctional facility, elementary school, etc.) and any other pertinent information, such as the potential for overtime. The Authorized User may include additional requirements, such as security requirements, advanced degrees, federal funding requirements, familiarity with NYS-specific terms, confidentiality requirements, such as no work being performed offshore, shorter time frames for responding to urgent RFQs, electronic timekeeping, specific certifications, the need for travel, etc.

If an Authorized User is requesting more than one candidate at a time for the same title, the Authorized User may utilize more than one Contractor per quote. For example, if the Authorized User is requesting five nurses, and a single Contractor is only able to provide three, the Authorized User may select the remaining two from another Contractor's quote to fulfill their requirements. There is no limit to the number of Contractors that may be selected in order to satisfy an Authorized User's requirements; however, the cost for each must be considered and if all other requirements are equal, low cost shall be the determining factor.

An Authorized User shall issue a Purchase Order, initiate a PCard transaction or other written order for work to the winning Contractor, which is effective and binding on the Contractor at time of order in accordance with Appendix B, *Purchase Orders*. The Purchase Order shall contain the total exact or estimated cost, if an exact cost cannot be determined at that time. A Contractor shall not initiate services until the Purchase Order or PCard transaction is issued, and an Authorized User shall not request performance of services until the Purchase Order or PCard transaction has been issued. Purchase Orders and PCard transactions may be issued for up to a two-year period (24 months) so long as the Purchase Order or PCard transaction is issued within the term of the Backdrop Centralized Contract. A Purchase Order that goes beyond the end of a fiscal year for a State agency will require a change notice to be implemented in the Statewide Financial System to authorize payments after the end of the prior fiscal year. Change notices are also allowed for up to two (2) years, upon both parties agreement. Blanket Purchase Orders may be used for either an exact, or an estimated amount of hours at a set rate for a certain time period, specific to a Lot, Region and Title.

All NYS Procurement Guidelines must be followed and the Authorized User's procurement record should clearly show why one Contractor was chosen over another. Pursuant to State Finance Law § 163(10)(c), at the time of purchase, Authorized Users must base their selection among multiple Contracts upon which is the most practical and economical alternative that is in the best interests of the State.

Contractor questions, clarifications, and/or disputes arising from an Authorized User's RFQ and/or Contractor selection are to be reviewed and resolved by the Authorized User and the Contractor, and not by NYS OGS.

Suitability Determination Guidelines

In making a suitability determination, the Authorized User shall consider the information obtained through the background check for the following factors and evaluate them against the work to be performed, the performance location, and the degree of risk to its organization in accordance with NYS Correction Law

§752:

- a) Any loyalty or terrorism issue;
- b) Patterns of conduct (e.g., alcoholism/drug addiction, financial irresponsibility/major liabilities, dishonesty, non-employability for negligence or misconduct, criminal conduct);
- c) Dishonorable military discharge;
- d) Felony and misdemeanor offenses;
- e) Drug manufacturing/trafficking/sale;
- f) Major honesty issue (e.g., extortion, armed robbery, embezzlement, perjury);
- g) Criminal sexual misconduct;
- h) Serious violent behavior (e.g., rape, aggravated assault, arson, child abuse, manslaughter);
- i) Illegal use of firearms/explosives;
- j) Employment related misconduct involving dishonesty, criminal or violent behavior; and
- k) Misrepresentation of information including educational and professional background, legal status or valid licensure.

The Authorized User shall evaluate any adverse information about a Candidate by considering the following factors before making a suitability determination:

- a) The nature, extent and seriousness of the conduct;
- b) The circumstances surrounding the conduct;
- c) The frequency and recent timeframe of the conduct;
- d) The individual's age and maturity at the time of the conduct;
- e) The presence or absence of rehabilitation and other pertinent behavior changes;
- f) The potential for pressure, coercion, exploitation, or duress;
- g) The likelihood of continuation of the conduct;
- h) How, and if, the conduct bears upon potential job responsibilities; and
- i) The Temp's employment history before and after the conduct.

A negative suitability determination must be supported by a finding that the adverse information has a direct bearing on the potential job duties or that it is deemed sufficiently serious to bar the Candidate from a governmental site. The Authorized User should consult with its legal counsel regarding any questions on the suitability determination.

3.4 Method of Payment

Invoicing and payment shall be made in accordance with the terms set forth in Appendix B, *Contract Invoicing*.

In addition, Contractor agrees to accept the NYS Procurement Card (PCard), or other electronic forms of payment by Authorized Users, for any work performed under the Contract.

3.5 Price

All Contract pricing for each Lot shall be Maximum Not-to-exceed (NTE) rates. Contractor's NTE pricing is set forth in Attachment 1 – Pricing. Contract pricing shall include compliance with all service requirements specified in the Contract and any additional requirements set forth in an Authorized User's RFQ, except for Background Checks and Overtime payments. When applicable, Background checks may be charged at the fixed rates indicated in Attachment 1 – Pricing. Contractor's NTE pricing for Overtime rates are also included in Attachment 1 – Pricing.

Only at the time a Contractor responds to an RFQ issued by an Authorized User will the actual, competitive bill rate, and a competitive Overtime rate, if requested, be submitted by Contractor. Rates quoted in response to an RFQ shall at all times be equal to or less than the Contractor's awarded Maximum NTE rates included in Attachment 1 – Pricing. Requests to increase Maximum NTE rates will not be allowed at any time during the Contract term or any extensions. Any and all additional costs, which may be incurred post award, are the sole responsibility of the Contractor.

This is a "Full Service" Contract. For purposes of this Contract, "Full Service" shall mean that the Contractor's price includes all costs of providing Temporary Personnel, including but not necessarily limited to: all administrative requirements; all other additional costs such as necessary financial reports; all reporting or other requirements; all overhead costs, and profit. It shall also include all parking fees, and any other ancillary fees and costs including permits, licenses, insurance, etc., and any services not explicitly stated in these specifications, but necessarily attendant thereto or as requested by Authorized Users in their RFQs.

3.6 Exclusions

OGS reserves the right to exclude, before or after award, any of the services and/or titles included in the Contractor's offering. Notice of such exclusion shall be provided to the Contractor by OGS.

3.7 Price Adjustments

All Contract pricing shall be Maximum Not-to-exceed (NTE) rates. Increases to this pricing will not be allowed at any time during the Contract term, or any extension. However, Contractors are encouraged and expected to provide lower than their Maximum NTE rates in response to the RFQs issued by the Authorized Users during the Contract term.

3.8 Authorized User Reserved Rights

The Authorized User shall have all of the following reserved rights:

1. Reject any or all quotes received in response to the RFQ;
2. Withdraw the RFQ at any time at the sole discretion of the Authorized User;
3. Make an award under the RFQ in whole or in part;
4. Disqualify any Bidder whose conduct and/or Bid fails to conform to the requirements of the RFQ;
5. Seek clarifications and revisions of the RFQ response;
6. Amend the RFQ prior to the Bid opening to correct errors or oversights, or to supply additional information as it becomes available;
7. Direct Bidders, prior to the Bid opening, to submit Bid modifications addressing subsequent RFQ amendments;
8. Change any of the RFQ schedule dates;
9. Eliminate any mandatory, non-material requirements that cannot be complied with by all of the prospective Bidders or all of the prospective Bidders in a particular Lot and Region;
10. Waive any requirements that are not material;
11. Utilize any and all ideas submitted in the Bids received;
12. Adopt all or any part of a Bidder's Bid in selecting the optimum configuration;
13. Negotiate with a Bidder within the RFQ requirements to serve the best interests of the State. This includes requesting clarifications of any or all Bids;
14. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's Bid and/or to determine a Bidder's compliance with the requirements of the RFQ;
15. Select and award the RFQ to other than the selected Bidder in the event of unsuccessful negotiations or in other specified circumstances as detailed in the RFQ;

16. Accept and consider for RFQ award Bids with non-material Bid Deviations or non-material Bid defects such as errors, technicalities, irregularities, or omissions;
17. Use any information which the Authorized User obtains or receives from any source and determines relevant, in the Authorized User's sole discretion, for the purposes of bid evaluation and Contractor selection;
18. Consider a proper alternative where an evidently incorrect reference, parameter, component, product, model, or code number is stated by the Authorized User or the Bidder;
19. Reject an obviously unbalanced Bid as determined by the Authorized User;
20. Conduct RFQ negotiations with the next responsible Bidder, should the Authorized User be unsuccessful in negotiating with the selected Bidder;
21. Make no award for any Product, Region, or Lot, as applicable, for reasons including, but not limited to, unbalanced, unrealistic or excessive Bidder pricing, a change in Authorized User requirements and/or Products, or an error in the RFQ (e.g., use of incorrect reference, pack size, description, etc.). In such case, evaluation and ranking of Bids may be made on the remaining Products, Regions, or Lots;
22. Offer a Bidder the opportunity to provide supplemental information or clarify its Bid, including the opportunity to explain or justify the balance, realism, and/or reasonableness of its pricing;
23. Make awards in phases, if deemed necessary
24. For all Lots: The Authorized User reserves the right to request and select the level of personnel for the task to be performed, previous experience, skill levels, or qualifications necessary as well as to stipulate the length of time that such personnel will be retained. These requirements will be set forth in the RFQ;
25. The Authorized User reserves the right to add requirements to the RFQ and resulting Authorized User Agreement that are more advantageous than the terms and conditions established within the Contract;
26. The Authorized User reserves the right to require the Contractor to identify any sub-contractors, and to approve such sub-contractors;
27. The Authorized User reserves the right to request the Contractor's insurance policy language for purposes of substantiating compliance with Attachment 4 - *Insurance Requirements*, or such other Insurance Requirements, as required by the Authorized User as part of an RFQ;
28. Conduct Contract negotiations with the next responsible Contractor responding to an RFQ, should the Authorized User be unsuccessful in negotiating with the selected Contractor, and
29. After issuing a Purchase Order or PCard transaction to a Contractor in response to an RFQ, should that Contractor be unable to fulfill the terms of the engagement, an Authorized User may issue a Purchase Order or PCard transaction to another Contractor who responded to the original RFQ, if the Contractor is willing to provide the requested Temps at the price previously quoted by the original Contractor.

Additional terms and conditions may be allowed as part of Contractor's response to an Authorized User's RFQ and incorporated into the Authorized User Agreement provided that all of the following conditions are met:

- A. The Contractor identifies such terms and conditions in Contractor's response to the Authorized User's RFQ; and
- B. Such terms and conditions do not contradict or violate any of the terms and conditions of the Contract, and/or are more advantageous to the Authorized User and the State than those set forth in the Contract; and
- C. Such terms place no additional liability or responsibility on the Authorized User or the State; and
- D. The Authorized User acknowledges in writing that it accepts such additional terms and conditions.

3.9 Centralized Contract Modifications

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take

the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix C, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix C, Contract Modification Procedure.

The form contained within Appendix C is subject to change at the sole discretion of OGS. Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, Modification of Contract Terms.

3.10 New York State Financial System (SFS)

New York State is currently operating on an Enterprise Resource Planning (ERP) system, Oracle PeopleSoft software, referred to as the Statewide Financial System (SFS). SFS is currently on PeopleSoft Financials version 9.2. SFS supports requisition-to-payment processing and financial management functions.

The State is also implementing an eProcurement application that supports the requisitioning process for State Agencies to procure Products in SFS. This application provides catalog capabilities. Contractors with Centralized Contracts have the ability to provide a "hosted" or "punch-out" catalog that integrates with SFS and is available to Authorized Users via a centralized eMarketplace website. Additional information may be found at: <https://nyspro.orgs.ny.gov/content/nys-emarketplace-1>

There are no fees required for a Contractor's participation in the catalog site development or management. Upon completion and activation of an online catalog, State Agencies will process their orders through the SFS functionality and other Authorized Users can access the catalog site to fulfill orders directly.

The State is also implementing the PeopleSoft Inventory module in the near future to track inventory items within the item master table. Further information regarding business processes, interfaces, and file layouts may be found at: www.sfs.ny.gov and at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>

3.11 Contract Administrator

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Information regarding the Contract Administrator shall be set forth on the Contractor Information Page. Contractor must notify OGS within five (5) Business Days if its Contract Administrator changes, and provide either the new administrator's name and contact information, or an interim contact person until the position is filled. Changes to Contractor contact information, including the designation of a new Contract Administrator, shall be submitted electronically via e-mail to the OGS Contract Management Specialist in charge of administration of the Award and subsequent Contract(s).

In addition, Contractor must provide a generic electronic mailbox for use by Authorized Users when issuing RFQs. The electronic mailbox must be monitored consistently throughout each business day in order to provide timely responses to Authorized Users' requests. Any changes to the generic electronic mailbox must be provided within one (1) business day to the Contract Manager listed on the Contract Award Notification page.

3.12 Insurance Requirements

The Contractor shall procure, at its sole cost and expense and shall maintain in full force at all times during the terms of the Contract, all policies of insurance pursuant to the requirements outlined in Attachment 4 – *Insurance Requirements*.

3.13 Report of Contract Usage

The Contractor shall furnish quarterly reports, using the format specified in Attachment 8 – Report of Contract Usage, containing total sales for both State Agency and Authorized non-State Agency Contract purchases, no later than forty-five (45) days after the close of each calendar quarter. For example, sales for January 1st through March 31st would be due by May 15th. Reports of Contract Usage are to be submitted to OGS Procurement Services, to the attention of the Contract Administrator, as shown on the front page of the Contract Award Notification document posted on the OGS website. Attachment 8 – Report of Contract Usage template must be used, the report must be completed in its entirety and submitted in MS Excel format only (incomplete, altered, locked, pdf. or hard copy submissions will not be accepted). OGS Procurement reserves the right to request additional information if needed. Additional related sales and/or detailed Authorized User purchase information may be required by OGS and must be supplied within 30 calendar days, upon request.

3.14 Company and Contact Information

Changes regarding the Contractor's company and/or contact information should be submitted no later than five (5) business days of the change to the OGS Contract Administrator.

3.15 Contractor Requirements and Procedures for MWBE Participation

New York State Law

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ("NYCRR"), the New York State Office of General Services ("OGS") is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-Owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS Contracts.

General Provisions

A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State Contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for MWBEs. Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, State, or local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, breach of Contract, withholding of funds, suspension or termination of the Contract, and/or such other actions or enforcement proceedings as allowed by the Contract and applicable law.

Equal Employment Opportunity (EEO)

A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to all Contractors, and any subcontractors, awarded a subcontract over \$25,000 for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting State agency (the “Work”) except where the Work is for the beneficial use of the Contractor.

1. Contractor and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) the performance of work or the provision of services or any other activity that is unrelated, separate, or distinct from the Contract; or (ii) employment outside New York State.

2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor’s equal employment opportunity policy. In addition, Contractor agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A.

B. Form EEO 100 – Staffing Plan - To ensure compliance with this section, the Contractor agrees to submit, or has submitted with the Bid, a staffing plan on Form EEO 100 to OGS to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.

C. Form EEO - 101 - Workforce Utilization Reporting Form (Commodities and Services) (“Form EEO-101-Commodities and Services”).

1. The Contractor shall submit, and shall require each of its subcontractors to submit, a Form EEO-101-Commodities and Services to OGS to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Form EEO-101-Commodities and Services must be submitted electronically to OGS at

EEO_CentCon@ogs.ny.gov on a quarterly basis during the term of the Contract by the 10th day of April, July, October, and January.

2. Separate forms shall be completed by Contractor and all subcontractors.

3. In limited instances, the Contractor or subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's or subcontractor's total workforce, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided is the Contractor's or subcontractor's total workforce during the subject time frame, not limited to work specifically performed under the Contract.

D. Contractor shall comply with the provisions of the Human Rights Law and all other State and federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal and conviction and prior arrest.

Contract Goals

A. For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers, or suppliers to Contractor. Contractor is, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=2528>. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women's Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract. Please Note: Authorized Users may establish MWBE goals in the RFQ.

Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include, but not be limited to, the following:

1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.

2. A list of the certified MWBEs appearing in the Empire State Development ("ESD") MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.

3. Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.

4. A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.

5. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.

6. Other information deemed relevant to the request.

Fraud

Any suspicion of fraud, waste, or abuse involving the contracting or certification of MWBEs shall be immediately reported to ESD's Division of Minority and Women's Business Development at (855) 373-4692.

ALL FORMS ARE AVAILABLE AT: <http://www.ogs.ny.gov/MWBE/Forms.asp>

3.16 Participation Opportunities for SDVOBs

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. Please Note: Authorized Users may establish SDVOB goals in the RFQ. The directory of New York State Certified SDVOBs can be viewed at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf

Bidder/Contractor is encouraged to contact the Division of Service-Disabled Veteran's Business Development at 518-474-2015 to discuss methods of maximizing participation by SDVOBs on the Contract.

ALL FORMS ARE AVAILABLE AT:

<https://www.ogs.ny.gov/Core/SDVOBA.asp? sm au =iVVjF227tLtF4JJH>

3.17 New York State Vendor Responsibility

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or his or her designee to be non-responsible. In such event, the Commissioner of OGS or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

3.18 New York State Tax Law Section 5-a

Section 5-a of the Tax Law, requires certain Contractors awarded State Contracts for commodities, services and technology valued at more than \$100,000 to certify to the NYS Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

A Vendor is required to file the completed and notarized Form ST-220-CA with OGS certifying that the Vendor filed the ST-220-TD with the NYS Department of Taxation and Finance (DTF). Please note that the NYS Department of Taxation and Finance should receive the completed Form ST-220-TD, not OGS. OGS should only receive the Form ST-220-CA. Proposed Contractors should complete and return the certification forms within five (5) business days of request (if the forms are not completed and returned with Vendor Submission). Failure to make either of these filings may render a Vendor non-responsive and non-responsible. Each Vendor shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Website links to the Contractor certification forms and instructions are provided below. Form No. ST-220-TD must be filed with and returned directly to DTF and can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the Contractor, its affiliate(s), or its subcontractor(s), a new Form No. ST-220-TD must be filed with DTF.

Form ST-220-CA must be submitted to OGS. This form provides the required certification that the Contractor filed the ST-220-TD with DTF. This form can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf.

Vendors may call DTF at 518-485-2889 for any and all questions relating to §5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF web site: <http://www.tax.ny.gov>.

3.19 Drugs and Alcohol Use Prohibited

For reasons of safety and public policy, the use of alcoholic beverages or illegal drugs by the Contractor's personnel shall not be permitted in performance of this Contract.

3.20 Traffic Infractions

Neither the State nor Authorized Users will be liable for any expense incurred by the Contractor's personnel for any parking fees or as a consequence of any traffic infraction or parking violation attributable to employees of the Contractor in performance of the Contract.

3.21 Overlapping Contract Items

Products/services available under this Contract may also be available from other New York State Contracts. Authorized Users will be advised to select the most cost effective procurement alternative that meets their program requirements, and to maintain a procurement record documenting the basis for this selection.

3.22 Non-State Agencies Participation in Centralized Contracts

New York State political subdivisions and others authorized by New York State law may participate in Centralized Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B, *Participation in Centralized Contracts*. For Purchase Orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have delivery locations adjacent to New York State), the terms of the Price clause shall be modified to include delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. A list of categories of eligible entities is available on the OGS web site (<https://www.ogs.ny.gov/purchase/snt/othersuse.asp>). Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to NYS Procurement Services Customer Services at 518-474-6717.

3.23 Extension of Use

This Contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate if such State normally allows participation by such entities. New York State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions. Please contact NYS Procurement Services Customer Services for more information via email at: OGS.sm.customer.services@ogs.ny.gov

3.24 Consultant Disclosure Law

Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning Contract Employees working under State Agency service and consulting Contracts. State Agency consultant Contracts are defined as "Contracts entered into by a state Agency for *analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services*" ("covered consultant Contract" or "covered consultant services"). The amendments also require that certain Contract Employee information be provided to the state Agency awarding such Contracts, OSC,

DOB and CS. The effective date of these amendments was June 19, 2006. The requirements will apply to the covered Contracts awarded on and after such date. To meet these requirements, the Contractor agrees to complete:

- A. Form A - Contractor's Planned Employment Form**, if required. Note: State Agencies are required to furnish this information but may require a Contractor to submit the information.
- B. Form B - Contractor's Annual Employment Report.** Throughout the term of the Contract by May 15th of each year the Contractor agrees to report the following information to the State Agency awarding the Contract, or if the Contractor has provided Contract Employees pursuant to an OGS centralized Contract, such report must be made to the State Agency purchasing from such Contract. For each covered consultant Contract in effect at any time between the preceding April 1st through March 31st fiscal year or for the period of time such Contract was in effect during such prior State fiscal year Contractor reports the:
1. Total number of Employees employed to provide the consultant services, by employment category.
 2. Total number of hours worked by such Employees.
 3. Total compensation paid to all Employees that performed consultant services under such Contract.*

***NOTE:** The information to be reported is applicable only to those Employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to Employees of Subcontractors who perform any part of the service Contract or any part of the covered consultant Contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an Employee in a clerical, support, organizational or other administrative capacity.

Contractor agrees to simultaneously report such information to The Department of Civil Service (CS) and OSC as designated below:

Department of Civil Service
Alfred E. Smith State Office Building
Albany, NY 12239

Office of the State Comptroller
Bureau of Contracts
110 State St., 11th Floor
Albany, New York
Attn: Consultant Reporting
Fax: (518) 474-8030 or (518) 473-8808

Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual Employee names or social security numbers are set forth on a document, the State Agency making such disclosure is obligated to redact both the name and social security number prior to disclosure. Further information is available in Section XI.18.C of the Office of the State Comptroller's Guide to Financial Operations (<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>), "Consultant Disclosure Legislation."

INSTRUCTIONS FOR COMPLETING FORM A AND B

Form A and Form B should be completed for Contracts for consulting services in accordance with Section XI.18.C of the Office of the State Comptroller's Guide to Financial Operations (<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>), "Consultant Disclosure Legislation," and the following:

- A. Form A - Contractor's Planned Employment Form** (available from and submitted to the using Agency, if necessary.) (Form AC-3271-S: <http://www.osc.state.ny.us/agencies/forms/index.htm>)
- B. Form B - Contractor's Annual Employment Report** (to be completed by May 15th of each year for each consultant Contract in effect at any time between the preceding April 1st through March 31st fiscal year and submitted to the CS, OSC and procuring Agency.) (Form AC-3272-S: <http://www.osc.state.ny.us/agencies/forms/index.htm>)

Scope of Contract: choose a general classification of the single category that best fits the predominate nature of the services provided under the Contract.

Employment Category: enter the specific occupation(s), as listed in the O*NET occupational classification system, which best describes the Employees providing services under the Contract.

(Note: Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

Number of Employees: enter the total number of Employees in the employment category employed to provide services under the Contract during the report period, including part time Employees and Employees of subcontractors.

Number of Hours: enter the total number of hours worked during the report period by the Employees in the employment category.

Amount Payable under the Contract: enter the total amount paid by the State to the State Contractor under the Contract, for work by the Employees in the employment category, for services provided during the report period.

3.25 Federal Funding

For an Authorized User using Federal funds, Contractor shall cooperate in adding to the Authorized User's Agreement any Federal funding contract clauses necessary for the Authorized User's Project. An Authorized User shall identify to Contractor, as a condition of using this Contract and during the RFQ process, whether Federal funds will be utilized for the engagement.

3.26 Contract Advertising

In addition to the requirements set forth in Appendix B, *Advertising Results*, any Contractor press or media releases, advertisements, or promotional literature, regardless of the medium, referring to an awarded Contract must be reviewed and approved by OGS prior to issuance. Contractor also cannot use, for any purpose, the New York State of Opportunity registered trademark or the State coat of arms without prior approval from the State.

3.27 Americans With Disabilities Act (ADA)

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Contractors are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

Although it is not mandatory for Contractor to have this equipment, it is necessary to identify any such equipment offered by Contractor which falls into the above category.

4 Service Requirements

4.1 Lot Specific Requirements (Lots 2, 3 and 6)

Any notice or communication by any Party to the other required or permitted hereunder shall be in writing and shall be deemed duly served as of (a) the date it is delivered by hand or by fax (with appropriate acknowledgement of receipt), (b) three business days after having been mailed by certified mail, postage prepaid, return receipt requested, or (c) the next business day after having been sent for delivery on the next business day, shipping prepaid, by a nationally recognized overnight courier, in each case to the receiving Party and addressed to the designated contact at the address identified on page 2 of this Contract or at such other address as a Party may designate by written notice to the other Party sent in the manner set forth herein.

4.2 Lot 2 – Hearing Reporter Services

Unless otherwise required by the Authorized User in the RFQ, the following requirements shall apply:

Proceedings are to be stenographically or electronically recorded and transcribed as specified by the Authorized User.

The Contractor shall furnish all labor and materials required to provide proceeding, session or meeting reporting at Authorized User designated locations within the region of the Contract. Unless otherwise required by an Authorized User in the RFQ, a Hearing Reporter shall be at the scheduled proceeding, session, or meeting a minimum of ten (10) minutes prior to start time, and expected to stay until told they are able to leave.

More than three late arrivals or early departures in a one month period by the same Hearing Reporter, from the same Contractor, provided to the same Authorized User, may result in that Hearing Reporter being disqualified from serving that Authorized User.

If more than fifteen (15) percent of transcripts are returned late in any calendar month for a specific Authorized User, the Authorized User may arrange to have transcription work completed by another Contractor and the Contractor having returned the transcripts late shall be liable for any additional costs incurred over Contract costs as noted in Appendix B – Remedies for Breach.

Completion Requirements

Completion requirements will be agreed upon by the Authorized User and Contractor at the time of job scheduling and can only be changed with the consent of both parties.

A. Normal Completion:

The Contractor shall deliver transcripts to the Authorized User within seven (7) business days after the recorded proceeding, excluding Saturday, Sunday, and New York State designated holidays. Additional copies of public hearing proceeding transcripts shall be delivered to all ordering parties within seven (7) business days after purchase order from the ordering parties is received by the Contractor, excluding Saturday, Sunday, and New York State designated holidays.

B. Priority Completion:

The Contractor shall deliver to the Authorized User transcripts, electronically or in hard copy, as specified by the Authorized User, within three (3) business days after the recorded proceeding, excluding Saturday, Sunday, and New York State designated holidays. Additional copies of public hearing proceeding transcript shall be delivered to all ordering parties within three (3) business days

after a purchase order for those additional copies is received by the Contractor, excluding Saturday, Sunday, and New York State designated holidays.

C. Overnight Completion:

The Contractor shall deliver transcripts to the Authorized User no later than 1:00 p.m. on the business day following the proceeding. Additional copies of proceeding transcripts shall be delivered to all ordering parties no later than 1:00 p.m. on the business day after receipt of a purchase order by the Contractor.

D. Immediate Completion:

The Contractor shall deliver transcripts no later than 9:00 p.m. on the date of the proceeding. Additional copies of public hearing proceeding transcripts shall be delivered to all ordering parties no later than 9:00 p.m. on date of the receipt of the purchase order by the Contractor.

E. Proceeding Cancellation:

The Authorized User shall provide the Contractor with a minimum of 24 (twenty-four) hours written notice of cancellation of any proceeding. In the event of proceeding cancellation without specific notification, the Contractor shall be entitled to minimum payment as noted below.

Minimum Fees

Contractor shall be entitled to a minimum payment equal to the value of 20 pages at the normal delivery rate (i.e., applies per hearing scheduled or per facility visit). Contractor will not receive payment for wait time. If the Temp appears for the hearing and it has been cancelled, the Contractor will be entitled to the minimum fees as stated above (i.e., applies per hearing scheduled or per facility visit).

Late Completion Payment Reductions

The following payment reductions shall be assessed by an Authorized User for late completion of transcription work:

One day late: Ten (10) percent per page rate reduction.

Two to five days late: Fifteen (15) percent per page rate reduction.

More than five days late: Thirty (30) percent per page rate reduction.

Recording Requirements

All instructions by the Hearing Officer to the Hearing Reporter with respect to the Hearing Reporter's conduct and participation in proceedings shall be followed without discussion. Except where inconsistent with general or specific instructions issued by the Authorized User, every word spoken during a proceeding, session or meeting shall be transcribed by the Hearing Reporter, unless designated specifically as "off the record" by the Hearing Officer. With specific permission of the Hearing Officer, certain "off the record" statements may be recorded.

Instructions from anyone other than the Hearing Officer, concerning what shall or shall not be included in the record, shall be ignored.

The Contractor shall furnish transcript proofread with all words correctly spelled, properly hyphenated and properly punctuated. Any corrections to spelling, hyphenation or punctuation requested by the Hearing Officer shall be made without additional cost.

All original notes or other records taken in connection with any proceeding shall be held in security by the contractor for a period of time as designated by the Authorized User, not to exceed one year.

Proceedings are to be stenographically or electronically recorded and transcribed. Backup electronic verbal recording equipment shall be operating at all times while proceedings are being reported, unless prohibited by the Hearing Officer.

Stenographic recording shall be mechanical or electronic keyboard-operated typing devices, and shall meet the requirements of the State Administrative Procedure Act.

Transcribed Page Requirements

Paper: Shall be white 20 LB cotton bond, 8-1/2 inches wide by 11 inches long or Authorized User may designate recycled content paper with the same specifications as noted above. Either paper shall be furnished at no additional cost.

Type: Shall be black, ten letters to the inch size and reproducible by standard office copy equipment.

Type Spacing: Shall be 25 lines minimum double spaced between lines with ruled margin of 3/8 inch on right and 1-3/4 inches on left or not to exceed 2-1/8 inches in total.

Punches: Paper shall be un-punched unless designated by the Authorized User as punched, with punch specifications. There will be no additional charge for punched paper.

Format: All transcripts shall be formatted as noted below: If Authorized User format requirements deviate from below, the Authorized User shall furnish Contractor with a sample format.

All pages shall be paginated in consecutive order for each proceeding report and sequential from the first to the last volume. Page numbers shall be located in the upper right hand corner of each page. Pagination will not be considered a transcribed line unless located on a line with other transcribed material.

At the opening of each proceeding and as directed by the Hearing Officer, the Hearing Reporter shall record and insert, in a location as directed by the Authorized User, the names and addresses of persons representing parties and participants in the proceeding.

When directed by the Hearing Officer, after an extended recess, the Hearing Reporter shall place in the appropriate place in the transcript on the days preceding the cumulative list of appearances up to and including that day.

Each transcript for a proceeding shall include a table of contents or index indicating page numbers of opening statements and closing arguments by counsel, lists of witnesses testifying at the hearing and all persons making statements. The table of contents or index shall also include a tabulation consisting of the number and description of each exhibit marked for identification with the page number on which the exhibit is marked for identification, and in due course, the page on which it is either received in evidence, withdrawn or rejected. The index shall also include separate tabulations consisting of a description of each document offered in reference, public documents and matters to be officially noted, and the page on which each item or document was marked for identification or received in evidence. The table of contents or index shall note the page where offers of proof were made and such other matters as the presiding officer directs.

Upon Authorized User's request, the Contractor shall have rubber stamps manufactured, per Authorized User facsimile sample, to be used by the Hearing Reporter to stamp and date exhibits and

copies as directed by the hearing officer for repetitive hearing requirements. Stamps will be provided at the expense of the Contractor.

The Contractor shall retain, safeguard or distribute, per instructions from the Hearing Officer, all exhibits. Additionally, the Contractor shall cause the Hearing Reporter to collect appearance cards from all persons appearing on behalf of themselves or others. Hearing cards shall contain information as designated by the Hearing Officer, and the Contractor shall file all cards with the Authorized User at the close of the hearing day.

Electronic Mailing of Transcription

An electronic version of each transcript shall be electronically mailed to the Authorized User as an encrypted message, with encrypted document attached in addition to a hard copy if requested by the Authorized User.

The file shall be computer readable identical copy of original printed transcript including pagination, 100 percent equivalent upper/lower case text and matching page and line numbers in the same sequential order

Confidentiality Requirements

The Authorized User will communicate to the Hearing Reporter if a hearing has been designated closed. All recorded and hard copy testimony and material will remain the property of the Authorized User. The Contractor shall maintain the confidentiality of all material, identity of any parties and content of any material related to the hearing.

Any requests for information on closed hearings from third parties shall be reported to the Authorized User in writing within twenty four hours of the request.

All original notes or other records taken in connection with any proceeding shall be held in security by the Contractor for a period of time as designated by the Authorized User, not to exceed one year.

Public Hearing (as designated by the Authorized User)

The Authorized User, or any other purchaser of transcript or document of any hearing, investigation, session, meeting, etc., may duplicate or otherwise reproduce any document for their own use, except for sale to other prospective purchasers, without compensation to the Contractor. Any transcript or documents received by the Authorized User are public documents accessible for public inspection and copying under the terms and provisions of NYS Public Officers Law §87.

Recording Medium

All transcripts shall be typewritten or mechanical reproduced if approved in writing by the Authorized User.

Transcript in Electronic Format

The Contractor shall furnish portable electronic media in addition to paper document original. Price additional shall include cost of such electronic media.

The electronic media shall be computer readable identical copy of original printed transcript including pagination, 100 percent equivalent upper/lower case text and matching page and line numbers in the same sequential order.

Each copy of electronic media shall be clearly labeled per Authorized User instructions supplied with the purchase order and computer file identification shall be per Authorized User requirements.

Format shall be ASCII, or generic word processing ASCII.

4.3 Lot 3 – Transcription Services

Unless otherwise required by the Authorized User in the RFQ, the following requirements shall apply:

The Contractor shall furnish all labor and materials required to transcribe judicial, administrative, and criminal proceedings, including meetings, from audio cassettes, tapes, digital files, CD-Rom or other media to transcribed copy on media specified by Authorized User.

Transcript shall be in verbatim form, proofread with all words spelled correctly, properly punctuated and hyphenated and grammatically correct. Any corrections to spelling, hyphenation, or punctuation requested by Authorized User shall be made without additional cost.

Work Pick Up and Delivery

After notification by the Authorized User, the material to be transcribed will be sent via postal mail, overnight, hand delivery, or other agreed-upon method by the Authorized User to the Contractor. Alternately, the Contractor shall take delivery of audio cassettes, tapes, digital files, CD-Rom or other media at the Authorized User's designated location and times or as specified by the Authorized User.

Completed transcripts shall be sent via electronic mail, within designated times.

An electronic version of each transcript shall be electronically mailed to the Authorized User as an encrypted message, with encrypted document attached.

The file shall be computer readable identical copy of original printed transcript including pagination, 100 percent equivalent upper/lower case text and matching page and line numbers in the same sequential order

Transcription Completion Requirements

A. Normal Completion:

Work completion and delivery shall be required in seven (7) business days excluding Saturday, Sunday and New York State designated holidays.

B. Priority Completion:

Work completion and delivery shall be required in three (3) business days excluding Saturday, Sunday, and New York State designated holidays. The first business day shall commence on the first business day after work pick-up; and work completion shall be after delivery to the Authorized User by close of business on the third business day.

C. Overnight Completion:

The Contractor shall deliver transcripts to the Authorized User no later than 1:00 p.m. on the business day following the proceeding. Additional copies of proceeding transcripts shall be delivered via electronic mail to all ordering parties no later than 1:00 p.m. on the business day after receipt of purchase order by the Contractor for those additional copies.

D. Immediate Completion:

The Contractor shall deliver transcripts no later than 9:00 p.m. on the date of the proceeding. Additional copies of public hearing proceeding transcripts shall be delivered to all ordering parties no later than 9:00 p.m. on date of the receipt of the purchase order by the Contractor for those additional copies.

Late Completion Payment Reductions

The following payment reductions shall be assessed by an Authorized User for late completion of transcription work:

- One day Late: Ten (10) percent per page rate reduction.
- Two to five days late: Fifteen (15) percent per page rate reduction.
- More than five days late: Thirty (30) percent per page rate reduction

If more than fifteen (15) percent of transcripts are returned late in any calendar month for a specific Authorized User, the Authorized User may arrange to have transcription work completed by another Contractor and the Contractor having returned the transcripts late shall be liable for any additional costs incurred over Contract costs as noted in Appendix B – Remedies for Breach.

Transcription Requirements

A Contractor is obligated to provide Transcription Services in a professional manner. The Contractor shall transcribe verbatim all audible portions of the recorded proceeding. If any inaudible portions are encountered, the Contractor shall re-play the inaudible portions and if portions are still inaudible, the Contractor shall identify in the transcription the section as inaudible, and identify the length in minutes and seconds.

Recording Medium

Contractor shall have equipment to transcribe from audio cassettes, tapes, digital files, CD-Rom or other media.

Transcription in Diskette or CD-ROM Format

The Contractor shall furnish computer diskette, CD-Rom or other media in addition to paper document original.

The diskette shall be computer readable identical copy of original printed transcript including pagination, 100 percent equivalent upper/lower case text and matching page and line numbers in the same sequential order.

Each diskette or CD shall be clearly labeled on outside of cassette or CD per Authorized User instructions supplied with the purchase order and computer file identification shall be per Authorized User requirements.

Format shall be ASCII, or generic word processing ASCII.

4.4 Lot 6 – Translation and Interpretation Services

Unless otherwise required by the Authorized User in the RFQ, the following requirements shall apply:

Contractor shall recommend qualified Interpreter(s) for any and all languages requested by the Authorized User within the timeframe on the RFQ. Contractor shall have the ability to provide translation, proofing, and editing of documents by technically qualified and experienced translators, and output in the

required media format (i.e., hardcopy or electronic) requested by the Authorized User within the time noted on the RFQ.

Translation Services Requirements – Written Translation

The Contractor shall provide translation, proofing, and editing of documentation by technically qualified and experienced translators, and output in the media format requested by the Authorized User (i.e., hardcopy or electronic). Translator(s) must:

- Be experienced and possess an advanced command of the source and target language;
- Have excellent knowledge of accents and regional language variations;
- Have ability to translate with a high standard of accuracy, and in a culturally competent manner;
- Respect precedent and established terminology (when it exists); and
- Be able to work under pressure and meet tight deadlines.

If requested by the Authorized User, the Contractor must be able to provide documentation as to how accuracy is ensured and a quality product delivered.

The Translator shall translate documents in a culturally sensitive manner and at the same reading level as the source material. If requested by Authorized User, translation may be required to be written in a specific regional or class dialect.

The Contractor shall provide comprehensive support services to Authorized Users by providing project management, consultation and deliverables. Required field of expertise includes, but is not limited to, the translation of technical, political, scientific, business, legal and medical documents, manuals and audio in multilingual translations that are accurate, clear and are culturally and politically sensitive to the social environment of the target reader/audience. The translation must be formatted to match the original version. A template may be provided by the Authorized User (in English) for conversion to requested language. Bidder must be able to provide services in languages that include other characters such as Chinese, Japanese, and Cyrillic alphabet characters. Accuracy and consistency is critical in the published work. The document shall be translated within the Authorized User's designated timeframe, in a format specified by the Authorized User, and delivered, via email, over a secure server or provided on CD or other electronic media, as specified by the Authorized User.

A single translator shall be used to complete each document to ensure continuity and consistency in terminology. In the event that an order is exceptionally large and requires the work of more than one translator, it is acceptable for multiple translators to work on the order, but each individual document of the order shall be assigned to a single translator.

Services may be performed at any location mutually agreed to by the Contractor and the Authorized User. The Authorized User shall determine the format and specific requirements for the written translations. Every major language has regional and class variations, which must be correctly included in the translation for accuracy. Completion time and estimated total cost based on the number of words and the speed of translation will be agreed upon between the Authorized User and the Contractor prior to each assignment. The Authorized User is not obligated to request a guaranteed minimum total number of words for translation services over the course of the contract.

The Authorized User reserves the right to perform a quality review on translated documents. The results of those reviews shall be shared with the Contractor and shall form the basis for any further steps, as agreed upon, to remedy any deficiency in quality that may be determined by such reviews.

Contractor will be paid for any performance completed by the translator at the agreed upon rate for the following:

- Any assignment canceled by the Authorized User prior to completion by the translator, provided the translator was performing within the stated parameters of the assignment;
- Any assignment modified by the Authorized User prior to completion by the translator;
- Other unusual circumstances approved by the Authorized User.

Interpretation Services Requirements (ASL, Consecutive, Simultaneous)

Interpreter(s) must:

- Be experienced and possess an advanced command of the English language and an additional language(s);
- Have an excellent comprehension of accents and regional language variations;
- Convey interpreted communication effectively, accurately, impartially, and in a culturally competent manner;
- Maintain any and all required certifications and qualifications requested by the Authorized User throughout the duration of the contract;
- Be particularly knowledgeable about how common interpreting errors (e.g., omission, addition, condensation, substitution, role exchange, and question type) can impact the quality of interpretation;
- Have the ability to work effectively with people of different national, linguistic, and cultural backgrounds, with sensitivity and respect for diversity;
- Maintain appropriate boundaries and professional behaviors at all times during an interpretation session; and
- Be able to work under pressure and meet tight deadlines.

Interpretation Services Requirements – Over the Phone

The Contractor shall provide interpretation services, over the phone, on a twenty-four (24) hour, seven (7) day a week basis, three-hundred-sixty-five (365) days a year for all languages requested by the Authorized User. The Authorized User will specify, in writing, if services are needed on-demand or by appointment, including the language requirement, dates and times, and any required certifications or accreditation necessary. Interpretation services may be performed on any phone line mutually agreed to by the Contractor and the Authorized User. When placing calls it is recommended that interpreters call from a line with good reception and an area free of background noise.

Interpretation Services Requirements – Video Remote Interpreters (VRI)

The Contractor shall provide interpretation services, over the phone, on a twenty-four (24) hour, seven (7) day a week basis, three-hundred-sixty-five (365) days a year for all languages requested by the Authorized User. Authorized User will specify, in writing, if services are needed on demand or by appointment including the language requirement, dates and times and any required certifications or accreditation necessary.

The Contractor shall provide VRI services and VRI software/website access on an on-demand basis and shall utilize a secured encryption or other functionally equivalent secured technology, (i.e., using Transport Layer Security (TLS) and/or Secure Sockets Layer (SSL)). The Contractor shall provide timely updates and maintenance to the VRI application (i.e., bug fixes, security fixes, and general enhancements), as applicable, at no additional cost. The Contractor must notify the Authorized User, via email, within one (1) business day of any security vulnerability discovered that affects the VRI software application. The VRI service is expected to utilize existing broadband and wireless connections. Contractor's VRI service must operate, minimally, on a 512 kbps connection internet/Wi-Fi connection. The Contractor shall provide a 24/7 toll-free technical support contact number and must provide ongoing

technical support throughout the duration of the contract. The Contractor shall provide a general support telephone number to be used if assistance is required by the Authorized User with using the system.

Arrival Time Requirements – For on-site performance, VRI Interpreters are required to arrive at least fifteen (15) minutes prior to the scheduled start time in order to receive instruction from the Authorized User. An Authorized User may require earlier arrival, at their discretion. An Interpreter is required to be present on the video call at the start of the scheduled appointment.

The Contractor shall:

- Be responsible for taking all necessary actions to maintain accurate times, locations, directions, telephone numbers, and contact person(s) for all Translation and Interpretation services.
- Be responsible for ensuring that the quality, accuracy, and professionalism for all Interpretation services is maintained;
- Ensure that all interpreters abide by their agreement of confidentiality,
- Ensure all interpreters maintain any and all required certifications and qualifications requested by the Authorized User throughout the duration of the contract; and
- Ensure that all interpreters are available for briefing and debriefing sessions, at the contractor's sole expense. Sessions may include briefing on technical terms, testing, consultation, and planning assistance.
- Provide a 24/7 toll-free technical support contact number and must provide ongoing technical support throughout the duration of the Contract for VRI and Over the Phone Interpretation.

Interpretation Services – Late Arrival Payment Reductions

IMPORTANT NOTE: Some projects require interpretation as a critical step in serving the project's mission, as such, the late arrival of an interpreter may result in cancellation of the event.

Tardy Arrival – Tardy Arrival is defined as arriving after the start time of the scheduled services but does not result in the cancellation of the event. For Consecutive and Simultaneous Interpretation, unless otherwise required by an Authorized User in the RFQ, interpreters must arrive 15 minutes prior to the scheduled translation event and any time after is considered a Tardy Arrival. For Over the Phone and Video Remote Interpretation, unless otherwise required by an Authorized User in the RFQ, Interpreters must be present on the line or video call at the start of the scheduled appointment and any time after is considered a Tardy Arrival. An Authorized User shall not pay for any time for the period the Interpreter was tardy from the total period scheduled. More than three Tardy Arrivals in a one-month period, by the same Interpreter, may result in that Interpreter being disqualified from serving that Authorized User.

Late Arrival is defined as arriving after the start time of the scheduled services that results in the cancellation of the event. **Some projects, such as Interpretation services, for example, may require the services of the Temp as a critical step in serving the project's mission, and arriving after the start time of the scheduled service will almost always result in a cancellation of the event.** For these projects, the Late Arrival of the Temp may result in the cancellation of the event, at the sole discretion of the Authorized User, and no payment being made to the Contractor. The Authorized User reserves the right to cancel any event due to Late Arrival.

For Translation services, lateness is defined as projects being delivered to the Authorized User(s) outside the timeframes requested and agreed to through the RFQ process.

Late Arrival Payment Reductions – For Consecutive and Simultaneous Interpretation, Temporary Personnel must arrive fifteen (15) minutes prior to the scheduled event and any time after is considered a late arrival. For Over the Phone Interpretation, interpreters must be present on the line at the start of

the scheduled appointment and any time after is considered a late arrival. An Authorized User shall not pay for any time for the period the Temp was late from the total period scheduled. More than three late arrivals in a one-month period by the same Temp may result in removal from a position, at the sole discretion of the Authorized User.

Interpretation Services – Performance Time

Performance time for Consecutive and Simultaneous Interpretation shall consist of the total time the Interpreter is on-site performing services under the Contract. This time shall include the fifteen (15) minutes preceding the scheduled time for performance or any longer time requested by the Authorized User until the time the Authorized User expressly tells the Interpreter that they are finished for the day and should leave, inclusive of any waiting time by the Interpreter. Performance time for Over the Phone Interpretation and Video Remote Interpretation shall consist of the total time the Interpreter is on the line performing services under the Contract. This time shall begin at the start of the scheduled time for performance until the time the Authorized User expressly tells the Interpreter that they are finished and may disconnect from the line, inclusive of any waiting time by the Interpreter.

Repeated instances of early departure by the same interpreter may result in that interpreter being disqualified from serving the State.

At any time following interpretation services the Temp may be required by the Authorized User to answer questions or receive additional instructions. The Temp must keep an accurate record of all performance time. The Authorized User, upon the completion of performance, will verify this record.

In person interpretation services shall be billed in thirty minute increments based on the Contractor's hourly rates. Payment will be made for the total time rounded to the next thirty minute increment.

Over the phone and Video Remote interpretation shall be billed by the minute.

Interpretation Services – Minimum Fees

A Contractor will be paid a minimum of two (2) hours of the agreed upon rate for the following:

- Any appointment canceled with less than a twenty-four (24) hour notice from the scheduled appointment time (as long as the interpreter was on time).
- Other unusual circumstances approved by the Authorized User.
- In addition, for any appointment where performance time for services is for less than one (1) full hour, the Contractor will be paid for one (1) full hour. Contractor will be paid for a minimum of one hour for on-site work, unless the interpreter is late for the scheduled appointment. For unplanned services requested outside an Authorized User's normal operating hours (8am to 5pm, Monday through Friday), an interpreter may be compensated one (1) additional hour. This requirement applies to all in-person interpretation services.

Interpretation Services – Event Cancellation

Should an Authorized User cancel an event without notification to the Contractor, the Contractor shall be entitled to minimum payment, as noted above. As long as the interpreter was on-time, the Contractor will be paid for any performance completed at the agreed upon rate for:

Any assignment canceled by the Authorized User prior to completion by the interpreter, provided the interpreter was performing within the stated parameters of the assignment.

Any assignment modified by the Authorized User prior to completion by the interpreter.

Other unusual circumstances approved by the Authorized User.

Interpretation Services – Reporting Requirements

If requested by the Authorized user, the Contractor shall submit a Monthly Service Category Usage report in Microsoft Excel, or other agreed upon format, that contains any or all of the following data. The Authorized user reserves the right to request additional data, at their discretion:

- Date of Request
- Location
- Language
- Duration of interpretation
- Name of Interpreter
- Length of wait per call
- Length of wait per video call
- Number of lost or non-connected calls
- Number of lost or non-connected video calls
- Cost

Important Notes

- a) For all on-site services, Temps must adhere to any security clearance requirements, which may include providing photo identification.
- b) The Authorized may request that the Contractor provide equipment for any or all of the above services. Such request shall be made by the Authorized User within the RFQ.

4.5 General Requirements

4.6 Quality of Services

The Authorized User shall have the right to interview a Candidate to determine his/her qualifications. The qualifications must reflect the position of the specific job title requested. The Authorized User reserves the right to reject the Candidate if the Authorized User determines that the Candidate is not qualified based on the referenced job title and any additional requirements identified in the RFQ. An Authorized User has the right to request a replacement Candidate if the original selected Candidate is deficient in the performance of an assignment.

To ensure all services conform to Contract and RFQ specifications, the Contractor shall implement the quality control procedures and the quality assurance plan set forth in the Contractor's response to the Solicitation/Attachment 5 – Bidder Information Questionnaire.

Contractor agrees that the services provided under this Contract shall be provided in a professional manner in accordance with industry standards, and that all Candidates proposed in response to an RFQ will have any required licenses, certifications or permits necessary or required by applicable law to perform the requested services.

4.7 Disqualified Resources

Any Temp that an Authorized User deems unfit to perform a position at the time of RFQ response or any time in the future shall be recorded by notifying the Contractor in writing, and may result in that Temp being disqualified from performing future services for the Authorized User under this Contract.

4.8 Late Arrival for Lots Other than Lot 6

An Authorized User shall not pay for any scheduled time for the period the Temp was late. More than three late arrivals in a one month period by the same Temp may result in that Temp being disqualified from performing future services for the Authorized User under this Contract.

4.9 Maintenance of a Master File

The Contractor shall maintain a Master File for each Candidate and keep it in electronic format (i.e., electronic or scanned documents). The Contractor shall provide a copy of the Candidate's Master File to the Authorized User when suggesting a Candidate for a role.

4.9.1 Background Checks

Except for Lots 2, 3 6 and 11, the Contractor shall provide appropriate background checks for each Candidate prior to the start of their employment. Authorized Users, at their discretion, may request in the RFQ that background checks be performed for Lots 2, 3, 6 or 11. Background check requirements are detailed in Attachment 11 – Background Check Requirements. The Contractor shall pre-screen and qualify Candidates as defined in the respective job titles for all positions requested. With regard to onsite work, Authorized Users may require that the Candidate(s) reside in and be legally authorized to work in the United States.

4.9.2 RFQ Response Validity

All Contractor responses to RFQs must remain open and valid for at least 60 days from the RFQ response opening/due date, unless the time for selecting the candidate is extended by mutual consent of the Authorized User and the Contractor. A Contractor's RFQ response shall continue to remain an effective offer, firm and irrevocable, subsequent to such 60 day period until either candidate selection by the Authorized User is made or withdrawal of the Contractor's RFQ response in writing by the Contractor. Candidate selection shall consist of written notice to that effect by an Authorized User to a successful Contractor.

4.9.3 Replacement Candidates

For job titles in Lots 1, 4, 5, 7, 8, 9 and 10 the Contractor must recommend a replacement Candidate within two (2) workdays of request from an Authorized User. For job titles in Lots 2, 6 and 11, the Contractor must recommend a replacement Candidate within one (1) workday of request from an Authorized User. The Authorized User may review Contractor's selection process and/or Candidate resumes. If a Contractor cannot provide a replacement Candidate within that time then the Authorized User will consider the request unfulfilled. Thereafter, the Authorized User may make a request for a Candidate from the next best value quote received in response to their RFQ (if RFQ responses are still open and valid), or in the alternative, the Authorized User may issue a new RFQ for a replacement Candidate.

A background check, if requested by the Authorized Users, must be provided as per Attachment 11 – Background Check Requirements on the replacement Candidate before they begin working. However, at the discretion of the Authorized User, the replacement Candidate may begin work before the background check is completed, with the issuance of a written waiver by the Authorized User to the Contractor.

If the Candidate's Master File contains educational background verification and social security number verification, then these items may be omitted from the copy of the initial background check provided to the Authorized User, if the Authorized User advises it does not need this information. If the Master File

contains employment verification from previous engagements with the State, then employment verification is only required to be updated going back to the previous verification included in the Master File.

4.9.4 Reduce Work

The Authorized User has the right to reduce the length of the work assignment and the Contractor shall be provided as much notice as is reasonably possible. A minimum of 24 hours' notice will be given, except when reduction is due to a force majeure event, as defined in Clause 44 of Appendix B, or if the Temp presents a risk to the safety and well-being of his/herself or others. Contractors shall not assess any fees or penalties for reductions in work assignments.

4.9.5 Travel

All Temporary Personnel's travel expenses must be pre-approved by the Authorized User. "Personal Vehicle Mileage Reimbursement" and "Ground Transportation via Common Carrier (Train and Bus Travel)", for work-related travel only, shall be provided in accordance with codes, rules, and regulations promulgated by the Office of the State Comptroller for Management/Confidential Employees. Any travel under 35 miles or any travel that is a standard commute between home and office is excluded from reimbursement, as per the policy. Any other travel expenses including Lodging, Meal Allowances, Rental Vehicles and Air Travel are specifically excluded from the scope of the Contract.

4.9.6 Rates

For Lots 1 through 11 the Contractor shall offer to provide Temp personnel in response to an RFQ issued to Contractor by the Authorized User. The Contractor shall refer to the definitions of job titles in Attachment 10 – Job Descriptions and Qualifications for a brief description of skills and must pay special attention to all additional job skills or requirements included by the Authorized User in each RFQ.

The hourly rates for job titles in Lots 1, 4, 5, 7, 8, 9 and 10, will be considered straight time costs for work accomplished during 40 hours in a single week for an Authorized User regardless of time of day, day of the week or holidays. Any work performed at times other than above is considered to be overtime and would be allowed only when approved by the Authorized User. Overtime rates shall be requested in the RFQ when the Authorized User anticipates the need for overtime work.

Note: The overtime work assumes the Temp has worked a 40-hour week for the Authorized User. Should the regular work shift of the Temp be other than normal hours, then the overtime rate is not paid until 40 hours is exceeded by an individual Temp for an Authorized User. If a Temp is performing work for more than one Authorized User, the Contractor shall inform each of the Authorized Users of the Temp's schedule and actual hours worked so that all parties are aware of when the Temp will reach 40 hours worked and at what point overtime rates would begin. An Authorized User is responsible for overtime rates when a Temp has performed 40 hours of work for said Authorized User and the Authorized User requests the Temp work additional hours. An Authorized User shall not pay overtime rates if a Temp has performed less than 40 hours of work for the Authorized User, but more than 40 hours among several Authorized Users.

For Lot 11 of this Contract, the Contractor shall provide to the Authorized User, in response to an RFQ, personnel at the quoted hourly bill rate, which shall not be less than the cost of the applicable prevailing wage rate including all supplemental benefits. The Authorized User shall obtain and provide in the RFQ a PRC# for the applicable prevailing wage, which is based upon the date, job title and county within which the work is to be performed as identified at:

<https://applications.labor.ny.gov/wpp/publicViewPWChanges.do?method=showlt>.

If the hourly bill rate proposed by a Contractor is less than the applicable prevailing wage plus all supplemental benefits required to be paid, the Authorized User cannot use that Contractor for the requested services

Note: An Authorized User subject to a local law, such as the "living wage" requirement as found in Section 6-109 of the New York City Administrative Code, is required to ensure the Contractor sought to be hired complies with such local law at the time of issuance of a Purchase Order or PCard transaction to the selected Contractor based on the RFQ response. If the hourly bill rate(s) proposed by a Contractor for a job title(s) as set forth in Attachment 1 - Pricing or in response to an RFQ, are less than the local law "living wage" then the Authorized User subject to such local law cannot use that Contractor for the requested services. Compliance with such local laws, however, will not be determined during the establishment of the Centralized Contract or monitored by OGS. Therefore, Authorized Users are responsible for ensuring compliance with any applicable local laws upon issuing a Purchase Order or PCard transaction to the selected Contractor based on the RFQ response.

Prevailing Wage Rates- Public Works and Building Services Contracts

Lot 11 is subject to the prevailing wage rate provisions of New York State Labor Law. See "Prevailing Wage Rates - Public Works and Building Services Contracts" in Appendix B, OGS General Specifications. Any Federal or State determination of a violation of any public works law or regulation, or labor law or regulation, or any OSHA violation deemed "serious or willful" may be grounds for a determination of vendor non-responsibility, rejection of Bid, rejection of a quote, suspension or termination of Contract.

For bidding purposes, the applicable Prevailing Wage Rate Schedule for this Solicitation is PRC# 2017003763. Contractors are reminded that the rates provided in response to this Solicitation are Maximum-not-to exceed prices that may not be exceeded for the term of the Centralized Backdrop Contract, including any extensions. The actual hourly bill rates for each Authorized User engagement will be established in response to a particular Authorized User's RFQ and based upon the PRC # obtained by each requesting Authorized User.

Authorized Users MUST obtain a separate PRC# for each purchase from this contract where prevailing wage rates apply. The PRC # provided in this Bid is for information and evaluation purposes of the Centralized Backdrop Contract only. When an Authorized User submits the request for the applicable prevailing wages, the Department of Labor will send the Authorized User an email with a link to the PRC information for the particular service agreement requested.

For access to the Department of Labor (DOL) PRC # request page, use the following link:

<https://applications.labor.ny.gov/wpp/showPublicNewProject.do?method=showlt>

For access to the Department of Labor (DOL) Prevailing Wage Schedule, use the following link:

<http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showlt>

For Prevailing Wage Updates, use the following DOL link:

<http://wpp.labor.state.ny.us/wpp/publicViewPWChanges.do?method=showlt>

Links to schedule updates appear in the table at the bottom of the web page.

Worker Notification

Labor Law § 220(3-a)(a)(ii) requires Contractors and subcontractors to provide written notice to all laborers, workers or mechanics of the prevailing wage rate for their particular job classification on each pay stub*. It also requires Contractors and subcontractors to post a notice at the beginning of the performance of every public work Contract on each job site that includes the telephone number and address for the Department of Labor and a statement informing laborers, workers or mechanics of their right to contact the Department of Labor if he/she is not receiving the proper prevailing rate of wages and/or supplements for his/her particular job classification. The required notification will be provided with each wage schedule and may be downloaded from www.labor.state.ny.us or made available upon request by contacting the Bureau of Public Work at 518-457-5589.

* In the event that the required information will not fit on the pay stub, an accompanying sheet or attachment of the information will suffice.

4.9.7 OSHA Training

For Lot 11, all Temporary Personnel shall have completed the OSHA Ten (10) -hour Construction course and shall have completed additional training, including but not limited to, asbestos & lead awareness, lockout/tagout, hazard communication and confined space awareness. Upon first reporting to an Authorized User location assignment, the Temp MUST present the Authorized User with proof of the completion of the above listed courses, including all updates and renewals. Failure of the Temp to provide such documentation to the Authorized User when reporting for initial assignment shall result in the Authorized User rejecting the Temp.

4.9.8 On-Site Work

Services performed on-site by Contractor's Temps shall be rendered in accordance with these additional requirements, as determined by the Authorized User:

- a) Temp Sign-In: Contractor's Temps shall sign in and out in accordance with the Authorized User's security procedures and guidelines. Failure to sign in or out, whether intentional or not, may be understood to mean that service was not performed.
- b) A review of all facility use rules for the subject location(s); and
- c) An introduction for each respective Agency organization, chain of command, etc.; and
- d) Any other additional security or other requirements as set forth by the Authorized User in the RFQ.

5 General Provisions

5.1 Notices

Any notice or communication by any Party to the other required or permitted hereunder shall be in writing and shall be deemed duly served as of (a) the date it is delivered by hand or by fax (with appropriate acknowledgement of receipt), (b) three business days after having been mailed by certified mail, postage prepaid, return receipt requested, or (c) the next business day after having been sent for delivery on the next business day, shipping prepaid, by a nationally recognized overnight courier, in each case to the receiving Party and addressed to the designated contact at the address identified on page 2 of this Contract or at such other address as a Party may designate by written notice to the other Party sent in the manner set forth herein.

5.2 Captions

The captions contained in this Contract are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

5.3 Severability

In the event that any one or more of the provisions of this Contract shall for any reason be declared unenforceable under the laws or regulations in force, such provision will have no effect on the validity of the remainder of this Contract, which shall then be construed as if such unenforceable provision had never been written or was never contained in this Contract.

5.4 Counterparts

This Contract may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Contract. Any signature page of any such counterpart may be attached or appended to any counterpart to complete a fully executed counterpart of this Contract, and shall bind such Party.

5.5 Entire Agreement

This Contract and any referenced appendices and attachments constitute the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings of the Parties, whether written or oral, with respect to the subject matter hereof. No statement, promise, condition, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall be binding or valid and the Contract may not be changed, modified or altered in any manner except by an instrument in writing executed by the State and the Contractor.

[Signatures appear on next page]

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date last written below. The Parties further hereby certify that original copies of this executed and approved signature page will be affixed, upon final approval, to exact copies of this Contract being executed simultaneously herewith. The acknowledgment must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this agreement, Appendix A (Standard Clauses For New York State Contracts), Appendix B (General Specifications), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, Contractor affirms that it understands and agrees to comply with the procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

CONTRACTOR

THE PEOPLE OF THE STATE OF NEW YORK

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Company Name: Company Name

Date: _____

Federal ID: Federal ID

NYS Vendor ID: NYS Vendor ID

Date: _____

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT

STATE OF }
COUNTY OF } SS.:

On the ___ day of ___ in the year 20___, before me personally appeared ___, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he maintains an office at ___, and further that:

[Check One]

- If an individual): ___he executed the foregoing instrument in his/her name and on his/her own behalf.
If a corporation): ___he is the ___ of ___, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, ___he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, ___he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
If a partnership): ___he is the ___ of ___, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
If a limited liability company): ___he is a duly authorized member of ___ LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public
Registration No.