

NEW YORK STATE DEPARTMENT OF HEALTH

A Request for Proposal for

Advancing Smoke Free Movie Policy Objectives

RFP No. 0801020214

Schedule of Key Events

Release Date	November 3, 2008
Written Questions Due	November 17, 2008
Letter of Interest Due (optional)	November 17, 2008
Response to Written Questions to be posted	December 3, 2008
Proposal Due Date	January 7, 2009

Contacts Pursuant to State Finance Law § 139-j and 139-k

DESIGNATED CONTACTS:

Pursuant to State Finance Law §§139-j and 139-k, the Department of Health identifies the following designated contact to whom all communications attempting to influence this procurement must be made:

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Grants and Procurement Unit
ESP Corning Tower, Rm. 1358
Albany, New York 12237-0676
(518) 473-8974, fax (518) 474-8375
e-mail: jpm12@health.state.ny.us

Permissible Subject Matter Contacts:

Pursuant to State Finance Law §§139-j(3)(a), the Department of Health also identifies the following allowable contact for communications related to the following subjects:

- Submission of written proposals or bids
- Submission of Written Questions
- Debriefings

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- Negotiation of Contract Terms After Award:

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For further information regarding this legislation, see the Lobbying Statute summary in Section E of this solicitation.

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A. INTRODUCTION

The New York State Department of Health Tobacco Control Program (NY TCP) launched its statewide Smokefree Movies Initiative in 2002, in partnership with the national Smokefree Movies Network. Since that time the NY TCP has implemented a variety of grassroots, media and advocacy activities to achieve four primary smoke free movie policy objectives. The purpose of this request for proposals (RFP) is to fund one agency to advance the policy objectives of the smokefree movie initiative for the NY TCP.

B. BACKGROUND

New York State Tobacco Control Program

The NY TCP currently operates with a total of \$83.9 million in funding from state and federal sources. The NY TCP is built upon a foundation of community partners established during the National Cancer Institute-funded Project ASSIST (1991-1999) and is based on the coordinated, comprehensive, statewide approach to tobacco control promoted and funded by the Centers for Disease Control and Prevention (CDC). The NY TCP envisions all New Yorkers living in a tobacco-free society and works to reduce morbidity and mortality and alleviate the social and economic burden caused by tobacco use in New York State.

The program's activities follow recommendations from the National Cancer Institute's *Strategies to Control Tobacco Use in the United States: A Blueprint for Public Health Action in the 1990s*; the CDC's *Best Practices for Comprehensive Tobacco Control Programs*; the Surgeon General's report *Reducing Tobacco Use: A Report of the Surgeon General*; and the Task Force on Community Preventive Services' *Guide to Community Preventive Services: Tobacco Use Prevention and Control*.

The NY TCP seeks to prevent initiation of tobacco use, promote cessation of tobacco use, reduce the social acceptability of tobacco use, and eliminate exposure to secondhand smoke by implementing population-based interventions via a three-pronged strategy:

- 1. Community mobilization** to change the community environment to support the tobacco free norm, change community attitudes about tobacco, and de-normalize tobacco use;
- 2. Media and counter-marketing** to increase awareness of the dangers of secondhand smoke and motivate tobacco users to stop, to expose tobacco industry propaganda, and deglamorize tobacco use;
- 3. Cessation** systems, services, and supports to motivate individual tobacco users to stop and increase the likelihood of cessation success.

The NY TCP is supported by surveillance and evaluation activities to monitor the program's progress and impact and by training and program administration to build and maintain an effective tobacco control infrastructure. The NY TCP strives to contribute to the science of tobacco control through surveillance and research, and evaluation of program initiatives.

Many NY TCP activities are implemented through grants and contracts with community organizations. There are approximately 150 NY TCP-funded community contractors who are primarily charged with developing, advocating for, and implementing policies at the organizational or municipal government level in order to change the community environment to support the tobacco free norm. Over the years these community programs have been involved in various smoke free movie activities.

Bidders are invited to learn more about the NYS comprehensive tobacco control program by visiting http://www.health.state.ny.us/prevention/tobacco_control/

NY TCP Smoke Free Movies Program Activities

In 2002-2003, at the inception of the smoke free movies initiative in NYS, the NY TCP and funded contractor efforts focused on educating parents, community members, industry leaders, and celebrities about the public health impact of smoking imagery in movies. This was accomplished through letter writing campaigns, local advocacy events, press conferences, and the use of media. In 2004-2005 the NY TCP efforts continued to educate the community, but shifted focus to film industry leaders in efforts to pressure them to take action to eliminate smoking imagery in youth-rated movies. Some of the activities executed included a letter-writing campaign to CEOs of the media conglomerates that own the major movie studios, networking with other states and countries to ensure coordination of smoke free movie messaging, sponsoring film festivals across the state and placing media in various magazines, transit and billboards, and other venues. In 2005-2006 the NY TCP and contractors continued to put pressure on the Motion Picture Association of America (MPAA) to take action and also began placing media in high profile publications such as the New York Times in order to ensure that the studio parent companies and their stockholders were educated about the issue. In 2006-2007 the NY TCP and funded contractors continued to keep the pressure on the MPAA, the studios, and parent companies to take action. Also in 2006, NY TCP-funded contractors established a contract with a Washington, D.C.-based government relations firm to educate high-level policy makers about this issue.

NY TCP staff and contractors work collaboratively on the smoke free movies initiative with organizations that may or may not receive NY TCP funding, such as members of the National Smoke Free Movie Network, American Cancer Society, American Lung Association, American Heart Association and others to achieve the goals of the smoke free movie initiative.

Health and Economic Toll of Tobacco Use in the United States and NYS

Each year, tobacco kills 400,000 Americans who die from cigarette smoking. An additional 48,000-67,500 people die each year from others' smoking (second hand smoke). Currently, worldwide, there are over six million youth under 18 alive today that will ultimately die from smoking unless smoking rates decline. In New York State currently 16.3 % of high school students smoke and 24,900 kids under 18 become new daily smokers each year.

The tobacco-related monetary costs in the United States are staggering, totaling \$96.7 billion in public and private health-care expenditures. An additional \$4.98 billion in annual health-care expenditures can be attributed solely to secondhand smoke

exposure. In New York State the annual health care costs that are directly caused by smoking is \$8.171 billion, which amounts to the equivalent of a \$904 state and federal tax burden per household. Other non-health costs include property losses from smoking-caused fires; extra cleaning and maintenance made necessary by tobacco smoke and litter, and lost productivity from smoking-caused work absences and others (CDC, 2007).

The NY TCP recognizes that youth tobacco use occurs in a family and community context, and implements policy and program activities to reduce adult tobacco use and dismantle the community supports for tobacco use. Removing smoking from youth-rated movies is an important part of this work. Each day, about 4,000 children and adolescents in the United States try their first cigarette; and each day another 1,000 other youth under 18 years of age become new regular, daily smokers. This amounts to 464,000 new underage daily smokers in this country each year. (SAMHSA, 2006 National Survey) Seventy percent of children and adolescent youth try smoking and one in three of these become a regular smoker. The damage from smoking starts immediately. Once children and adolescents start smoking, they are more likely to lose teeth, experience shortness of breath and accelerated heart rate, catch the flu, and have a chronic cough. They are also more tense, suffer more frequent headaches, and lose hearing and vision-compared to non-smokers. (Campaign for Tobacco Free Kids, 2007) Smoking can also seriously harm children while they are still young. Besides the immediate bad breath, irritated eyes and throat, and increased heartbeat and blood pressure, near-term harms from youth smoking include respiratory problems, reduced immune function, increased illness, tooth decay, gum disease, and pre-cancerous gene mutations (Campaign for Tobacco Free Kids, 2007).

Smoking in Movies

Public Health Impact

For the past 25 years concern regarding the link between smoking and tobacco imagery in movies and adolescent smoking rates has grown. Research has accumulated linking on-screen smoking imagery directly to youth initiation into smoking.

Smoking in movies is the most powerful pro-tobacco influence on youth today, accounting for up to 52% of new adolescent smokers, a stronger effect than cigarette advertising. Research shows there is a dose-response relationship between teens' exposure to on-screen smoking and smoking initiation; the more exposure teens have to smoking in movies, the more likely it is that they will start smoking. In a national US adolescent sample, exposure to smoking in movies predicted risk of becoming an established smoker, an outcome linked with adult dependent smoking and its associated morbidity and mortality. (Sargent, et al 2007).

Although most research has focused on teens, a study published in the American Journal of Preventive Medicine assessed whether smoking in the movies was associated with smoking in young adults (aged 18-25). The study concluded that the association between smoking in the movies and young adult smoking behavior exhibited a dose-response relationship; the more a young adult was exposed to smoking in the movies, the more likely he or she would have smoked in the past 30 days or have become an established smoker (Song, et al 2007).

According to the 2007 Institute of Medicine Report Ending the Tobacco Problem: A Blueprint for the Nation, the research investigating the impact of youth exposure to smoking in movies yielded three important findings:

- 1) Exposure to depictions of smoking in movies is associated with more favorable attitudes toward smoking and characters who smoke, and these positive views are particularly prevalent among youth who themselves smoke.
- 2) Exposure to smoking in movies increases the risk for smoking initiation.
- 3) The increased risk for smoking initiation as a result of exposure to smoking in the movies can be reduced by antismoking advertisements and parental restriction of which movies their children watch.

Public Opinion About Smoking In Movies

State and national efforts to educate the public about the dangers of smoking imagery in youth-rated movies and to push for policy change are beginning to yield results in public opinion.

In NYS from 2004 – 2006, an increasing percentage of New Yorkers overall, smokers and nonsmokers, agree that smoking in the movies encourages smoking among teens and that smoking should not be in movies rated G, PG, and PG-13. The biggest percentage changes occurred among smokers. In 2006, 72% of smokers agreed that smoking in the movies encourages teen smoking, up from 56% in 2004 – a 30% relative increase. The percentage of smokers who agree that actors should not smoke in movies rated G, PG, or PG-13 increased 24% in relative terms, from 60% to 74% from 2004-2006. (Fourth Annual Independent Evaluation report of the NY TCP, 2007).

The social climate survey of tobacco control (an annual poll of public attitudes about tobacco control policies) found in 2007 that 81 percent of adults in the United States agree adolescents are more likely to smoke if they watch actors smoke in movies, and 70 percent support a new R-rating for any movies with on-screen tobacco imagery, unless the film clearly demonstrates the dangers of smoking. (McMillen et al 2007). According to the report, public concern over the issue of tobacco imagery on screen has grown substantially over the past year. For example: support for an 'R'-rating for movies with tobacco that fail to portray its health risks jumped nearly 12 percentage points between 2005 and 2006. Two-thirds of adults want movie theaters to show anti-tobacco spots before any film with tobacco images, up more than five percentage points from the year before. More than 60 percent of adults want tobacco branding out of all movie scenes, a rise of nearly seven percentage points. (McMillen et al, 2007).

Policy Activity and Recommendations

In May of 2007, in response to years of pressure from health organizations and advocates, the MPAA announced that it would “consider” tobacco imagery in its ratings, starting immediately. The MPAA’s acknowledgment that smoking in movies is a problem is important; but its vague and arbitrarily applied tobacco ratings policy will not avert disease and premature death. Researchers report that, in the six months after the MPAA’s rating announcement, top box office movies delivered an estimated 11 billion tobacco impressions to theater audiences across the U.S. and Canada, no substantial change from the same six-month period in the four preceding years. Further, not one of the youth-rated, nationally distributed movies with smoking rated and released after May 10, 2007 carried tobacco descriptors alerting consumers of their hazardous content. (Polansky, et al 2007).

Although some of the movie studios’ parent companies have developed internal policies related to smoking in movies, the published policies provide no benchmarks to measure

progress. Many policies describe numerous exceptions in vague and subjective terms and do not block potential tobacco influence in the production chain, and fail to address the global production and distribution of the company's products.

The four policy solutions listed below are endorsed by leading health organizations and others and will substantially reduce youth exposure to on-screen smoking, save lives and prevent illness. The agency funded as a result of this RFP will work to advance these four policy objectives on behalf of the NY TCP:

(1) **Rate new smoking movies "R."** Any film that shows or implies tobacco should be rated "R." The only exceptions should be when the presentation of tobacco clearly and unambiguously reflects the dangers and consequences of tobacco use or is necessary to represent the smoking of a real historical figure.

(2) **Certify no "pay-offs."** The producers should post a certificate in the closing credits of any film with tobacco presence declaring that no one involved in the production received anything of value from anyone in exchange for tobacco depictions in the film.

(3) **Require strong anti-smoking ads.** Studios and theaters should require a genuinely strong anti-smoking ad (not one produced by a tobacco company) to run before any film with any tobacco presence, in any distribution channel, regardless of its MPAA rating.

(4) **Stop identifying tobacco brands** and eliminate brand imagery from the background of any movie scene.

These four policy solutions are consistent with the recommendations of the 2007 Institute of Medicine report which recommends, "The Motion Picture Association of America (MPAA) should encourage and facilitate the showing of anti-smoking advertisements before any film in which smoking is depicted in more than an incidental manner. The film rating board of the MPAA should consider the use of tobacco in the movies as a factor in assigning mature film ratings (e.g.; an R-rating indicating Restricted: no one under age 17 admitted without parent or guardian) to films that depict tobacco use." (IOM report, 2007).

Additional information on the smokefree movies goals may be found at:
<http://www.smokefreemovies.ucsf.edu/index.html>.

C. DETAILED SPECIFICATIONS

The Department of Health seeks to fund one agency that will:

1. Work with a network of state and national programs to advance the smoke free movie goals, including coordination of events (such as smoke free movie international week of action) and ensure consistency and coordination of messaging with state and national partners.
2. Conceptualize, develop and test print media to support the smoke free movies goals (including print, internet, billboard, newspaper, and transit advertising). These media will be used by NY TCP-funded contractors, the NY TCP and members of the national smoke free movies network. The contractor funded as a result of this RFP will not be responsible for the cost incurred for media placement.

3. Work with high-level policy makers in Washington, D.C., to educate them about the importance of implementing the smoke free movie goals - which would be implemented voluntarily and do not require legislation. If the funded agency does not have substantial government relations experience and staff in Washington they must sub-contract this portion of the contract, up to \$175,000 per year. Any subcontracted personnel must be listed on attachment 4b, page 30.
4. Coordinate and expand a national network of youth advocates with representatives of other states to prepare youth to communicate the importance of adapting the smoke free movie policy goals with their state and national representatives. Coordinate these activities with those of the Washington, D.C., based government relations firm.
5. As needed, work with the National Association of Attorneys General (NAAG) to advance the smoke free movie goals.
6. Exert pressure on the top DVD retailers/renters to add warnings to their inventories of youth-rated DVDs that contain smoking and smoking imagery. The top five retailers/renters are Best Buy, Blockbuster, Netflix, Target and Wal-Mart.
7. Implement a comprehensive plan to stay up to date on the smoke free movies issue as it evolves, including the ability to shift strategic approaches to achieving the smoke free movie goals.
8. Propose to the NY TCP other strategic approaches that will help reach the smoke free movies goals.
9. Actively engage other state health departments to endorse the four policy goals, conduct in-state activities to support the goals, and become part of the national smoke free movies network.
10. The contractor will also be required to participate in periodic conference calls and/or meetings with TCP staff as necessary.

The organization funded under the contract resulting from this solicitation is not permitted to express, offer or otherwise convey an opinion on any legislation, rule or regulation in connection with the contract and is not permitted to represent the New York State Department of Health as having any opinion on any legislation, rule or regulation. Services provided under the contract are exclusively educational and do not involve lobbying for or against, commenting on or offering an opinion on any legislation, rule or regulation.

D. PROPOSAL REQUIREMENTS

The proposal must include two components – a technical proposal and a cost proposal. Do not bind or staple the original of either the technical or cost proposal. The contents are as follows:

TECHNICAL PROPOSAL - 80 percent

The bidder will describe a plan to accomplish the deliverables listed in the detailed specifications. The descriptive content should be single-spaced, using no smaller than

a 12-pitch font, and a minimum of 1-inch margins (right, left, top and bottom), on 8 ½ - by- 11-inch paper.

Proposal Cover Sheet

Not scored. This should be the first page of both the technical and financial proposals.

Section I

Executive Summary – Maximum of 2 pages.

Section II

Organizational Experience and Capacity – Maximum of 5 pages.

The proposal must demonstrate the bidder's understanding of the nature and magnitude of the project and provide strategic approaches to advancing the smokefree movie goals. The proposal must include a complete description of the bidder's capabilities to perform all of the components outlined in this RFP and include a description of the bidder's past and present work on smoke free movies. Bidders should include a narrative description of the bidder's organizational structure, including how this project and designated staff will fit into that structure. An organizational chart should be included in an appendix. A resume of *all staff* (project, management, fiscal, administrative, etc.) to be assigned to this project should be included in an appendix. Subcontractors to be involved in this project must be qualified, including documented evidence of their knowledge and experience as related to this project.

Section III

Proposed Project Plan – Maximum of 15 pages.

The bidder should clearly describe a 24-month logical, achievable plan for organizing, implementing and accomplishing all project deliverables. Bidders should propose a comprehensive plan and time line to meet all of the deliverables associated with establishing and running a smoke free movies project as described in this RFP. This timeline should include all dates that the contractor will provide deliverables. The bidder should address the manner in which all of the project deliverables will be provided, including subcontracting when necessary.

As an appendix, bidders *must* include the name, address, telephone number and e-mail address of at least three client references who may be contacted. References shall be from commercial, private or governmental accounts and should demonstrate the ability of the bidder to perform jobs similar in scope to the size, nature, and complexity of the outlined project.

COST PROPOSAL - 20 percent

A contract resulting from this bid is expected to be in effect for two years. The state reserves the right to renew the contract for an additional two years.

The bidder must state the cost for each component of the project. Bidders must fill out the attached cost proposal form (see Attachment 4a). The bidder must include the total cost for the contract over a term of two years. Cost increases must receive prior approval from the NYS Department of Health.

Bidders must provide evidence of their financial ability to perform the terms and

conditions of the contract. Each bidder must include audited financial statements for the last three years of operations. If the bidder is not required to have independent audits performed, a statement to that effect must be included with the cost proposal. If independent audits are not required, other evidence of the bidder's financial ability to perform must be included. At a minimum, this must include an audited annual financial statement, report by a third-party service (e.g., Dunn and Bradstreet), etc. Additionally, statements from a bank confirming the level of account balances, or similar document must be included. If audited financial statements are available, they must be included even if proprietary in nature. If they are proprietary, bidders will so indicate.

Please attach the Bid Form (Attachment 3) as the first page of your Cost Proposal.

3. Method of Award

a. Vendor Selection

At the discretion of the Department of Health, all bids may be rejected. The evaluation of the bids will include the following considerations:

- Successful completion of the technical proposal.
- Demonstrates the proposed strategy is appropriate, thorough and well conceived.
- Demonstrates how likely the strategy is to achieve the goals of this RFP.
- Demonstrates that the proposed strategy is effective, innovative and persuasive.
- Cost-effectiveness, cost competitiveness, and best value for services as demonstrated in the financial proposal.
- Demonstrates an understanding of the science of tobacco control, the TCP priorities and requirements of the scope of work.
- Demonstrates the ability to work effectively with TCP funded contractors throughout the state.

b. Technical Evaluation

A Technical Evaluation Team will evaluate and score each proposal that meets the requirements for the Technical Proposal by assessing each bidder's ability to provide the services based on the scoring system described in this RFP. The scoring will be based on a number of factors including the technical merit and clarity of the proposal, an assessment of past experience and current qualifications of the bidder. Information from the Financial Proposal, or evaluation thereof, will not be available to the Technical Evaluation Team during their evaluation.

Each response requirement will be evaluated against predetermined standards based on industry norms, current practice, and efficiency and soundness of approach. The detailed evaluation criteria and weight of the components will not be disclosed to bidders prior to selection of a winner.

c. Financial Evaluation

A Financial Evaluation team will evaluate each bidder's Cost Proposal. The financial proposal will be scored only on cost. The evaluation will be totally independent of the technical evaluation. In evaluating each Cost Proposal, the Financial Evaluator will assess the documentation provided by the bidder demonstrating the firm's ability to maintain cash flow and payroll. For those bids meeting the requirements of the Cost Proposal, the Evaluator will score the total project cost.

Lowest proposed cost
----- x 20 = Score
Bidder's total cost

d. Total Combined Score

The bidder's technical score and financial score will be combined by the Technical Evaluation Team Leader using the following formula:

$$+ \frac{\text{Technical Score (maximum 80\%)} + \text{Financial Score (maximum 20\%)}}{\text{Total Combined Score} = \text{(maximum 100\%)}}$$

The Selection Committee will select the bidder with the highest Total Combined Score whose proposal meets all the project requirements and, in the Committee's judgment, reflects the best value.

If there is no best value bid that falls within the department's budget, the department reserves the option to return to all bidders and secure a best and final offer. To remain within budget, the department reserves the right to adjust the scope of work.

E. ADMINISTRATIVE

1. Issuing Agency

This Request for Proposal (RFP) is a solicitation issued by the NYS Department of Health. The Department is responsible for the requirements specified herein and for the evaluation of all proposals.

2. Inquiries

Any questions concerning this solicitation must be directed to:

Patricia Bubniak
NYS Department of Health
Tobacco Control Program
Empire State Plaza
Corning Tower Building, Room 710
Albany, New York 12237-0676
tcp@health.state.ny.us

Please state the RFP number in the subject line of any inquiries. To the degree possible, each inquiry should cite the RFP section, paragraph, and page number and if applicable, the deliverable to which it refers. Answers to inquiries are not official until given in writing by the Department.

This RFP has been posted on the Department of Health's public website at: <http://www.nyhealth.gov/funding/>. Questions and answers, as well as any updates and/or modifications, will also be posted on the Department of Health's

website. All such updates will be posted on or about the date listed in the Schedule of Events. Bidders wishing to receive these documents via mail must send a request, in writing or by e-mail, to the Department at the address above.

3. Eligibility

This RFP is open to both for-profit and not-for-profit entities with at least three-year's experience working on smoke free movie initiatives. This experience must include the following: experience coordinating state and/or national smoke free movies activities, experience developing strategies to advance the smoke free movie agenda, experience developing and testing smoke free movie print media, experience working with high-level decision makers on a national or international level on the smoke free movie issue and have published studies and/or papers on smoke free movies.

All bidders must include a statement verifying the vendor's "no tobacco" status. This statement must certify that the bidder does not have any affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries or its parent company or can demonstrate an acceptable mechanism to assure that there is no conflict of interest in undertaking the scope of work in this RFP. Subcontractors should meet the same requirements as the principal bidder and be approved by DOH.

4. Submission of Proposals

Bidders must submit one original, signed proposal and 5 copies. Please do not bind or staple the original. The Technical and Cost components must be packaged in separate, sealed envelopes and marked legibly. These must be packed into a third envelope and sealed and marked accordingly with proper bidder name and address. Proposal packages should be clearly labeled "Advancing Smoke Free Movie Policy Objectives, FAU #0801020214." No proposals will be accepted via fax or e-mail. Responses to the proposal should be directed to:

Patricia Bubniak
New York State Department of Health
Tobacco Control Program
ESP, Corning Tower, Room 710
Albany, NY 12237-0676

It is the bidders' responsibility to see that bids are delivered to Room 710 prior to 4:30 p.m. on the date indicated in the Schedule of Events. Late bids due to delay by the carrier or not received in the Department's mail room in time for transmission to room 710 will not be considered.

1. The Bid Form must be filled out in its entirety.
2. The responsible corporate officer for contract negotiation must be listed. This document must be signed by the responsible corporate officer.
3. All evidence and documentation requested under Section D, Proposal Requirements must be provided at the time the proposal is submitted.

4. Bidders must include a statement signed by the person authorized to sign a contract for the bidder organization verifying that the bidder has NO affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries or its parent organization. This should be included as an appendix of the technical proposal.

5. Non-Mandatory Letter of Interest

All potential bidders are strongly encouraged to send a Letter of Interest to bid by the date listed in the Schedule of Events to Patricia Bubniak. Although, a Letter of Interest is not a requirement of the RFP, a letter will serve as a foundation for a comprehensive list of bidders so that all listed bidders can receive responses to all questions and other amendments to the RFP. Any clarifications will be sent automatically only to those bidders who filed in this manner and will also be posted on the Department of Health's website. A sample Letter of Interest is included in this RFP (see attachment 2).

6. THE DEPARTMENT OF HEALTH RESERVES THE RIGHT TO

- a. Reject any or all proposals received in response to this RFP.
- b. Waive or modify minor irregularities in proposals received after prior notification to the bidder.
- c. Adjust or correct cost or cost figures with the concurrence of bidder if errors exist and can be documented to the satisfaction of DOH and the State Comptroller.
- d. Negotiate with vendors responding to this RFP within the requirements to serve the best interests of the State.
- e. Eliminate mandatory requirements unmet by all offerers.
- f. If the Department of Health is unsuccessful in negotiating a contract with the selected vendor within an acceptable time frame, the Department of Health may begin contract negotiations with the next qualified vendor(s) in order to serve and realize the best interests of the State.

7. Payment and Reporting

If awarded a contract, the contractor shall submit monthly invoices to the State's designated payment office:

Lynn Heffernan
NYS Department of Health
Empire State Plaza
Corning Tower, Room 515
Albany, NY 12237-0676

Payment of such invoices by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law. There will be no advance of funding under this contract.

The contractor will be required to submit a monthly report of activities being conducted in accordance with the work plan.

8. Term of Contract

This agreement shall be effective upon approval of the NYS Office of the State Comptroller.

It is anticipated that a contract resulting from this RFP will be effective on or about May 1, 2009 for a period of 2 years, subject to appropriation and contractor performance. The State reserves the right to renew this contract for one 2 year period.

The contract term may change if the DOH makes an award earlier than expected or if the DOH cannot execute the agreement by May 1, 2009 due to unforeseen delays.

This agreement may be canceled at any time by the Department of Health giving to the contractor not less than thirty (30) days written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

9. Debriefing

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder's proposal, and will not include any discussion of other proposals. Requests must be received no later than three months from date of award announcement.

10. Vendor Responsibility Questionnaire

New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of Health or the Office of the State Comptroller for a copy of the paper form. Bidders must also complete and submit the Vendor Responsibility Attestation (Attachment 10).

11. State Consultant Services Reporting

Chapter 10 of the Laws of 2006 amended certain sections of State Finance Law and Civil Service Law to require disclosure of information regarding contracts for consulting services in New York State.

The winning bidders for procurements involving consultant services must complete a "State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term" in order to be eligible for a contract.

Winning bidders must also agree to complete a "State Consultant Services Form B,

Contractor's Annual Employment Report" for each state fiscal year included in the resulting contract. This report must be submitted annually to the Department of Health, the Office of the State Comptroller, and Department of Civil Service.

Both of these forms are included as attachments to this document.

12. Lobbying Statute

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, provides, among other things, the following as pertains to development of procurement contracts with governmental entities:

- a. makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b. requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d. authorizes the New York State Commission on Public Integrity to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e. directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- f. requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment;
- g. expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts;
- h. modifies the governance of the New York State Commission on Public Integrity
- i. provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
- j. increases the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
- k. establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii) activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new section 1-t was added to the Legislative Law establishing an

Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York State Commission on Public Integrity regarding procurement lobbying, the Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Commission on Public Integrity.

13. Accessibility of State Agency Web-based Intranet and Internet Information and Applications

Any web-based intranet and internet information and applications development, or programming delivered pursuant to the contract or procurement will comply with NYS Office for Technology Policy P04-002, “Accessibility of New York State Web-based Intranet and Internet Information and Applications”, and NYS Mandatory Technology Standard S04-001, as such policy or standard may be amended, modified or superseded, which requires that state agency web-based intranet and internet information and applications are accessible to persons with disabilities. Web content must conform to NYS Mandatory Technology Standard S04-00, as determined by quality assurance testing. Such quality assurance testing will be conducted by Department of Health, contractor or other, and the results of such testing must be satisfactory to the Department of Health before web content will be considered a qualified deliverable under the contract or procurement.

14. Information Security Breach and Notification Act

Section 208 of the State Technology Law (STL) and Section 899-aa of the General Business Law (GBL) require that State entities and persons or businesses conducting business in New York who own or license computerized data which includes private information including an individual’s unencrypted personal information plus one or more of the following: social security number, driver’s license number or non-driver ID, account number, credit or debit card number plus security code, access code or password which permits access to an individual’s financial account, must disclose to a New York resident when their private information was, or is reasonably believed to have been, acquired by a person without valid authorization. Notification of breach of that private information to all individuals affected or potentially affected must occur in the most expedient time possible without unreasonable delay, after measures are taken to determine the scope of the breach and to restore integrity; provided, however, that notification may be delayed if law enforcement determines that expedient notification would impede a criminal investigation. When notification is necessary, the State entity or person or business conducting business in New York must also notify the following New

York State agencies: the Attorney General, the Office of Cyber Security & Critical Infrastructure Coordination (CSCIC) and the Consumer Protection Board (CPB). Information relative to the law and the notification process is available at: <http://www.cscic.state.ny.us/security/securitybreach/>

15. New York State Tax Law Section 5-a

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Tax 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.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an offerer meeting the registration requirements but who is not so registered in accordance with the law.

Contractor must complete and submit directly to the New York State Taxation and Finance, Contractor Certification Form ST-220-TD attached hereto. 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 (ST-220-TD) must be filed with DTF.

Contractor must complete and submit to the Department of Health the form ST-220-CA attached hereto, certifying that the contractor filed the ST-220-TD with DTF. Failure to make either of these filings may render an offerer non-responsive and non-responsible. Offerers shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

F. APPENDICES

The following will be incorporated as appendices into any contract resulting from this Request for Proposal. This Request for Proposal will, itself, be referenced as an appendix of the contract.

- APPENDIX A - Standard Clauses for All New York State Contracts
- APPENDIX B - Request for Proposal
- APPENDIX C - Proposal
The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.
- APPENDIX D - General Specifications
- APPENDIX E
Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:
 - Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1**:
 - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - **C-105.2** – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
 - **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.
 - Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2**:
 - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - **DB-120.1** – Certificate of Disability Benefits Insurance
 - **DB-155** – Certificate of Disability Benefits Self-Insurance
 - Appendix H - Health Insurance Portability and Accountability Act (HIPAA) (if applicable)

G. ATTACHMENTS

1. Cover Sheet
2. Sample Letter of Interest
3. Bid form and No Bid Form
4. Cost Proposal
 - a. Project Cost Proposal
 - b. Subcontractor Cost
5. Checklist for Proposal Submission
6. Standard Contract Boilerplate
 - a. Appendix A—Standard Clauses for all NYS Contracts
 - b. Appendix D—General Specifications
7. Vendor Responsibility Attestation
8. Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term
9. State Consultant Services Form B, Contractor's Annual Employment Report
10. NYS Taxation and Finance Contractor Certification Form ST-220TD
11. NYS Taxation and Finance Contractor Certification Form ST-220CA

Attachment 1

Advancing Smoke Free Movie Policy Objectives

RFP No. 0801020214

COVER SHEET

Name of Bidder (*Legal name as it would appear on a contract*)

Mailing Address (*Street address, P.O. Box, City, State, ZIP Code*)

Federal Employee Identification Number:

NYS Charity Registration Number:

Person authorized to act as the contact for this firm in matters regarding this application:

Printed Name (*First, Last*):

Title:

Telephone number:

Fax number:

()

()

E-mail:

Person authorized to obligate this firm in matters regarding this proposal or the resulting contract:

Printed Name (*First, Last*):

Title:

Telephone number:

Fax number:

()

()

E-mail:

(CORPORATIONS) Name/Title of person authorized by the Board of Directors to sign this proposal on behalf of the Board:

Printed Name (*First, Last*):

Title:

Signature of Bidder or Authorized Representative

Date:

Attachment 2

Advancing Smoke Free Movie Policy Objectives

RFP No. 0801020214

Sample Letter of Interest

Patricia A. Bubniak
NYS Tobacco Control Program
ESP Corning Tower, Rm. 710
Albany, New York 12237-0676

Re: RFP
RFP # _____

Dear Ms. Bubniak:

This letter is to indicate our interest in submitting a proposal for the above Request for Proposals (RFP) and to request that our organization be placed on the mailing list for any updates, written responses to questions, or amendments to the RFP.

We understand that in order to automatically receive any RFP updates and/or modifications as well as answers to submitted questions, the Department of Health requires that this letter be received by the NYSDOH Tobacco Control Program by the date stated in the RFP.

Sincerely,

Attachment 3

NEW YORK STATE
DEPARTMENT OF HEALTH

BID FORM

PROCUREMENT TITLE: _____ FAU # _____

Bidder Name:

Bidder Address:

Bidder Fed ID No:

A. _____ bids a total price of \$ _____
(Name of Offerer/Bidder)

B. Affirmations & Disclosures related to State Finance Law §§ 139-j & 139-k:

Offerer/Bidder affirms that it understands and agrees to comply with the procedures of the Department of Health relative to permissible contacts (provided below) as required by State Finance Law §139-j (3) and §139-j (6) (b).

Pursuant to State Finance Law §§139-j and 139-k, this *Invitation for Bid or Request for Proposal* includes and imposes certain restrictions on communications between the Department of Health (DOH) and an Offerer during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit *bids/proposals* through final award and approval of the Procurement Contract by the DOH and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is/are identified on the first page of this *Invitation for Bid, Request for Proposal, or other solicitation document*. DOH employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the Office of General Services Website at: <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

1a. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No Yes

1b. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

1c. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

(Add additional pages as necessary)

2a. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No

Yes

2b. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding:

(Add additional pages as necessary)

C. Offerer/Bidder certifies that all information provided to the Department of Health with respect to State Finance Law §139-k is complete, true and accurate.

D. Offerer/Bidder agrees to provide the following documentation either *with their submitted bid/proposal or upon award* as indicated below:

With Bid

Upon Award

1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220.

2. A completed N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire (for procurements greater than or equal to \$100,000)

3. A completed State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(e-mail Address)

NEW YORK STATE
DEPARTMENT OF HEALTH

NO-BID FORM

PROCUREMENT TITLE: _____ FAU # _____

Bidders choosing not to bid are requested to complete the portion of the form below:

- We do not provide the requested services. Please remove our firm from your mailing list
- We are unable to bid at this time because:

- Please retain our firm on your mailing list.

(Firm Name)

(Officer Signature) _____
(Date)

(Officer Title) _____
(Telephone)

(e-mail Address)

FAILURE TO RESPOND TO BID INVITATIONS MAY RESULT IN YOUR FIRM BEING REMOVED FROM OUR MAILING LIST FOR THIS SERVICE.

Attachment 4a

COST PROPOSAL

Advancing Smoke Free Movie Policy Objectives

RFP No. 0801020214

Please provide a breakdown of annual costs for each year of the project along with a total cost per year and a total cost of Years 1 and 2.

Cost Proposal	
Year One Total Project Cost	
Year Two Total Project Cost	
Total Cost Proposal (Years 1 and 2)	

Attachment 4b

Sub-Contractor Costs

The hourly rates must be inclusive of all costs including salaries, fringe benefits, administrative costs, overhead, travel, presentation costs and profit.

Include the title and composite hourly rate for each staff person that will work on the project.

The total bid price must reflect all costs for the full term of the contract.

<u>Staff Listing</u> <u>(list separately by title)</u>	<u>Hourly</u> <u>Rate</u>	X	<u>No. Hours</u> <u>on Project</u>	=	<u>Total Cost</u> <u>per Staff</u>
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Attachment 5

Advancing Smoke Free Movie Policy Objectives

RFP No. 0801020214

Checklist for Proposal Submission

Bidder Name: _____

- The Technical Proposal and the Financial Proposal are packaged in separate, sealed marked envelopes.
- Signed original plus five (5) additional copies of the Technical and Financial proposals are enclosed.
- Statement of no tobacco status
- Cover page with specified information
- Information on Organization Experience and Capacity and Program Activities as specified in the instructions for completing the technical proposal
- Resumes of key staff (which will be considered an appendix)
- Three references (include as an appendix)
- Cost Proposal includes
 - Cost Sheet with specified information for each of the two years of the contract.
 - Sub-contractor cost (if applicable)
 - Completed Bid Form
- Vendor Responsibility Attestation
- Proof of financial stability in the form of audited financial statements, Dunn and Bradstreet reports, etc.
- Evidence of NYS Department of State Registration
- Certificate of Incorporation, together with any and all amendments thereto; Partnership Agreement; or other relevant business organizational documents, as applicable.
- Form ST-220-CA (NYS Department of Taxation and Finance Contractor Certification)
- State Consultant Services Form A

Contract Boilerplate

MISCELLANEOUS / CONSULTANT SERVICES

STATE AGENCY (Name and Address):

NYS COMPTROLLER'S NUMBER:

ORIGINATING AGENCY CODE:12000

CONTRACTOR (Name and Address):

TYPE OF PROGRAM(S):

CHARITIES REGISTRATION NUMBER:

CONTRACT TERM

FROM:

TO:

CONTRACTOR HAS () HAS NOT () TIMIELY. FILED WITH THE ATTORNEY GENERAL'S CHARITIES BUREAU ALL REQUIRED PERIODIC OR ANNUAL WRITTEN REPORTS

FUNDING AMOUNT FOR CONTRACT TERM:

FEDERAL TAX IDENTIFICATION NUMBER:

MUNICIPALITY NO. (if applicable):

STATUS:

CONTRACTOR IS () IS NOT () A SECTARIAN ENTITY

CONTRACTOR IS () IS NOT () A NOT-FOR-PROFIT ORGANIZATION

() IF MARKED HERE, THIS CONTRACT'S RENEWABLE FOR ___ ADDITIONAL ONE-YEAR PERIOD(S) AT THE SOLE OPTION OF THE STATE AND SUBJECT TO APPROVAL OF THE OFFICE OF THE STATE COMPTROLLER.

CONTRACTOR IS () IS NOT () A N Y STATE BUSINESS ENTERPRISE

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT

Precedence shall be given to these documents in the order listed below.

- X APPENDIX A Standard Clauses as required by the Attorney General for all State Contracts.
X APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)
APPENDIX Q Modification of Standard Department of Health Contract Language
X STATE OF NEW YORK AGREEMENT
X APPENDIX D General Specifications
X APPENDIX B Request For Proposal (RFP)
X APPENDIX C Proposal
X APPENDIX E-1 Proof of Workers' Compensation Coverage
X APPENDIX E-2 Proof of Disability Insurance Coverage

STATE OF NEW YORK
AGREEMENT

This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

WHEREAS, the STATE has formally requested contractors to submit bid proposals for the project described in Appendix B for which bids were opened on the date noted on the face pages of this AGREEMENT; and

WHEREAS, the STATE has determined that the CONTRACTOR is the successful bidder, and the CONTRACTOR covenants that it is willing and able to undertake the services and provide the necessary materials, labor and equipment in connection therewith;

NOW THEREFORE, in consideration of the terms hereinafter mentioned and also the covenants and obligations moving to each party hereto from the other, the parties hereto do hereby agree as follows:

I. Conditions of Agreement

- A. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.
- B. The maximum compensation for the contract term of this AGREEMENT shall not *exceed the amount specified on the face page hereof.*
- C. This AGREEMENT may be renewed for additional periods (PERIOD), as specified on the face page hereof.
- D. To exercise any renewal option of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (the attached Appendix X is the blank form to be used). Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT. The modification agreement is subject to the approval of the Office of the State Comptroller.
- E. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.
- F. For the purposes of this AGREEMENT, the terms "Request For Proposal" and "RFP" *include all Appendix B documents as marked on the face page hereof.*
- G. For the purposes of this AGREEMENT, the term "Proposal" includes all Appendix C documents as marked on the face page hereof.

II. Payment and Reporting

- A. The CONTRACTOR shall submit invoices to the STATE's designated payment office:
 - .
 - .
- B. Payment of such invoices by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

III. Term of Contract

- A. Upon approval of the NYS Office of the State Comptroller, this AGREEMENT shall be effective for the term as specified on the cover page.
- B. This Agreement may be terminated by mutual written agreement of the contracting parties.
- C. This Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including the attachments hereto, provided that the Department shall give the contractor written notice via registered or certified mail, return receipt requested, or shall deliver same by hand-receiving Contractor's receipt therefore, such written notice to specify the Contractor's failure and the termination of this Agreement. Termination shall be effective ten (10) business days from receipt of such notice, established by the receipt returned to the Department. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.
- D. This Agreement may be deemed terminated immediately at the option of the Department upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligations by the Department to the Contractor.
- E. This agreement may be canceled at any time by the Department of Health giving to the contractor not less than thirty (30) days written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

IV. Proof of Coverage

Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

- A. Workers' Compensation, for which one of the following is incorporated into this contract as Appendix E-1:
 - 1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - 2. C-105.2 – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR
 - 3. SI-12 – Certificate of Workers' Compensation Self-Insurance, OR GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance.
- B. Disability Benefits coverage, for which one of the following is incorporated into this contract as Appendix E-2:

1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
2. DB-120.1 – Certificate of Disability Benefits Insurance OR
3. DB-155 – Certificate of Disability Benefits Self-Insurance

Agency Code 12000
APPENDIX X

Contract Number: _____ Contractor: _____

Amendment Number X- _____

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through NYS Department of Health, having its principal office at Albany, New York, (hereinafter referred to as the STATE), and _____ (hereinafter referred to as the CONTRACTOR), for amendment of this contract.

This amendment makes the following changes to the contract (check all that apply):

- _____ Modifies the contract period at no additional cost
- _____ Modifies the contract period at additional cost
- _____ Modifies the budget or payment terms
- _____ Modifies the work plan or deliverables
- _____ Replaces appendix(es) _____ with the attached appendix(es) _____
- _____ Adds the attached appendix(es) _____
- _____ Other: (describe) _____

This amendment *is* / *is not* a contract renewal as allowed for in the existing contract.

All other provisions of said AGREEMENT shall remain in full force and effect.

Prior to this amendment, the contract value and period were:

\$ _____ From ____ / ____ / ____ to ____ / ____ / ____
(Value before amendment) (Initial start date)

This amendment provides the following addition (complete only items being modified):

\$ _____ From ____ / ____ / ____ to ____ / ____ / ____

This will result in new contract terms of:

\$ _____ From ____ / ____ / ____ to ____ / ____ / ____
(All years thus far combined) (Initial start date) (Amendment end date)

Signature Page for:

Contract Number: _____ Contractor: _____

Amendment Number: X- _____

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR SIGNATURE:

By: _____ Date: _____
(signature)

Printed Name: _____

Title: _____

STATE OF NEW YORK)
) SS:
County of _____)

On the ___ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Signature and office of the individual taking acknowledgement)

STATE AGENCY SIGNATURE

"In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

By: _____ Date: _____
(signature)

Printed Name: _____

Title: _____

ATTORNEY GENERAL'S SIGNATURE

By: _____ Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____ Date: _____

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the

performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor

within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment,

employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

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APPENDIX D
GENERAL SPECIFICATIONS

- A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:
- All specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specification, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.
- B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, telegram, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.
- C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety be liable to the State of New York for any excess cost on account thereof.
- D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.
- E. The Department of Health will make no allowances or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.
- F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.
- G. The successful bidder will be required to complete the entire work, or any part thereof as the case may be, to the satisfaction of the Department of

Health in strict accordance with the specifications and pursuant to a contract therefore.

- H. Contractor will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
- I. Non-Collusive Bidding
By submission of this proposal, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - a. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
 - b. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
 - c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTE: Chapter 675 of the Laws of New York for 1966 provides that every bid made to the state or any public department, agency or official thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the foregoing statement subscribed by the bidder and affirmed by such bidder as true under penalties of perjury.

A bid shall not be considered for award nor shall any award be made where (a), (b) and (c) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (b) and (c) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made or its designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder has published price lists, rates, or tariffs covering items being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price being bid, does not constitute, without more, a disclosure within the meaning of the above quoted certification.

Any bid made to the State or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods, sold or to be sold, where competitive bidding is required by statute, rule or regulation and where such bid contains the certification set forth above shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

- J. A bidder may be disqualified from receiving awards if such bidder or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its or its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
- K. The Department reserves the right to make awards within ninety (90) days after the date of the bid opening, during which period bids shall not be withdrawn unless the bidder distinctly states in the bid that acceptance thereof must be made within a shorter specified time.
- L. **Work for Hire Contract**
Any contract entered into resultant from this request for proposal will be considered a "Work for Hire Contract." The Department will be the sole owner of all source code and any software which is developed or included in the application software provided to the Department as a part of this contract.
- M. **Technology Purchases Notification --** The following provisions apply if this Request for Proposal (RFP) seeks proposals for "Technology"
 - 1. For the purposes of this policy, "technology" applies to all services and commodities, voice/data/video and/or any related requirement, major software acquisitions, systems modifications or upgrades, etc., that result in a technical method of achieving a practical purpose or in improvements of productivity. The purchase can be as simple as an order for new or replacement personal computers, or for a consultant to design a new system, or as complex as a major systems improvement or innovation that changes how an agency conducts its business practices.

2. If this RFP results in procurement of software over \$20,000, or of other technology over \$50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.
3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.
4. The responses to this RFP must include a solution to effectively handle the turn of the century issues related to the change from the year 1999 to 2000.

N. YEAR 2000 WARRANTY

1. Definitions

For purposes of this warranty, the following definitions shall apply:

- a. Product shall include, without limitation: any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein which perform any date/time data recognition function, calculation, comparing or sequencing. Where services are being furnished, e.g. consulting, systems integration, code or data conversion or data entry, the term Product shall include resulting deliverables.
- b. Vendor's Product shall include all Product delivered under this Agreement by Vendor other than Third Party Product.
- c. Third Party Product shall include products manufactured or developed by a corporate entity independent from Vendor and provided by Vendor on a non-exclusive licensing or other distribution Agreement with the third party manufacturer. Third Party Product does not include product where Vendor is: a) corporate subsidiary or affiliate of the third party manufacturer/developer; and/or b) the exclusive re-seller or distributor of product manufactured or developed by said corporate entity.

2. Warranty Disclosure

At the time of bid, Product order or Product quote, Vendor is required to disclose the following information in writing to Authorized User:

- a. For Vendor Product and for Products (including, but not limited to, Vendor and/or Third Party Products and/or Authorized User's Installed Product) which have been specified to perform as a system: Compliance or non-compliance of the Products individually or as a system with the Warranty Statement set forth below; and
- b. For Third Party Product Not Specified as Part of a System: Third Party Manufacturer's statement of compliance or non-compliance of any Third Party Product being delivered with Third Party Manufacturer/Developer's Year 2000 warranty. If such Third Party Product is represented by Third Party Manufacturer/Developer as compliant with Third Party Manufacturer/Developer's Year 2000 Warranty, Vendor shall pass through said third party warranty from the third party manufacturer to the Authorized User but shall not be liable for the testing or verification of Third Party's compliance statement.

An absence or failure to furnish the required written warranty disclosure shall be deemed a statement of compliance of the product(s) or system(s) in question with the year 2000 warranty statement set forth below.

3. Warranty Statement

Year 2000 warranty compliance shall be defined in accordance with the following warranty statement:

Vendor warrants that Product(s) furnished pursuant to this Agreement shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, including leap year calculations. Where a purchase requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

In the event of any breach of this warranty, Vendor shall restore the Product to the same level of performance as warranted herein, or repair or replace the Product with conforming Product so as to minimize interruption to Authorized User's ongoing business processes, time being of the essence, at Vendor's sole cost and

expense. This warranty does not extend to correction of Authorized User's errors in data entry or data conversion.

This warranty shall survive beyond termination or expiration of the Agreement.

Nothing in this warranty shall be construed to limit any rights or remedies otherwise available under this Agreement.

- O. **No Subcontracting**
Subcontracting by the contractor shall not be permitted except by prior written approval and knowledge of the Department of Health.
- P. **Superintendence by Contractor**
The Contractor shall have a representative to provide supervision of the work which Contractor employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the Contractor.
- Q. **Sufficiency of Personnel and Equipment**
If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the Contractor to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.
- R. **Experience Requirements**
The Contractor shall submit evidence to the satisfaction of the Department that it possesses the necessary experience and qualifications to perform the type of services required under this contract and must show that it is currently performing similar services. The Contractor shall submit at least two references to substantiate these qualifications.
- S. **Contract Amendments**
This agreement may be amended by written agreement signed by the parties and subject to the laws and regulations of the State pertaining to contract amendments. This agreement may not be amended orally.

The contractor shall not make any changes in the scope of work as outlined herein at any time without prior authorization in writing from the Department of Health and without prior approval in writing of the amount of compensation for such changes.

T. Provisions Upon Default

1. In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor
2. If, in the judgement of the Department of Health, the Contractor acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor. In such case the Contractor shall receive equitable compensation for such services as shall, in the judgement of the State Comptroller, have been satisfactorily performed by the Contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work which the Contractor was engaged in at the time of such termination, subject to audit by the State Comptroller.

U. Termination Provision

Upon termination of this agreement, the following shall occur:

1. Contractor shall make available to the State for examination all data, records and reports relating to this Contract; and
2. Except as otherwise provided in the Contract, the liability of the State for payments to the Contractor and the liability of the Contractor for services hereunder shall cease.

V. Conflicts

If, in the opinion of the Department of Health, (1) the specifications conflict, or (2) if the specifications are not clear as to (a) the method of performing any part of the work, or as to (b) the types of materials or equipment necessary, or as to (c) the work required to be done in every such situation, the Contractor shall be deemed to have based his bid upon performing the work and furnishing materials or equipment in the most inexpensive and efficient manner. If such conflicts and/or ambiguities arise, the Department of Health will furnish the Contractor supplementary information showing the manner in which the work is to be performed and the type or types of material or equipment that shall be used.

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT
The New York State Department of Health recognizes the need to take

affirmative action to ensure that Minority and Women Owned Business Enterprises are given the opportunity to participate in the performance of the Department of Health's contracting program. This opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons is essential to obtain social and economic equality and improve the functioning of the State economy.

It is the intention of the New York State Department of Health to fully execute the mandate of Executive Law, Article 15-A and provide Minority and Women Owned Business Enterprises with equal opportunity to bid on contracts awarded by this agency in accordance with the State Finance Law.

To implement this affirmative action policy statement, the contractor agrees to file with the Department of Health within 10 days of notice of award, a staffing plan of the anticipated work force to be utilized on this contract or, where required, information on the contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Department. The form of the staffing plan shall be supplied by the Department.

After an award of this contract, the contractor agrees to submit to the Department a work force utilization report, in a form and manner required by the Department, of the work force actually utilized on this contract, broken down by specified ethnic background, gender and Federal occupational categories or other appropriate categories specified by the Department.

X. Contract Insurance Requirements

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:
 - a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the

contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).

- b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.
 - i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
 - ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
 - iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

Y. Certification Regarding Debarment and Suspension

Regulations of the Department of Health and Human Services, located at Part 76 of Title 45 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and

benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

1. APPENDIX B TO PART 76-CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of

those regulations.

- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non-procurement Programs.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
 - a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
 - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Z. Confidentiality Clauses

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.
2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.

3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.
4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.
5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.
6. All subcontracts shall contain provisions specifying:
 - a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and
 - b. that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

AA. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15th following the end of each state fiscal year included in this contract term. This report must be submitted to:
 - a. The NYS Department of Health, at the STATE's designated payment office address included in this AGREEMENT; and

- b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany NY 12236 ATTN: Consultant Reporting - or via fax at (518) 474-8030 or (518) 473-8808; and
- c. The NYS Department of Civil Service, Alfred E. Smith Office Building, Albany NY 12239, ATTN: Consultant Reporting.

BB. Provisions Related to New York State Procurement Lobbying Law

- 1. The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

CC. Provisions Related to New York State Information Security Breach and Notification Act

- 1. CONTRACTOR shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

Attachment 7

Vendor Responsibility Attestation

To comply with the Vendor Responsibility Requirements outlined in Section E, Administrative, 8. Vendor Responsibility Questionnaire, I hereby certify:

Choose one:

- An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: <https://portal.osc.state.ny.us> within the last six months.
- A hard copy Vendor Responsibility Questionnaire is included with this proposal/bid and is dated within the last six months.
- A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations.

Signature of Organization Official: _____

Print/type Name: _____

Title: _____

Organization: _____

Date Signed: _____

Attachments 8 and 9

8) State Consultant Services Form A, Contractor's Planned Employment from Contract Start Date through End of Contract Term

9) State Consultant Services Form B, Contractor's Annual Employment Report

Instructions
State Consultant Services
Form A: Contractor's Planned Employment
And
Form B: Contractor's Annual Employment Report

Form A: This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.

Form B: This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15th of each year to the following three addresses:

1. the designated payment office (DPO) outlined in the consulting contract.
2. NYS Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, NY 12236
Attn: Consultant Reporting
or via fax to –
(518) 474-8030 or (518) 473-8808
3. NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239
Attn: Consultant Reporting

Completing the Reports:

Scope of Contract (Form B only): a general classification of the single category that best fits the predominate nature of the services provided under the contract.

Employment Category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract. 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: 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 (to be) worked: for Form A, the total number of hours to be worked, and for Form B, the total number of hours worked during the Report Period by the employees in the employment category.

Amount Payable under the Contract: the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for

State Consultant Services

FORM B

OSC Use Only
 Reporting Code:
 Category Code:

Contractor's Annual Employment Report
 Report Period: April 1, ____ to March 31, ____

New York State Department of Health	Agency Code 12000
Contract Number:	
Contract Start Date: / /	Contract End Date: / /
Contractor Name:	
Contractor Address:	
Description of Services Being Provided:	

Analysis	Evaluation	Research
Training	Data Processing	Computer Programming
Other IT Consulting	Engineering	Architect Services
Surveying	Environmental Services	Health Services
Mental Health Services	Accounting	Auditing
Paralegal	Legal	Other Consulting

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
Totals this page:	0	0	\$ 0.00
Grand Total:	0	0	\$ 0.00

Name of person who prepared this report:
 Title:

Phone #:

Preparer's signature:
 Date Prepared: / /

Page of
 (use additional pages if necessary)

Attachment 10

N.Y.S Taxation and Finance
Contractor Certification Form ST-220TD



Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-TD

(6/06)

For information, consult Publication 223, Questions and Answers Concerning Tax Law Section 5-a (see Need help? below).

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number ()
Covered agency name	Contract number or description		Estimated contract value over the full term of contract (but not including renewals) \$	
Covered agency address			Covered agency telephone number	

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*, available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).


This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.


Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?

 **Internet access:** www.nystax.gov
(for information, forms, and publications)

 **Fax-on-demand forms:** 1 800 748-3676


 **Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Sales Tax Information Center: 1 800 698-2909

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

 **Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Make only one entry in each section below.

Section 1 — Contractor registration status

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Attachment 11

N.Y.S Taxation and Finance
Contractor Certification Form ST-220CA



Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back*).

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		\$
Contractor's telephone number	Covered agency name		
Covered agency address		Covered agency telephone number	

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

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 resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (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 a _____ 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.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.
Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.
This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

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Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.