



**Gaming
Commission**

INVITATION FOR BIDS

FOR

**HAVISION EQUIPMENT, INSTALLATION AND
MAINTENANCE**

March 9, 2022

C202109V2

Notice to Bidders

- The Permissible Contacts for this solicitation are Alysian Bowers and Stacey Relation as noted in Section 1.8 of the Invitation for Bids (“IFB”).
- Bidders are responsible for checking the New York State Gaming Commission’s website, https://www.gaming.ny.gov/about/procurement_opp.current.php, for updated information relative to the procurement process and the IFB. The New York State Gaming Commission will not be responsible for a Bidder’s failure to obtain updated information.
- By submission of a bid in response to this IFB, the Bidder agrees to the terms of the resulting Contract in the form incorporated into the IFB as **Appendix B**, or as revised through the IFB process. The New York State Gaming Commission does not intend to negotiate terms of the Contract after receipt of Bids or following award (Section 2.2).
- By submission of a bid in response to this solicitation, the Bidder agrees to comply with the insurance requirements defined in the IFB (Section 2.10).
- The participation goals for Minority and Women-Owned Business Enterprises is 30% and participation goals for Service-Disabled Veteran-Owned Businesses under this IFB is 6%. Equal Employment Opportunities provisions apply (Section 2.11).
- To assist Bidders in completion and submittal of the required documents, **Attachment 3, Document Submittal Checklist** is incorporated into this IFB.
- Bidders choosing not to submit a bid in response to this IFB are requested to submit the “Non-Bid Response” form, included in this IFB as **Attachment 4**, because the information is useful to the New York State Gaming Commission in the planning and development of future solicitations and Bidders lists.

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PART 1 – GENERAL INFORMATION

1.1 INTRODUCTION

The New York State Gaming Commission (the “Commission”), on behalf of the State of New York (the “State”), is issuing this Invitation for Bids (“IFB”) to solicit bids for Haivision equipment, installation, and maintenance.

Specifically, the Commission intends to procure new Haivision encoders and decoders, installation and maintenance to replace existing equipment at the Commission’s Schenectady, NY headquarters and Albany, NY master control facility, as well as installation and maintenance of decoders at nine broadcasting locations. Additional units and installation at broadcast locations in New York State may be required throughout the term of the contract. The Equipment (as defined in Part 3, below) must meet the required specifications defined in Part 3 of this IFB. Any Bidder offering equivalent equipment must provide supporting documentation and equipment for examination, demonstration, and trial at no charge to the Commission. The demonstrations will take place at the Commission’s Headquarters located at One Broadway Center, Schenectady, NY 12305 during the period stated in the Schedule found in Section 1.4 of this IFB.

One award will be made under this solicitation. The award will be to the responsive and responsible Bidder with the lowest total estimated cost. The Contract will commence upon approval of the Office of the New York State Comptroller (“OSC”) and the New York State Office of the Attorney General (“OAG”) and continue for five years. The equipment shall be delivered within **60 days** of the effective date of the Contract.

The contents of this IFB, any modifications, and the bid will become contractual obligations if a Contract ensues. Failure of the Successful Bidder to accept these obligations may result in cancellation of the award. The Commission is the only office authorized to clarify, modify, amend, alter, or withdraw the provisions of this IFB.

1.2 BACKGROUND INFORMATION

In November 1966, a constitutional amendment authorizing a lottery operated by the state was approved by a majority of New York State voters which allowed for the establishment of the New York State Division of Lottery. In February 2013, the New York State Division of Lottery merged with the New York State Racing and Wagering Board to form the Commission under adoption of Chapter 60 of the Laws of 2012 as part of the FY 2012-2013 Enacted State Budget. The Commission oversees and regulates gaming and racing programs, including Lottery, Video Lottery, Horse Racing, Charitable Gaming, Indian Casino Gaming and Commercial Casino Gaming. The mission of the Commission’s Lottery is to raise revenue for education in New York State through the administration of lottery games, such as

Numbers, Win 4, Take 5, Lotto, Pick 10, Cash 4 Life, Mega Millions, and Powerball, as well as Instant Scratch-off ticket games.

Game Drawings

Credibility and integrity are the cornerstones of the New York Lottery. The randomness of its drawings as well as the perception of absolute honesty and fairness is of paramount importance to the Lottery's continued acceptance and growth. Public trust in these drawings and in their public presentation is essential.

1.3 MINIMUM QUALIFICATIONS

Any Bidder submitting a bid in response to this IFB must meet the minimum qualifications listed below. **Bids not meeting these qualifications will not be considered.** Subcontracting is permitted under this solicitation, but subcontractors **may not be used to meet the Minimum Qualifications.**

- A. Bidder must be a manufacturer or authorized reseller and installer of Haivision equipment that has been in business for a minimum of five years at the date the Bidder's bid is submitted.
- B. Bidder must have service representatives located in the United States, capable of responding in-person (i) to maintenance calls and (ii) within **24 hours** after receipt of emergency calls.

1.4 SCHEDULE

The following dates are established for informational and planning purposes. The Commission reserves the right to adjust this schedule.

IFB Issued	March 9, 2022
Questions Due by 3:00 pm, ET	March 15, 2022
Commission Response	March 18, 2022
Bids Due by 3:00 pm, ET	March 30, 2022
Product Demonstrations, if requested	April 11 - 15, 2022

1.5 IFB APPENDICES AND ATTACHMENTS

The following documents are incorporated into this IFB:

- Appendix A: Standard Clauses for New York State Contracts (October 2019)
- Appendix B: Contract Form (incorporates Appendix A)
- Appendix C: Bidder/Offeror Disclosure/Certification Form
- Appendix D: Non-Collusive Bidding Certification
- Appendix E: New York State Vendor Responsibility Questionnaire
- Appendix F: Substitute Form W-9
- Appendix G: Contractor Certification – Tax Law Section 5-a

- Appendix H: Encouraging Use of New York State Businesses in Contract Performance
- Appendix I: EEO, MWBE and SDVOB Programs
- Appendix J: Vendor Assurance of No Conflict of Interest or Detrimental Effect
- Appendix K: Statement on Sexual Harassment
- Appendix L: Anti-Discrimination EO 177 Certification
- Appendix M: Insurer Qualifications and Insurance Requirements

- Attachment 1: Bidder Acknowledgement of Addendum
- Attachment 2: Bid Form
- Attachment 3: Document Submittal Checklist
- Attachment 4: Non-Bid Response

1.6 BIDDER/CONTRACTOR DIFFERENTIATION

Throughout this IFB the terms "Bidder" and "Vendor" (whether capitalized or not) may be used interchangeably in reference to the preparation and submission of the bid and any requirements preceding the award of the final Contract. In describing post-contract award requirements, an effort is made to use the term "Successful Bidder," and "Contractor" (whether capitalized or not).

1.7 HEADINGS

The headings used in this IFB are for convenience only and shall not affect the interpretation of any of the terms and conditions of this IFB.

1.8 PERMISSIBLE CONTACTS

Consistent with the public policy established by the Procurement Lobbying Law, described below, the Contract Management Specialist or Supervisor of Contract Administration designated below are the only points of contact with regard to matters relating to this IFB, unless additional points of contact are designated by them.

ALL BIDDERS RESPONDING TO THIS IFB AND ALL COMMUNICATIONS CONCERNING THIS PROCUREMENT MUST BE ADDRESSED IN WRITING TO THE CONTRACT MANAGEMENT SPECIALISTS AS NOTED BELOW:

New York State Gaming Commission
Contracts Office, 4th Floor
One Broadway Center
Schenectady, NY 12305

Alysan Bowers, Contract Management Specialist 2
Alysan.Bowers@gaming.ny.gov

or

Stacey Relation, Contract Management Specialist 3
Stacey.Relation@gaming.ny.gov

1.9 PROCUREMENT LOBBYING RESTRICTIONS

As required by the Procurement Lobbying Law (New York State's State Finance Law sections 139-j and 139-k), this IFB includes and imposes certain restrictions on communications between the Commission and a Bidder during the procurement process. A Bidder is restricted from making contacts from the earliest solicitation of offers through final award and approval of the resulting Contract by the Commission, the OSC, and the OAG ("restricted period") to any Commission staff member other than designated staff members unless the contact is permitted by the statutory exceptions set forth in New York State's State Finance Law section 139-j (3)(a). Designated staff members (also referred to herein as "Permissible Contacts") are identified above in Section 1.8 of this IFB.

Commission employees are permitted to communicate with Bidders concerning this IFB only under circumstances described in the New York State Procurement Lobbying Law. Any Bidder causing or attempting to cause a violation or circumvention of those requirements may be disqualified from further consideration for selection.

Commission employees are required to obtain certain information when contacted during the "restricted period" and to determine the responsibility of the Bidder pursuant to sections 139-j and 139-k of New York State's State Finance Law. A violation can result in a determination of non-responsibility, which can result in disqualification for a contract award. In the event of two determinations within a four-year period, a Bidder will be debarred for a period of four years from obtaining a governmental procurement contract award. Further information about these requirements can be found at: <http://www.ogs.ny.gov/acpl>.

The Commission reserves the right, in its sole discretion, to terminate the Contract in the event that the Commission determines that the certification filed by the Bidder in accordance with New York State's State Finance Law section 139-k was intentionally false or intentionally incomplete. Upon such determination, the Commission may exercise its termination right by providing written notification to the Bidder in accordance with the written notification terms of this Contract.

The BIDDER/OFFEROR DISCLOSURE/ CERTIFICATION FORM, Appendix C, must be completed and submitted with the Bidder's response.

1.10 QUESTIONS AND INQUIRIES

Questions from Bidders regarding this IFB must be submitted via electronic mail no later than the date and time specified in the Schedule (Section 1.4). **Neither faxed nor telephoned questions are acceptable.** If questions are provided via an attachment to electronic mail, the questions must be provided in Microsoft Word format.

Bidders are cautioned that any question or inquiry regarding the IFB must be written in generic terms and must not contain pricing information. The inclusion of specific information about a Bidder's pricing in an inquiry may result in the Bidder's disqualification.

Responses to all questions, and any changes to the IFB resulting from such questions, will be communicated via published addenda, which will be posted on the Commission's website.

A Bidder Acknowledgement of Addendum form, Attachment 1, will be provided with each addendum. Bidders are required to include a signed Bidder Acknowledgement of Addendum Form with their respective bids.

1.11 NON-COLLUSIVE BIDDING REQUIREMENT

In accordance with section 139-d of New York State's State Finance Law, if the Contract is awarded based upon the submission of bids, the Bidder must warrant, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Each Bidder must further warrant that, at the time Bidder submitted its bid, an authorized and responsible person executed and delivered to the Commission a Non-Collusive Bidding Certification on Bidder's behalf.

The Non-Collusive Bidding Certification form, Appendix D, must be completed and submitted with the bid.

1.12 NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE

Bidder agrees to fully and accurately complete the New York State Vendor Responsibility Questionnaire ("Questionnaire"), which is available online at: <https://www.osc.state.ny.us/vendrep/>.

Bidders are encouraged to complete the online form, as it will expedite Contract approval. If the Bidder does not have an online Questionnaire that is current and certified, the Bidder must complete the hardcopy **New York State Vendor Responsibility Questionnaire, Appendix E**. The Bidder acknowledges that the State's execution of the Contract will be contingent upon the Commission's determination that the Bidder is responsible, and that the Commission will be relying upon the Bidder's responses to the Questionnaire in making that determination. The Bidder agrees that if it is determined by the Commission that the Bidder's responses to the Questionnaire were intentionally false or intentionally incomplete, on such determination, the Commission may terminate the Contract by providing 10 days' written notification to the Contractor. In no case shall such termination of the Contract by the Commission be deemed a breach thereof, nor shall the Commission be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such determination.

Unless the New York State Vendor Responsibility Questionnaire has been filed online, the hardcopy Questionnaire, Appendix E, must be completed and submitted with the bid.

1.13 DESIGNATION OF PROPRIETARY INFORMATION (FOIL)

During the evaluation process, the content of each bid will be held in confidence, and details of any bid will not be revealed (except as may be required under the New York State Freedom of Information Law (New York State's Public Officers Law Article 6 ("FOIL")) or other State law). FOIL provides for an exemption from disclosure for trade secrets or information which, if disclosed, would cause substantial injury to the competitive position of a commercial enterprise. This exemption applies both during and after the evaluation process.

If a Bidder believes its bid contains any such trade secrets or other confidential information, the Bidder must submit a request with its bid to exempt such information from disclosure in response to a FOIL request. Such request must: (a) identify the specific material in the bid that the Bidder believes should be exempt from disclosure; (b) identify the location (section, page number) of such material; and (c) state the reasons why FOIL permits the exemption of such information from disclosure.

Requests for exemption of the entire contents of a bid from disclosure generally have not been found to be meritorious and are discouraged. Requests for exemption of information from disclosure should be limited to bona fide trade secrets or specific information, the disclosure of which would cause substantial injury to the Bidder's competitive position.

For proprietary designations, the Commission's legal staff, as directed by the Permissible Contacts, will review each designation and communicate with the Bidder in the determination of such designation. Any designation shall not become final until accepted by the Commission via formal letter. Once a designation is final, the Bidder will be required to submit a redacted version of the bid consistent with the accepted designation. The redacted version will be the material that is released in response to a relevant FOIL request.

1.14 CLARIFICATION PROCESS

The Commission may request clarification from a Bidder for the purpose of resolving any ambiguity or questioning information presented in the bid. Clarifications are an opportunity to explain, but not to make changes to, a bid. Responses must be submitted to the Commission within the time stipulated at the time of the request. As applicable, clarifications will be treated as addenda to the bid.

1.15 SITE VISITS

The Commission may visit any site where the Bidder conducts, or has conducted, operations similar to the services required in this IFB. The Bidder shall cooperate in arranging and coordinating such site visits, but the Bidder shall not be permitted to pay for any travel, accommodations, or other expenses of such site visits.

1.16 DISCLOSURE OF INVESTIGATIONS DURING BID EVALUATION

Subsequent to a Bidder's bid submission, the Commission may initiate investigations into the background of the Bidder and individuals or entities related to any officers, directors, members, principals, investors, owners, subcontractors, employees, or any other individuals or entities related to the Bidder, as the Commission may deem appropriate, in its sole discretion. Such background investigations may include fingerprint identification by the New York State Division of Criminal Justice Services and the Federal Bureau of Investigation, and such additional investigation as may be required.

The Commission may reject a bid based upon the results of these background checks. Each Bidder is advised that any Bidder who knowingly provides false or intentionally misleading information in connection with any investigation by the Commission may cause such Bidder's bid to be rejected, or a Contract to be canceled by the Commission, in its sole discretion.

If a Bidder or a substantial subcontractor of the Bidder is a subsidiary of a parent entity, the Commission may request the above disclosures from the parent entity, in its sole discretion.

1.17 DISCLOSURE OF LITIGATION AND OTHER INFORMATION

The Commission has a strong interest in the Successful Bidder's continuing ability to provide secure, high quality products and services, and as such, the Commission requires that a Bidder list and summarize pending or threatened litigation, administrative or regulatory proceedings, or similar matters that could materially affect the Bidder. A Bidder, as part of its disclosure requirement, must state whether the Bidder, or any of the owners, officers, directors, or partners of such Bidder have ever been convicted of a felony. Failure to disclose any such matter may result in rejection of the Bidder's bid or in termination of a Contract. **Such disclosures must be included in the Bidder's bid.**

This disclosure obligation is a continuing requirement. Any such matter commencing after submission of a bid and, with respect to the Successful Bidder after the approval of a Contract, must be disclosed to the Commission in a written statement and in a timely manner.

1.18 CONFLICTS OF INTEREST

Throughout the procurement process, Bidders must identify, and bring to the attention of the Commission, actual or apparent conflicts of interest as knowledge of such conflicts arises, as follows:

- A. Disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of five percent (5%) or more, or parent, subsidiary, or affiliated firm or entity, that could constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Bidder, or former officers and employees of the Commission and its Affiliates, in connection with the Bidder rendering services set forth in this IFB. If a conflict does or might exist, the Bidder must describe how the Bidder would eliminate or prevent such conflicts. The Bidder should also indicate what procedures will be followed to detect, notify the Commission of, and resolve any such conflicts;
- B. Disclose whether the Bidder, or any of its members, shareholders of five percent (5%) or more, parents, affiliates, or subsidiaries has been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics or its predecessor State entities (collectively, "JCOPE"), and if so, a brief description must be included indicating how any matter before JCOPE was resolved, or whether it remains unresolved; and
- C. Indicate whether the Bidder (including any proposed subcontractors) has performed work for vendors now active, or seeking to become active, in the provision and/or management of gaming systems in lottery jurisdictions and disclose the nature of such work, including when such work was performed. It is incumbent upon the Bidder to demonstrate clearly that such work could have no real or perceived effect on the Bidder's independence and impartiality in the performance of the work required herein. If the Bidder has not performed work for vendors (as described in this paragraph), Bidders should so state.

In addition, the Bidder must complete and return with its bid, the Vendor Assurance of No Conflict of Interest or Detrimental Effect form, found in Appendix J. Any Bidder awarded a Contract under this IFB will have an ongoing obligation to inform the Commission of any actual or apparent conflicts of interest. This disclosure obligation is a continuing requirement.

1.19 CHANGE IN FINANCIAL CONDITION

If a Bidder who has submitted a bid in response to this IFB experiences a substantial change in financial condition prior to the award of a Contract pursuant to this IFB, or if a Successful Bidder experiences a substantial change in financial condition during the term of the Contract with the Commission, each is required to notify in writing the Executive Director of the Commission, or his or her designee, at the time the change occurs or is identified. Failure to notify the Executive Director of the Commission, or his or her designee, of such a change may result

in the rejection of a Bidder's bid or termination of the Contract, in the sole discretion of the Commission. The Commission reserves the right, based on its assessment of a change in financial condition, to reject a Bidder's bid or terminate a Contract. **This disclosure obligation is a continuing requirement.**

1.20 CHANGE IN OWNERSHIP

If a Bidder experiences a material change in ownership prior to the award of a Contract or during the term of a Contract with the Commission, the Bidder is required to notify in writing the Executive Director of the Commission, or Commission designee, at the time the change occurs or is identified. "Material change in ownership" is defined as any merger, acquisition, assignment or change in parties who, in the aggregate, own greater than five percent (5%) of the Bidder or the parent company of the Bidder. Failure to notify the Executive Director of the Commission, or Commission designee, of such a change may result in the rejection of a Bidder's bid or termination of the Contract, in the sole discretion of the Commission. The Commission reserves the right, based on its assessment of a material change in ownership, to reject a Bidder's bid or terminate a Contract. **This disclosure obligation is a continuing requirement.**

1.21 NEW YORK STATE PUBLIC OFFICERS LAW

Contractors, consultants, vendors, and subcontractors may hire former Commission employees. However, as a general rule, and in accordance with New York State Public Officers Law Section 73, former employees of the Commission may neither appear nor practice before the Commission, nor receive compensation for services rendered on a matter before the Commission, for a period of two years following their separation from Commission service. In addition, former Commission employees are subject to a "lifetime bar" from appearing before the Commission or receiving compensation for services regarding any transaction in which they personally participated, or which was under their active consideration, during their tenure with the Commission.

1.22 ETHICS REQUIREMENTS

The Successful Bidder and its subcontractor(s) shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York State Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines, or policies promulgated or issued by JCOPE (collectively, the "Ethics Requirements"). The Successful Bidder certifies that all its employees and those of its subcontractor(s) who are former employees of the State, and who are assigned to perform services pursuant to this Contract, shall be assigned in accordance with all Ethics Requirements. During the term of the Contract, no person who is employed by the Successful Bidder or its subcontractor(s) and who is disqualified from providing services set forth in this Contract pursuant to any Ethics Requirements may share in any net revenues of the Successful Bidder or its subcontractor(s) derived from this Contract. The Successful Bidder shall identify

and provide the State with notice of those employees of the Successful Bidder and its subcontractor(s) who are former employees of the State that will be assigned to perform services pursuant to this Contract, and make sure that such employees comply with all applicable laws and prohibitions. The State may request that the Successful Bidder provide the State with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from JCOPE, and, if deemed appropriate by the State, instruct any such person to seek the opinion of JCOPE. The State shall have the right to withdraw or withhold approval of any subcontractor(s) if utilizing such subcontractor(s) for any work performed hereunder would conflict with any of the Ethics Requirements. The State shall have the right to terminate the Contract resultant from this IFB at any time if any work performed hereunder conflicts with any of the Ethics Requirements.

1.23 HIRING OF COMMISSION PERSONNEL

At all times during the bid evaluation period and continuing for one year following either the award of a contract, or the rejection of all bids, Bidders are prohibited from officially or unofficially making any employment offer, or proposing any business arrangement whatsoever, to any Commission employee involved in the evaluation of bids, the Contract award, or Contract negotiations. A Bidder making such an offer or proposition may be disqualified from further consideration.

1.24 CERTIFICATION OF COMPLIANCE WITH STATE FINANCE LAW § 139(I)

By submission of the bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the Bidder has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of New York State's Labor Law section 201-g. Bidder certification of compliance with New York State's State Finance Law § 139-I is included with this IFB as **Appendix K, Statement on Sexual Harassment**.

1.25 EXECUTIVE ORDER NO. 177 CERTIFICATION

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status, or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability or pregnancy-related condition to perform the essential functions of a job

in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

In accordance with Executive Order No. 177, the Bidder must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. The certification is included with this IFB as **Appendix L, Anti-Discrimination EO 177 Certification.**

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including, but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and section 296(11) of the New York State Human Rights Law.

1.26 NEWS RELEASES

A news release pertaining to this IFB, or the services, evaluation, or project to which this IFB relates, may not be made without the Commission's prior written approval, and then only in accordance with express written instructions from the Commission. No outcome of the award under this procurement may be released without the Commission's prior written approval, and then only to persons designated by the Commission.

1.27 ADVERTISING

Each Bidder agrees not to use the Commission's name, logos, images, nor any data or results arising from this procurement or Contract as part of any commercial advertising without prior written approval by the Commission, and then only in consultation and cooperation with the Commission.

1.28 STATE'S RESERVED AUTHORITY

In addition to any authority set forth elsewhere in this IFB, the Commission reserves the authority to:

- A. Award a Contract for all, part, or none of the services requested by this IFB;
- B. Waive any informality or technical defect if, in the judgment of the Commission, the best interest of the Commission will be so served;
- C. Eliminate any non-material specification(s) that cannot be complied with by any of the prospective Bidders;
- D. Amend the IFB and direct Bidders to submit Proposal modifications accordingly;

- E. Change any of the scheduled dates stated herein;
- F. Reject any or all Proposals received in response to this IFB, and reissue a modified version of this IFB;
- G. Withdraw the IFB at any time, at the sole discretion of the Commission;
- H. Seek clarifications and revisions to bids;
- I. Use information obtained through site visits, management interviews, and the investigation of a Bidder's qualifications, experience, ability, or financial standing, and any material or information submitted by the Bidder in response to the request by the Commission for clarifying information in evaluation and/or selection under this IFB;
- J. Disqualify any Bidder whose conduct and/or bid fails to conform to the requirements of this IFB;
- K. Negotiate with the Successful Bidder within the scope of the IFB in the best interests of the State;
- L. Request Best and Final Offers;
- M. Set aside the original award to a Successful Bidder if the Commission determines that such Bidder is non-responsive or not responsible. The Commission may then award a Contract to the responsive and responsible Bidder with the next lowest cost if such Bidder is responsible and responsive; and
- N. Stop the work covered by the Proposal and the Contract at any time that it is deemed the Successful Bidder is unable, unwilling, or incapable of performing the work to the Commission's satisfaction. The Commission may then arrange for the completion of the work as it deems advisable, and if the cost thereof exceeds the amount of the bid, the Successful Bidder and its surety shall be liable to the State for such cost. If the Commission provides a stop order to the Successful Bidder to stop the work as provided herein, presenting the reason for the stoppage, then the Contractor shall have ten (10) working days to respond thereto before any such stop order shall become effective.

PART 2 – CONTRACTUAL PROVISIONS

2.1 **GOVERNING LAW**

The IFB and any Contract resulting from this IFB shall be governed by, and interpreted according to, the laws of the State of New York. Any and all disputes of claims arising under this IFB or any Contract resulting from this IFB, other than as specifically set forth in this IFB, shall be brought exclusively in the appropriate New York State court of competent jurisdiction; and, by submitting a bid, a Bidder waives access to any other court or forum that may have concurrent jurisdiction within or outside New York State to hear or resolve any such dispute or claim.

2.2 **FORM OF CONTRACTUAL AGREEMENT**

Following notification of award, the Successful Bidder will be expected to enter into a Contract with the Commission. The final Contract will be in the form incorporated into the IFB as **Appendix B** (the “Contract”), or as revised through the IFB amendment process.

Appendix A, Standard Clauses for New York State Contracts, is incorporated into the Contract. The Contract will become binding and effective after approval by the Commission, the OAG and the OSC.

Submission of a bid serves as acknowledgment and agreement to the terms of the Contract, included in the IFB as **Appendix B**, if deemed the Successful Bidder under the IFB process. **The Commission does not intend to negotiate any changes in the provisions of the Contract following the receipt of bids.** Therefore, any exception to the Contract must be raised in a Bidder question submitted to the Commission pursuant to the Schedule and in accordance with the Question and Answer process set forth in this IFB. **Failure to comply with this requirement will deem the bid non-responsive.**

2.3 **CONTRACT ELEMENTS**

The Contract resulting from this IFB will include the following parts:

- Appendix A – Standard Clauses for New York State Contracts
- Addenda to the Contract
- Contract Form (Appendix B)
- Clarifications and Addenda to the IFB
- IFB
- Clarifications to the Bid
- Bid Form

In the event of a conflict in any provisions of these documents, the order of precedence shall be as listed above from the highest to the lowest.

2.4 SEVERABILITY

If a New York State court of competent jurisdiction determines any portion of this IFB and/or the Contract to be invalid, that portion shall be severed, and the remaining portion of this IFB and/or the Contract shall remain in effect.

2.5 TERM OF CONTRACT

The Contract term shall commence upon approval of the Contract by the OSC and OAG and be in effect for five years. **Delivery of all equipment must be made within 90 days of Contract approval.** Maintenance and repairs shall be ongoing throughout the Contract term as provided in the Scope of Work, Part 3 of this IFB.

2.6 COMPENSATION, INVOICING, AND PAYMENT

The Contractor will be compensated for goods and services provided in accordance with the Scope of Work, defined in Part 3 of this IFB, at the fees set forth in the Bid Form, incorporated into the Contract as **Attachment 2**, for each product or service.

The Contractor will not be compensated for direct unbillable expenses, such as travel, lodging, and other out-of-pocket expenses that are required as a regular course of business.

Payment under the Contract will be in accordance with New York State's Prompt Payment Law (Article 11-A of the New York State's State Finance Law). Payment for services will be made upon completion of the services, in accordance with the terms of this IFB, and upon receipt by the Commission of a proper invoice.

Invoices shall be submitted, on a monthly basis, as a PDF email attachment and directed to the New York State Business Services Center at accountspayable@ogs.ny.gov and also copied to the Commission's Finance Office at gaming.dl.Financial.Management.Invoices@gaming.ny.gov.

The Commission shall promptly process all payments due to the Contractor that conform to the provisions of this IFB and are approved by the Commission's Finance Officer or designee.

Travel expenses may be reimbursed only for installation of equipment at future locations not listed herein and located outside of New York State. Reimbursement for actual, pre-approved travel expenses will be based on proper, supported receipts and in accordance with the prevailing allowances established by the State of New York for Management/Confidential Employees. For more information, please refer to the New York State Travel Manual at: <http://www.osc.state.ny.us/agencies/travel/manual.pdf>. For current mileage reimbursement rates please visit: <https://www.gsa.gov/travel/plan-book/transportation-airfare-rates-pov-rates-etc>.

2.7 VENDOR IDENTIFICATION NUMBER

To do business with the State, each Bidder is required to obtain a New York State Vendor Identification Number for use in the Statewide Financial System (“SFS”). The Substitute Form W-9 must be completed and submitted directly to the Commission upon notification of award. The purpose of the Substitute Form W-9, which will capture the Contractor’s taxpayer identification number, business name, and contact person, is to allow the State to establish a vendor file in the SFS.

Note: IRS Form W-9 is not acceptable for this purpose.

The Substitute Form W-9 is included in this IFB as Appendix F.

2.8 ELECTRONIC PAYMENTS

If awarded the Contract pursuant to this RFP, the Successful Bidder may enroll in direct deposit through the SFS Vendor Portal at <https://esupplier.sfs.ny.gov>. Additional information and procedures for enrollment can be found at OSC’s website: <https://www.osc.state.ny.us/state-vendors>.

2.9 TAX LAW SECTION 5-A

The Bidder awarded a Contract pursuant to this IFB must comply with the requirements of New York State Tax Law Section 5-a, which requires businesses that are awarded contracts with New York State to certify that they are registered to collect New York State and local sales and use taxes on sales delivered to locations within New York. The OSC or other responsible approver cannot approve the Contract unless the Contractor is registered with the New York State Department of Taxation and Finance to collect sales and compensating use taxes, pursuant to this Section.

The Contract Certification forms (ST-220-TD and ST-220-CA), included in this IFB as Appendix G, must be filed in compliance with Tax Law Section 5-a. Any Bidder awarded under this IFB must, within seven (7) calendar days of notification of award, file ST-220-TD directly with the New York State Department of Taxation and Finance at the address provided on the form, and ST-220-CA with the Commission.

Bidders can visit the New York State Department of Taxation and Finance website to obtain more information:

<http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

2.10 INSURER QUALIFICATIONS AND INSURANCE REQUIREMENTS

Insurer qualifications and insurance requirements are provided in **Appendix M** of this IFB.

Submission of a bid, serves as acknowledgement that the Successful Bidder will comply with the insurer qualifications and insurance qualifications. The Contractor must comply with these requirements to remain responsible under the terms of the Contract resulting from this IFB.

2.11 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY/WOMEN-OWNED BUSINESSES.

By submission of a Bid in response to this solicitation, the Bidder agrees with all of the terms and conditions of Clause 12 of Appendix A – Equal Employment Opportunities for Minorities and Women.

In accordance with Article 15-a of the New York State Executive Law and in conformance with the regulations promulgated by the Minority and Women’s Business Development Division of the New York State Department of Economic Development set forth in 5 NYCRR Parts 140-144, the Bidder agrees to be bound by provisions to promote equality of economic opportunity for minority group members and women, and the facilitation of minority and women-owned business enterprise participation.

The Equal Employment Opportunity (“EEO”) and Minority and Women Owned Business Enterprises (“MWBE”) requirements are set forth in Appendix I - EEO, MWBE And SDVOB Programs, of this IFB.

The MWBE goal established under this IFB is 30%.

2.12 NEW YORK STATE SERVICE-DISABLED VETERAN-OWNED BUSINESSES

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

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

The Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Businesses form is included with this IFB in Appendix I - EEO, MWBE And SDVOB Programs.

The SDVOB goal established under this IFB is 6%.

2.13 SUCCESSFUL BIDDER RESPONSIBILITIES AS PRIMARY CONTRACTOR

The Successful Bidder will be required to assume responsibility for all contractual activities required in the IFB whether or not the Successful Bidder performs such activities. Further, the Commission will consider the Successful Bidder to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Contract.

If any part of the work is to be subcontracted, responses to this IFB must include a list of subcontractors, as provided in Part 4 of this IFB. The Successful Bidder must accept full responsibility for the performance of any such subcontractor.

2.14 APPROVAL OF STAFFING

The Commission reserves the right to review and, if perceived necessary, disapprove of, any employee of the Successful Bidder who is proposed or assigned to participate in the Commission Contract, either at Contract inception or during the term or any extension thereof.

2.15 NEW YORK STATE SUBCONTRACTORS AND SUPPLIERS

Bidders are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés, or other supporting roles.

Subcontractor and supplier requirements are set forth in Appendix H of this IFB.

2.16 SUBCONTRACT APPROVAL

The Contractor may arrange for a portion(s) of its responsibilities under the Contract to be subcontracted to qualified, responsible subcontractors, subject to prior written approval of the Commission. If the Contractor proposes to subcontract a portion of the Contractor's services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under the Contract must be fully explained by the Contractor to the Commission. The Commission's approval of proposed subcontractors shall not be unreasonably withheld upon receipt of written request to subcontract and the Commission may require the Contractor to replace working subcontractors who are determined to be unacceptable upon inception or during the Contract term or any extension thereof.

Each subcontractor must submit to the Commission a completed **Vendor Assurance of No Conflict of Interest or Detrimental Effect** form (**Appendix J**),

as required to be signed by the Contractor prior to execution of this Contract (See Section 1.18).

The Contractor retains ultimate responsibility for all services performed under the Contract.

All subcontracts shall be in writing and shall contain provisions that are functionally identical to, and consistent with, the provisions of the Contract, including, but not limited to, the body of the Contract, Appendix A – Standard Clauses for New York State Contracts, and the IFB. Unless waived in writing by the Commission, all subcontracts between the Contractor and subcontractors shall expressly name the State, through the Commission, as the sole intended third-party beneficiary of such subcontract. The Commission reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the Commission or the State a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the Commission.

The Commission reserves the right, at any time during the term of the resulting Contract, to verify that the written subcontract between the Contractor and subcontractors complies with all provisions of this section and any subcontract provisions contained in the Contract.

The Contractor shall give the Commission immediate notice in writing of the initiation of any legal action or suit that relates in any way to a subcontract with a subcontractor or which may affect the performance of the Contractor's duties under the Contract. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the Contract.

If at any time during performance under this Contract total compensation to a subcontractor exceeds or is expected to exceed \$100,000, that subcontractor shall be required to submit and certify a New York State Vendor Responsibility Questionnaire.

2.17 DELEGATION AND/OR ASSIGNMENT

No delegation of any duties under this Contract to another entity shall be binding upon the State until the Commission has given written consent to such delegation; nor shall assignments of rights to moneys due or to become due under this Contract be permitted to be paid to any entity other than Contractor, except by express written consent of the Commission.

2.18 CODE OF CONDUCT FOR BIDDER

The Commission's New York Lottery is an extremely sensitive enterprise because of the nature of the business and because it is government-operated. Therefore, it is essential that its operation, and the operation of other enterprises which would be linked to it in the public mind, avoid not only impropriety but also the appearance

of impropriety. Accordingly, Contractors associated with the Commission are expected to:

- A. Offer goods and services only of the highest standards;
- B. Use their best efforts to prevent the Commission and the industry from becoming embroiled in unfavorable publicity;
- C. Make sales presentations in a responsible manner, and when it is necessary to point out the superiority of their goods or services over those of their competitors, to do so in such a manner as to avoid unfavorable publicity for the Commission and the industry;
- D. Avoid promotional activities that could be interpreted as improper and result in embarrassment to the Commission or the industry;
- E. Report security problems or potential security problems promptly to the Commission; and
- F. Not offer or give any gift, gratuity, favor, entertainment, loan or any other thing of material monetary value to any Commission employee, or to any individual influencing the outcome of this project.

2.19 LICENSED INTELLECTUAL PROPERTY

To the extent that the Bidder utilizes or relies upon the Intellectual Property Rights of a third party in fulfilling its obligations under the Contract, the Bidder will provide the Commission with whatever assurance the Commission deems necessary that the use of such third-party intellectual property is permissible. In addition, in the event of failure to perform or breach of Contract, the Bidder shall ensure continued right of use of licensed intellectual property by the Commission. The Commission will not pay a fee for rights already held by the Bidder; however, if fees are incurred for the licensing of intellectual property owned by any third-party relevant to the fulfillment of the services under this IFB and/or the resulting Contract, any fees to be paid by the Commission for use of a third party's intellectual property will be negotiated on a case-by-case basis. The Bidder shall provide a list of any third party's intellectual property relevant to this procurement that the Bidder is currently licensed to use.

2.20 COMMISSION SECURITY REQUIREMENTS

The Contractor, including its employees, officers, agents and subcontractors, shall be required to comply with all present and future security policies of the Commission. In addition, the Contractor, its subcontractors, project managers, their employees, officers and agents, and any and all persons involved in projects and work assignments under this Contract will be required, must receive a security clearance by the Commission to access to any Commission site. Anyone seeking access to a Commission site must provide their name, address, date of birth,

company affiliation, and a company point of contact for employment verification, at least one week prior to any site visit. If the Commission grants preliminary access approval, all visitors to a site shall provide two (2) forms of valid identification, including one (1) photo ID, and written authorization that each visitor is acting on behalf of a designated employer and/or contractor. Access to the Commission site will only be approved after site authorization is confirmed.

A. Physical Security During the Delivery of Contracted Services

(i) The Contractor shall be solely responsible for the safety and security of the project sites, facilities, and components under this Contract, with the exception that the Contractor is not responsible for overall building security at locations under the control and management of Commission, State, local or federal agencies. The Contractor remains responsible, however, for security of project components or equipment within such buildings (e.g., secure equipment enclosures within the space provided by such agencies). The Contractor shall be responsible for and shall correct its failure or any theft of any components or portion of the project due to the Contractor's inadequate physical and/or information security at its cost and expense.

(ii) The physical security and the information security of project data shall be provided at a level commensurate with that normally established for a similar system in today's heightened security environment. All components of site security shall be of suitable strength and design and shall reasonably withstand attempts to gain unauthorized access.

B. Access by Personnel

(i) The Contractor, its officers, agents, subcontractors, and their employees and independent contractors, shall be required to comply with all applicable facility and information security policies and procedures of the Commission and the State in performing the Scope of Work under this IFB. Such policies and procedures shall be communicated to the Contractor as a condition precedent to Contractor's obligations under this paragraph.

(ii) The Contractor warrants that each individual performing work under this IFB is legally eligible to work in the United States and that such eligibility shall be maintained at all times during the engagement while the individual is accessing any Commission site, information systems or data contained therein. In addition, prior to accessing any Commission site, project information systems or data contained therein, the Contractor and its officers, agents, subcontractors, and their collective employees and independent contractors performing work under this IFB, shall be required to:

(a) obtain security clearance from the Commission, which may include, at the Commission's discretion, a criminal history and/or background investigation of each individual proposed to perform work under the Contract. Each individual assigned to the project by

or through the Contractor shall be required to submit identifying information to the Commission.

(b) obtain from the Commission and prominently display on their person, Commission-issued identification cards at all times while physically present at any Commission site.

(iii) When an emergency or other circumstance occurs that renders immediate compliance with the foregoing requirements impractical, the Commission may, in its sole judgment, defer an individual's compliance with the foregoing requirements and grant temporary access. Such deferment shall not be construed as a waiver of the Commission's right to subsequently require security clearance as to any individual previously granted such temporary access; provided however, that even in such circumstances, the Commission shall approve such individual's access prior to such individual accessing a site, system, or data and the Commission may accompany such individual at all times when on-site.

(iv) The Commission reserves the right, in its sole discretion, and without liability assessed by the Commission to the Contractor's officers, agents, subcontractors, and their collective employees and independent contractors assigned to work under the Contract, to withhold approval of and refuse to permit access prior to such individual accessing a site, system, or data and the Commission may accompany such individual at all times when on-site. The Commission reserves the right, in its sole discretion, and without liability to the Contractor's officers, agents, subcontractors, and their collective employees and independent contractors assigned to work under the Contract, to withhold approval of and refuse to permit access to, Commission facilities, electronic information systems or data contained therein to any individual proposed by or through the Contractor

(a) who refuses to comply with the security procedures outlined in this section, or

(b) where the Commission determines that the individual may present a risk to the Commission's security interests.

The Commission shall not be liable for payments or damages of any kind if the Contractor is delayed or unable to perform under the Contract as a result of the Commission's denial of access to any individual(s) pursuant to this section.

PART 3- SCOPE OF WORK

3.1 SCOPE

The Commission is seeking bids from qualified manufacturers or authorized resellers to provide Haivision Encoders and Decoders as explained in the “SPECIFICATIONS” below (“the Equipment”), installation of the Equipment, and annual support and maintenance of the Equipment.

The Equipment must meet the required specifications herein. If offering potentially equivalent items, the Bidder must provide supporting documentation. Upon request by the Commission, the Equipment must be made available at the Commission’s headquarters for examination, demonstration, and trial of equipment, at no cost or expense to the Commission during the demonstration period outlined in 1.4 “Schedule.”

SPECIFICATIONS:

The Equipment must be current model or most recent release.

Quantities, models and features of the Equipment:

Quantity	Models and Features
4	S-MX4E-SDI4-UHD Makito X4 SDI Encoder Appliance – H.264/AVC & H.265/HEVC IP Video Encoder – Single Channel 6/12G-SDI or Quad channel 3G/HD/SD-SDI, with spare power supply (one (1) each)
11	S-MX4D-SDI4-UHD Makito X4 UHD SDI Decoder Appliance – HEVC/H.265 & AVC/H.264 IP Video Decoder – Single channel UHD or Quad channel 3G/HD/SD-SDI; up to 3840x2160p60 video; 16 channel AES digital audio; 10/100/1000 Ethernet; with spare power supply (one (1) each for each remote site; two (2) each for Albany & Schenectady sites)
9	Haivision 1RU Appliance Mounting Bracket
2	Haivision 6 Slot Chassis (Redundant AC)
2	Haivision SRT Gateway appliance with dual-power and dual-server redundancies, 100mbps aggregate output, includes configuration
1	Annual Haivision Premium Support Program for a minimum of five years

Installation Specifics for Haivision Encoders and Haivision Decoders: Note: Installation at sites can utilize existing cabling of current equipment in most cases. Additional cabling, as needed, will be compensated at the cost plus markup included in the Bid Form – Attachment 2.

Two (2) Haivision Encoders and one (1) Haivision Decoder will be installed at the Commission's Headquarters located at One Broadway Center, Schenectady, NY 12305. One (1) additional Haivision Encoder will be located at the Commission's headquarters as a spare (no installation unless and until it is put into operation).

One (1) Haivision Encoder and one (1) Haivision Decoder will be installed at the New York State Office of General Services, Media Services Center located at The Governor Nelson A. Rockefeller Empire State Plaza, Albany, NY 12242.

One (1) Haivision Decoder will be installed at the following nine (9) receiving locations:

- **Binghamton – WICZ**
4600 Vestal Parkway East
Vestal, NY 13850
- **Buffalo – WUTV**
699 Hertel Avenue, Suite 100
Buffalo, NY 14207-2341
- **Elmira – WETM**
101 East Water Street
Elmira, NY 14901
- **New York City – WABC** *(Note: This is the WABC Master Control location.)*
(Encompass Digital Media)
3845 Pleasantdale Road
Atlanta, GA 30340
- **Plattsburgh – WPTZ**
530 Community Drive, Suite 55
South Burlington, VT 05403
- **Rochester – WHAM**
4225 W. Henrietta Road
Rochester, NY 14623
- **Syracuse – WSTM, WTVH**
1030 James Street
Syracuse, NY 13203
- **Utica – WUTR**
5956 Smith Hill
Utica, NY 13502

- **Univision – New York Metro**

500 Frank West Burr Boulevard
Teaneck, NJ 07666

Alternate broadcast locations may be used throughout the term of the Contract. Therefore, additional equipment and installation may be needed.

Cost for all travel to perform the installation at the sites listed above shall be included in the cost of installation.

Installment of equipment in the future at locations not yet determined and not listed herein may be separately reimbursed for actual, pre-approved travel expenses, pursuant to Section 2.6. Payment will not be made for time spent in travel status.

All the Equipment must meet the following requirements and must include all of the features identified below:

➤ **Operational Features:**

- Direct transmission to broadcast partners using Secure Reliable Transport (SRT) protocol with ability to deliver ultra-low latency multi-bitrate streams over IP.
- Must be ultra low-latency HD video transmission.
- 4K HEVC live video encoding, with options for HD H.264 and HEVC (H.265) compression, and adaptive network encoding.
- Must support up to 4:2:2 chroma sub-sampling.
- AES-128/256 bit encryption. Point-to-multi-point streaming capabilities at a professional broadcasting level.
- SRT with 100 Mbps aggregate outband bandwidth.

Deinstallation/Reinstallation

In the event any of the broadcast partners listed herein change over the term of the Contract, deinstallation of installed Haivision equipment at a broadcast station no longer in use would be necessary. Thereafter, the installation of such equipment may be required at an alternate location as specified by the Commission. If reinstallation is not required, the deinstalled equipment shall be returned to the Commission.

In the event that the Commission's headquarters changes location(s) during the term of the Contract, removal of the two (2) Haivision Encoders and one (1) Haivision Decoder from the Commission's current headquarters may be required, and shall be installed at the Commission's new headquarter site(s).

Travel expenses related to the deinstallation and installation of Haivision equipment described herein shall be addressed pursuant to Section 2.6 of this IFB.

Delivery, Setup and Training:

The Equipment shall be delivered, FOB Destination, to each location no later than 60 days following the Contract's start date.

The Equipment installation must be accomplished in tandem with current daily broadcasts, with no interruption in service of broadcasts multiple times per day.

Training on software programs associated with any of the Equipment must be provided as part of the Contract.

On-site Testing:

All the Equipment is subject to approval and acceptance by the Commission after on-site testing is completed. All testing expenses, including cost of personnel provided by the Contractor, are the responsibility of the Contractor.

3.2 WARRANTY

All products offered shall be standard new equipment, current model, or most recent release of regular stock product with all parts regularly used with the type of equipment offered; and no attachment or part substituted or applied contrary to the manufacturer's recommendations and standard practice.

The Contractor further warrants and represents to the Commission that components or deliverables specified and furnished by or through the Contractor shall individually, and where specified and furnished as a system, be substantially uninterrupted or error-free in operation and guaranteed against faulty material and workmanship for the warranty period, or for a minimum of one-year from the date of the Commission's acceptance of the Equipment (respective to the acceptance of each piece of the Equipment, and not the first or final piece of the Equipment accepted), whichever is longer ("Project Warranty Period"). During the Project Warranty Period, defects in the materials or workmanship of components or deliverables specified and furnished by or through the Contractor shall be repaired or replaced by the Contractor at no cost or expense to the Commission.

In addition to the warranty included in the Project Warranty Period, above, the Contractor shall provide a product warranty to the Commission of at least one (1) year on all the Equipment procured through this IFB from date of the Commission's acceptance of the Equipment (respective to the acceptance of each piece of the Equipment, and not the first or final piece of the Equipment accepted), that shall cover all repair expenses, including parts and labor, and emergency repair calls within 24-hours of notification by the Commission, at no cost or expense to the Commission.

3.3 REPAIR SERVICES, PARTS & CONSUMABLES

The Successful Bidder shall respond in person to emergency calls within 24 hours of receipt of call from the Commission or the Commission's designee.

Necessary parts for repairs and consumables that are outside costs and expenses to be absorbed under preventive maintenance or warranty will require prior approval from the Commission's Lottery Drawings Manager and will be paid at cost, plus markup agreed upon, in addition to the cost of the repair visit.

PART 4 – BID RESPONSE & SUBMISSION

4.1 **BID RESPONSE**

A. Qualifications

Each Bidder must provide a signed transmittal letter that includes the information below to demonstrate the Bidder's qualifications.

- a) Statement that the bid will be valid for 120 days from the bid due date.
- b) Description of the Bidder's experience in relation to the minimum qualifications listed in Section 1.3 of the IFB, including the following:
 - State if the Bidder is a manufacturer or authorized reseller and installer of the Equipment being offered;
 - Provide incorporation documents or other evidence that the Bidder has been in operation for a minimum of five years; and
 - Provide the location and contact number for the Bidder's service representatives located in the United States, capable of responding in-person to maintenance calls and within 24 hours for emergency calls.

B. Technical Specifications

The Bidder must provide the technical specifications for any proposed equivalent equipment.

The Commission will contact the Bidder during the timeframe outlined in Section 1.4, the Schedule, for the Bidder to arrange the Equipment for examination, demonstration, and trial of an equivalent piece of equipment at the Commission's headquarters in Schenectady, New York.

C. Warranty

The Successful Bidder must provide copies of the warranties that will apply to the Equipment provided if awarded a Contract under this solicitation.

D. Pricing

Utilizing the Bid Form, **Attachment 2**, the Bidder shall propose pricing (including any proposed parts markup) based on the Scope of Work set forth in **Part 3** of this IFB. **Bidders must use Attachment 2 as directed. Alternative pricing structures will be deemed non-responsive.**

The Total Five-Year Cost in the Bid Form, **Attachment 2**, will represent the maximum billable amount for the Contract term. Payment will be based on the actual goods or services received.

E. Required Documents

The Bidder must provide required documentation described throughout this IFB and as summarized in the Document Submittal Checklist, **Attachment 3**.

F. References

The Bidder must include at least three (3) references relevant to any of the requested services. References must include company name, contact person (name, title, phone number, email address, and mailing address). Reference submissions must also include a general statement of the type of engagement that was performed for this reference.

Bidders who have previously held a comparable contract with the Commission within the past three years do not need to submit reference forms. Such Bidders will be evaluated based on the goods and services provided to the Commission. The Commission reserves the right to request other references and additional information, as deemed necessary by the Commission.

G. Subcontractors

If applicable, Bidders must list all proposed subcontractors, including each subcontractor's firm name and address, contact person, and a complete description of work to be subcontracted. Descriptive information relative to the subcontractor's organization and its capabilities must be included.

4.2 SUBMISSION OF BID

Bids may be submitted (1) via email to officer.contracting@gaming.ny.gov or(2) by Contract carrier, courier delivery, in-person delivery, or by U.S. Postal Service, directed to:

New York State Gaming Commission
Contracts Office -- 4th Floor
One Broadway Center
Schenectady, NY 12305

If a hardcopy bid is to be submitted by a method other than U.S. Postal Service, the Bidder should contact one of the Designated Contacts, identified in this IFB, prior to delivery, to assure that the Designated Contacts have notice of the other method of submission, to best plan for proper receipt of the bid.

A. Timeliness of Bids

Regardless of the method of submission used, a bid must be received by the Commission on or before the due date and time specified in the IFB's Schedule (Section 1.4). The Bidder is responsible for the Commission's

timely receipt of the Bidder's bid and should plan for delivery accordingly. If the Commission does not receive a Bidder's submission by the specified time, the Bidder's bid may be rejected or disqualified from consideration.

B. Multiple Bids from One Bidder Prohibited

A Bidder shall submit only a single bid, including any participation in a joint bid, as discussed below. Multiple bid submissions from or involving a Bidder are prohibited and may result in rejection or disqualification of all of the Bidder's bids.

C. Joint Bids

Two or more vendors may join to submit a bid in response to this IFB. If a joint bid is submitted, the bid must clearly define the responsibilities each vendor is proposing to undertake. Of the vendors submitting a joint bid, one vendor must be designated as the Primary Bidder, and a single authorized official from the Primary Bidder must be designated to serve as the sole point of contact between the Commission and the vendors that are responding together. Any Contract award issued resulting from such a submission will be made exclusively to the Primary Bidder.

D. Costs Associated with the Preparation of Bids

The Commission and the State shall not be liable for any of the costs incurred by a Bidder in preparing or submitting a bid, and, therefore, the Commission or the State will not assume any responsibility or liability for any costs incurred by a Bidder prior to the award and approval of a Contract. The responsibilities and liabilities of the Commission and the State shall be limited to those set forth in the Contract.

E. Bid Receipt

If a bid is hand-delivered to the Commission, at the time of the delivery, an individual from the Commission's Contract Administration Office will provide the deliverer with a receipt identifying when the bid was received at the Security Desk in the Commission's lobby on the ground floor of One Broadway Center, Schenectady. The time identified on this receipt will be the official time of receipt of the bid. In addition, whether hand-delivered or delivered by any other method, the Commission will confirm receipt by electronic mail, if electronic mail contact information is contained on the outer packaging.

PART 5 – AWARD

5.1 METHOD OF AWARD

An award will be made to the responsive and responsible Bidder with the lowest total estimated cost for all specified, or equivalent, equipment, installation, maintenance, and warranty.

In the event of tie bids, the Commission shall consider the following categories, in the following order, to break the tie and make an award. Once a category below is satisfied, no consideration will be given to later categories.:

- A. If a tied bid is submitted by a certified MWBE or SDVOB as the prime vendor, preference shall be given to the certified MWBE or SDVOB (if the tie is between a certified MWBE and certified SDVOB, the tie break will move to B);
- B. Preference will be given to the Bidder with the most years of successful business with the Commission; and
- C. Random selection.

5.2 INFORMATION FROM OTHER SOURCES

The Commission reserves the right to obtain from sources other than the Bidder, information that the Commission deems pertinent to this IFB concerning a Bidder, the Bidder's offerings and capabilities, and the Bidder's performance.

References will be checked regarding the Bidder's past experience. The Commission reserves the right to contact references as many times as is necessary and to contact as many references as is necessary, to obtain a complete understanding of the Bidder's performance and experience.

5.3 NOTICE OF AWARD

A Contract award notification letter ("Notification of Tentative Award ") will be sent to the Successful Bidder and to unsuccessful Bidders providing notice of an award subject to approval by the OSC and OAG.

No public discussion or news releases relating to this IFB or the resulting Contract shall be made by any Bidder without the prior approval of the Commission.

5.4 DEBRIEFINGS

The Commission shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to this IFB regarding the reasons that the Bidder's response was not selected for an award. A debriefing shall be requested by the unsuccessful Bidder within fifteen (15) calendar days of release by the Commission of a notice

in writing or electronically that the Bidder's bid was unsuccessful. The Successful Bidder is also entitled to a debriefing.

5.5 PROTEST OR APPEAL

In the event that a Bidder decides to protest the award decision, the following protest procedures will be followed:

- A. Any protest of the award decision must be filed with the Commission no later than ten (10) business days following the date of written Notification of Tentative Award to the unsuccessful Bidder.
- B. The protest must clearly state the basis for the protest and include all relevant documentation supporting such protest.
- D. The Commission will conduct a review of the protest and will issue a written determination to the protesting party within fifteen (15) business days of receipt of the protest. If additional time for issuance of the determination is necessary, the Commission will inform the Bidder of the delay and of the time frame within which a determination may be expected. The final written determination provided to the Bidder will constitute the Commission's final administrative determination of the protest.
- D. If an unsuccessful Bidder decides to appeal the Commission's protest determination, the unsuccessful Bidder must submit such an appeal to the OSC's Bureau of Contracts ("BOC"), within ten (10) business days of receipt of the Commission's final written determination. The protest appeal must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the Contract award by the Commission. A copy of the appeal must be served on the Commission, the Successful Bidder(s), and any other party that participated in the review of the protest conducted by the Commission. The unsuccessful Bidder's appeal must contain a written affirmation that a copy of the appeal has been served as required by this paragraph.
- E. The appeal must be filed with: Director, Bureau of Contracts – 11th Floor, Office of the New York State Comptroller, 110 State Street, Albany, NY 12236.
- F. The Commission will submit an answer to the appeal to the BOC simultaneously with the Commission's delivery of the Contract to the BOC for its review, or within seven (7) business days of the submission of the appeal, whichever is later. The Commission's answer to the appeal must include written affirmation that, simultaneous with the submission to the BOC, the answer was transmitted to the protestor and the Successful Bidder(s).
- G. The Successful Bidder may, but is not required to, submit to the BOC an answer to the appeal. Such answer must include written affirmation that the answer was simultaneously delivered to the Commission and the protestor

and must meet the submission requirements as noted above for the Commission.

- H. The BOC shall evaluate the merits of the protest, the Commission's determination and any response submitted by an interested party. In its review, the BOC may require the Commission, the protesting party, the Successful Bidder, or any other interested party to address additional issues raised; may obtain information from an outside source; or may determine whether it deems it necessary to conduct a fact-finding hearing, and the level of formality of any hearing conducted.
- I. The BOC shall issue a written determination addressing the issues raised by the appeal. All interested parties shall be provided with a copy of the determination. The determination shall be made part of the procurement record.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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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 State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments 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 \$25,000, 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 § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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 (2 NYCRR § 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) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, 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 the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, 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 and 5 NYCRR Part 143, 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 the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(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, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts 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. 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 clause. 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 Department of Economic Development's Division 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 Section 165 of the State Finance Law, (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
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwb certification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5))) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

Contract for Haivision Equipment, Installation and Maintenance

C202109V2

THIS CONTRACT made this _____ day of _____, 20__ by and between the NEW YORK STATE GAMING COMMISSION, an executive agency of the State of New York having an office at One Broadway Center, Post Office Box 7500, Schenectady, New York 12301-7500 (the "Commission"), and [contractor], having an office at [address] (the "Contractor").

WHEREAS the Commission issued an Invitation for Bids on March 9, 2022, soliciting bids from qualified bidders to provide Haivision equipment, installation and maintenance, and clarified the requirements of the Invitation For Bids with Addenda, including Questions and Answers dated March 18, 2022 (collectively, the "IFB"); and

WHEREAS the Contractor submitted a bid dated [XXXXXXXXXX] ("the Bid"), which was the lowest total cost for a five-year period;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. **Scope of Services.** The Contractor agrees to provide the Commission with Haivision equipment, installation and maintenance, as more fully set forth in the IFB and the Bid. Both the IFB and the Bid are hereby incorporated into this Contract with the same force and effect as if they were fully set forth herein.

2. **Term.** The Contract shall commence upon approval of the Office of the New York State Comptroller and continue for five (5) years.

3. **Compensation, Invoicing and Payment.**

(a) In full consideration for all services specified in the IFB and the Bid, the Commission agrees to pay, and the Contractor agrees to accept, compensation for goods and services provided in Part 3 of the IFB and as quoted in the Bid Form – Attachment 2. No

minimum amount is guaranteed by this Contract and the Contractor shall not have any right to make a claim therefor. Compensation under this Contract shall not exceed [XXXXXXXX].

(b) Payment under the Contract will be in accordance with New York State Prompt Payment Law (Article 11-A of New York State's State Finance Law). Payment for services will be made upon delivery of goods or completion of the services and upon receipt by the Commission of a proper invoice. Invoices shall be submitted following completion of each Deliverable. The Contractor will not be compensated for direct unbillable expenses, such as travel, lodging and other out-of-pocket expenses that are required as a regular course of business. Sales tax should not be included on invoices as New York State Agencies are tax-exempt (a tax-exempt certificate will be provided to the Contractor if needed).

All invoices shall be submitted as a .PDF attachment and directed to the New York State Business Service Center at accountspayable@ogs.ny.gov, and a copy must also be directed to the Commission's Finance Office at the following email address: gaming.dl.Financial.Management.Invoices@gaming.ny.gov. The Commission shall promptly process all payments due to the Contractor that conform to the provisions of this IFB and are approved by the Commission.

4. **Approvals Required.** This Contract, and any extension of the term of this Contract or any amendment of the provisions of this Contract, shall not be effective and binding upon the Commission, the State of New York, or the Contractor, unless and until approved by the New York State Office of the Attorney General and the Office of the New York State Comptroller. The Commission agrees to exercise its best efforts to obtain such approval.

5. **Mutual Cooperation.** The objective of this Contract is to ensure that services are provided to the Commission as set forth in this Contract. The parties agree to cooperate fully in good faith and to assist each other, to the extent reasonably practicable, in order to accomplish that objective.

6. **Termination and Suspension.**

(a) In addition to the bases referenced in the IFB, the Commission shall have the right to terminate this Contract for convenience or for any of the following causes:

- (i) a material breach by the Contractor of any of the provisions of this Contract;
- (ii) a determination by a court of competent jurisdiction that the Contractor is bankrupt or insolvent;
- (iii) a good faith determination by the Commission that continuation of the Contract could place the integrity of the Commission in jeopardy; or
- (iv) a conviction of the Contractor or any of its directors, officers, or employees of any criminal offense connected to the Contractor's business which, in the sole reasonable opinion of the Commission's Executive Director, or the Executive Director's designee (collectively referred to here as "the Executive Director"), would be prejudicial to public confidence in the New York Lottery or the Commission;
- (v) in the judgment of the Commission, a real or potential conflict of interest cannot be cured; or
- (vi) the refusal by the Contractor or any of its directors, officers, or employees to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning a transaction or contract, when called before a grand jury, head of a state department, the Commission, a temporary state commission or other state agency, or the organized crime task force in a department of law, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any such transaction or contract had with the State, any political subdivision thereof, a public authority or with any public department, agency or official of the State or of any political subdivision thereof or of a public authority.

If the Contract is cancelled or terminated based on the grounds listed in paragraph 6.(a)(vi), above, such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with the State or any public department,

agency or official thereof, for goods, work or services, for a period of five (5) years after such refusal, and to provide also that any and all contracts made with the State or any public department, agency or official thereof, since the effective date of this Contract, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the State without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the State for goods delivered or work done prior to the cancellation or termination shall be paid.

(b) In the event that the Commission decides to exercise the right to terminate this Contract for cause, the Commission shall give the Contractor written Notice of Intention to Terminate for Cause (“Notice”). Such Notice shall state clearly and specifically the cause for which termination is sought, and the Contractor shall be entitled to a period of thirty (30) days from receipt of such Notice to correct or cure the cause so described to the reasonable satisfaction of the Commission in which case such Notice shall be deemed withdrawn and a nullity. If termination is sought because of a criminal conviction as described in subparagraph (iv) of paragraph (a) of this section 6, the cause for termination shall be deemed to be cured if the Contractor causes or obtains the dismissal, resignation, retirement, or other removal of the person convicted of such offense during such thirty (30) day period.

(c) The Commission also reserves the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with New York State’s State Finance Law § 139-k was intentionally false or intentionally incomplete. Upon such finding, the Commission may exercise its termination right by providing written notice to the Contractor in accordance with the written notice terms of this Contract.

(d) Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Commission officials or staff, the Contract may be terminated by the Executive Director at the Contractor’s expense where the Contractor is determined by the Executive

Director to be non-responsible or nonresponsible. In such event, the Executive Director may complete the contractual requirements in any manner the Executive Director may deem advisable and pursue available legal or equitable remedies for breach.

(e) Due to the critical nature of the services to the Commission's, Treasury's, and the State's operations, the Contractor may not terminate the provisioning of any of the services to the Commission except in the event that the Contractor discontinues provisioning of those services as part of its business operations to other similarly-situated customers, generally. Moreover, such discontinuance of services to the Commission may not occur on less than two years' prior written notice.

(f) To ensure uninterrupted services, the Contractor's continued financial stability shall be a material condition of the Contract. The Commission reserves the right to immediately terminate such Contract if the Contractor's financial stability is reasonably determined by the Commission, or any other State agency, to be deficient.

(g) Upon termination or expiration of this Contract, the Contractor and the Commission shall cooperate to the fullest extent to develop and execute a transition plan with any successor contractor that contains reasonable procedures for transition and time schedules for scaling down operations of the Contractor in order to allow services to continue without interruption.

In the event of expiration or termination of this Contract for any reason, the Contractor shall continue to perform the services required hereunder under these same terms and conditions in order to complete any transactions pending on the effective termination date and to facilitate an orderly transition to a successor contractor ("Transition Period"), including but not limited to ; (i) providing access to all necessary records, transferring all necessary data, information, and other files related to the Services to the Commission; (ii) making appropriate members of its staff reasonably available to answer reasonable questions that the Commission

and its staff, agents, and designees may have with respect to the records and information being accessed and transferred, as applicable; and (iii) otherwise assist with such transition, and cooperate with the Commission and any successor contractor in order to accomplish a smooth and orderly transition, so that the services are uninterrupted and are not adversely impacted. If a successor contractor shall be appointed by the Commission, the Contractor shall deliver to such successor contractor at the office of the successor contractor, or as otherwise directed by the Commission, all property then held by the Contractor hereunder.

(h) Termination will not affect any of the liabilities either party owes to the other arising under this Contract prior to such termination.

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

7. Conflict of Interest.

(a) The Contractor has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect) signed by an authorized executive or legal representative attesting that the Contractor's performance of the services does not and will not create a conflict of interest with, nor position the Contractor to breach any other contract currently in force with the State of New York, that the Contractor will not act in any manner that is detrimental to any State project on which the Contractor is rendering services.

(b) The Contractor hereby covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the Contractor's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this Contract. The Contractor shall have a duty to notify the Commission immediately of any actual or potential conflicts of interest.

(c) In conjunction with any subcontract under this Contract, the Contractor shall obtain and deliver to the Commission, prior to entering into a subcontract, a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form signed by an authorized executive or legal representative of each subcontractor. The Contractor shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the Commission a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.

(d) The Commission and the Contractor recognize that conflicts may occur in the future because the Contractor may have existing, or establish new, relationships. The Commission will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the Commission, a real or potential conflict of interest cannot be cured.

8. Confidentiality and Non-Disclosure.

(a) For the purposes of this section, "Confidential Information" means any information not generally known to the public, whether oral or written, that the Commission identifies as confidential and discloses to the Contractor so that the Contractor can provide services to the Commission pursuant to this Contract. Confidential Information may include, but is not limited to, operational and infrastructure information relating to: bid documents, plans, drawings, specifications, reports, product information; business and security processes and procedures;

personnel and organizational data, and financial statements; information system IP addresses, passwords, security controls, architectures and designs; and such other data, information and images that the Commission deems confidential. The Commission will identify written Confidential Information by marking it with the word “Confidential” and will identify oral Confidential Information as confidential at the time of disclosure to the Contractor.

(b) Confidential Information does not include information that, at the time of Commission’s disclosure to the Contractor:

(i) is already in the public domain or becomes publicly known through no act of the Contractor;

(ii) is already known by the Contractor free of any confidentiality obligations;

(iii) is information that the Commission has approved in writing for disclosure; or

(iv) is required to be disclosed by the Contractor pursuant to law or applicable professional standards, so long as the Contractor provides the Commission with notice of such disclosure requirement and an opportunity to defend prior to any such disclosure.

(c) The Contractor may use Confidential Information solely for the purposes of providing services to the Commission pursuant to this Contract. The Contractor shall not make copies of any written Confidential Information, except as necessary to perform the services required by this Contract, without the express written permission of the Commission. The Commission’s disclosure of Confidential Information to the Contractor shall not convey to the Contractor any right or interest in such Confidential Information and the Commission shall retain all right and title to such Confidential Information at all times.

(d) The Contractor shall hold Confidential Information confidential to the maximum extent permitted by law. The Contractor shall safeguard Confidential Information with at least the same level of care and security, using all reasonable and necessary security measures, devices and procedures that the Contractor uses to maintain its own confidential information.

(e) Upon written request by the Commission, the Contractor shall return all written Confidential Information to the Commission.

9. **Records Retention.** Records required by this Contract to be retained by the Contractor shall be retained for the periods specified in Appendix A, attached hereto. Such records may be retained in their original form or in any other reliable and readily retrievable format, at the option of the Contractor.

10. **Notices.** All notices required by this Contract shall be sufficient if in writing and sent by certified mail return receipt requested. All other communications shall be sufficient if communicated in writing to the following addresses or to such other addresses as may be designated from time to time by the parties in writing:

(a) As to the Commission:

Executive Director
New York State Gaming Commission
One Broadway Center
Post Office Box 7500
Schenectady NY 12301-7500

Cc: General Counsel
New York State Gaming Commission
One Broadway Center
Schenectady, NY 12305

(b) As to the Contractor:

Contact:
Company Name:
Address:

11. **Liability and Indemnification.** To the extent permitted by law, the Contractor shall forever defend, indemnify, and hold harmless the State of New York, the Commission, and their respective commissioners, officers, agents, directors, employees, other contractors, and sales agents, and all agents, employees, officers and directors of such contractors and sales agents (“the Indemnified Parties”), from and against any and all claims, liabilities, losses, damages, costs, injuries, debts or expenses (including reasonable fees, court costs, and expenses of attorneys of the Commission's choice), which may be made, incurred, suffered, or required in whole or in part based on, arising out of, or being related to

- A. the Contractor’s response to the IFB,
- B. the Contractor’s obligations to the State or other governmental or legal authority,
- C. the Contractor’s contracts and subcontracts,
- D. products and services provided by the Contractor under the Contract,
- E. claims that any or all of the products or services provided by the Contractor under the Contract violate the Intellectual Property Rights of a third party, and/or
- F. an actual or alleged act or omission of:
 - 1. the State and the Commission;
 - 2. the Contractor;
 - 3. a subcontractor of the Contractor; or,
 - 4. any person directly or indirectly employed by or in an agency relationship with the Contractor or a subcontractor, or which may arise out of or be related to the Contractor’s response to the IFB or its or any of its subcontractor's performance or failure to perform under any Contract.

All obligations to defend, indemnify, and hold harmless shall survive the termination of the Contract.

Subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act, the State shall hold the Contractor harmless from and indemnify it for any final judgment of a court of competent jurisdiction to the extent attributable to the negligence of the State or of its officers or employees when acting within the course and scope of their employment.

12. **Relationship.** The relationship of the Contractor to the Commission arising out of this Contract shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Commission or the State, and that it will not make any claim, demand or application for any right or privilege applicable to an officer or employee of the Commission or the State, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. All personnel of the Contractor shall be within the employ of the Contractor only or shall be duly contracted subcontractors of the Contractor, and the Contractor alone shall be responsible for the work of its personnel and its subcontractors' personnel, the direction thereof, and their compensation. Nothing in this Contract shall impose any liability or duty on the Commission or the State on account of any acts, omissions, liabilities or obligations of the Contractor or any person, firm, company, agency, association, corporation, or organization engaged by the Contractor as expert, consultant, independent contractor, specialist, trainee, employee, servant or agent, for taxes of any nature, including, but not limited to, unemployment insurance and workers' compensation insurance, and the Contractor hereby agrees to defend, indemnify, and hold harmless the Commission and the State against any such liabilities.

13. **Documents Incorporated.** Appendix A, Standard Clauses for New York State Contracts, dated October 2019, the IFB, and the Bid are hereby incorporated to the same force and effect as if set forth herein.

14. **Order of Precedence.** Any conflict between this Contract and the documents incorporated herein shall be resolved according to the following order of precedence:

- a. Appendix A – Standard Clauses for New York State Contracts;

- b. Any amendments to the Contract;
- c. Contract;
- d. IFB and any clarifying responses by the Commission;
- e. Bid and any clarifying responses by the Contractor.

15. **Miscellaneous Provisions.**

(a) A waiver of enforcement of any provision of this Contract shall not constitute a waiver of any other provision of this Contract nor shall it preclude the affected party from subsequently enforcing such provision.

(b) This instrument and the documents incorporated herein represent the entire Contract between the Commission and the Contractor, and no modification thereof shall be binding unless the same is in writing and signed by the respective parties.

(c) The headings contained in this Contract are intended for ease of reference only and shall not be interpreted to limit or modify any of the provisions of this Contract.

(d) The Contractor shall at all times during the Contract term remain responsible. If requested by the Executive Director the Contractor agrees to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

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

(f) If any term of this Contract is declared by a court of competent jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Contract did not contain that term.

(g) This Contract may be executed in counterparts, each of which shall be deemed an original. Except to the extent that original executed versions are otherwise required by the IFB, executed copies of this Contract may be sent as PDF copies sent by email, and any signatures thereon shall be considered for all purposes to be binding as originals.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

CONTRACTOR

NEW YORK STATE
GAMING COMMISSION

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

NEW YORK STATE OFFICE OF
THE ATTORNEY GENERAL

OFFICE OF THE NEW YORK STATE
COMPTROLLER

Letitia James

Thomas P. DiNapoli

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Acknowledgement

ACKNOWLEDGEMENT BY INDIVIDUAL

STATE OF _____)

SS.:

COUNTY OF _____)

On this _____ day of _____, 20____, before me personally came _____, to me known and known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

Notary Public

ACKNOWLEDGEMENT BY UNINCORPORATED ASSOCIATION

STATE OF _____)

SS.:

COUNTY OF _____)

On this _____ day of _____, 20____, before me personally came _____, to me known and known to me to be the person described in and who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say that he/she is a member of the firm of _____ and that he/she executed the foregoing instrument in the firm name of _____, and that he/she had authority to sign same, and he/she did duly acknowledge to me that he/she executed the same as the act and deed of said firm of _____, for the uses and purposes mentioned therein.

Notary Public

ACKNOWLEDGEMENT BY CORPORATION

STATE OF _____)

SS.:

COUNTY OF _____)

On this _____ day of _____, in the year 20____, before me personally came _____, to me known, who, being by me duly sworn did depose and say that he/she resides in _____; that he/she is the _____ of the _____, the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such a corporate seal, that it was so affixed by the order of the Board of Directors of said corporation, and that he he/she signed his/her name thereto by like order.

Notary Public

BIDDER/OFFERER DISCLOSURE/CERTIFICATION FORM

CONTRACT/PROJECT DESCRIPTION: Haivision equipment, installation and maintenance

CONTRACT/PROJECT NUMBER: #C202109V2

RESTRICTED PERIOD FOR THIS PROCUREMENT: March 9, 2022 through approval of the Office of the State Comptroller.

**PERMISSABLE CONTACTS: Technical or Procurement Inquiries: Stacey Relation and Alysyan M. Bowers
MWBE or SDVOB Inquiries: Christine Carpenter or Robert Williams, Jr.**

1. CONTACTS - Contractor affirms that it understands and agrees to comply with the procedures on procurement lobbying restrictions regarding permissible contacts in the restricted period for a procurement contract in accordance with State Finance Law §§ 139-j and 139-k. I agree

2. BIDDER/OFFERER DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS Pursuant to Procurement Lobbying Law (SFL §139-j)

(a) 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?

Yes No

If yes, please answer the following question:

(b) Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?

Yes No

(c) If "Yes" was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?

Yes No

If "Yes", please provide details regarding the finding of non-responsibility:

Governmental Entity: _____

Date of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility (attach additional sheets if necessary): _____

3. Has any 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?

Yes No

If yes, provide details:

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: (add additional pages if necessary) _____

4. TERMINATION CLAUSE:

Contractor certifies that all information provided to the Agency with respect to State Finance Law §§139 (j) and 139 (k) is complete true and accurate. If found to be in violation of State Finance Law §§139 (j) and 139 (k), the contract will result in termination.

I agree

Name of Contractor's Firm/Company: _____

Contractor Address: _____

Contractor's signature: _____
I understand that my signature represents that I am signing and responding to both certifications listed above

Print Name: _____

Occupation of Person signing this form: _____

Email Address: _____

**Non-Collusive Bidding Certification
Required By Section 139-D of the State Finance Law**

By submission of this bid, bidder and each person signing on behalf of bidder certifies, under penalty of perjury, that to the best of his/her knowledge and belief:

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FORGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDEDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day _____, 20__ as the act and deed of said corporation.

Title

Signature



The submission of the attached Vendor Responsibility Questionnaire is required with your bid.

You must include your ten-digit Vendor ID identifier number issued by New York State. Please insert the Vendor ID number on the top right corner of pages 2-10 of the questionnaire.

If you have previously submitted a New York State Vendor Questionnaire that was signed less than one year ago in connection with another State solicitation or contract, and there are no material changes to that questionnaire, you may submit an Affidavit of No Change along with a copy of the previously completed Vendor Questionnaire.

You are encouraged to complete the questionnaire online. By doing so, you will not be required to complete the questionnaire for future contracts with New York State agencies, so long as you certify the information every six months.

If you are interested in completing the online questionnaire, please visit the following website for additional information:

<https://www.osc.state.ny.us/vendrep/>

If you have filed your questionnaire online, please sign below and return only this page with your bid.

Complete the below only if you have filed your questionnaire online, otherwise, please complete the attached questionnaire.

Contractor Name (print)

Signature

Company Name

Date

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the OSC Help Desk at ciohelpdesk@osc.state.ny.us or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at www.osc.state.ny.us/vendrep/documents/definitions.pdf. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION			
<u>Legal Business Entity Name</u> *		<u>EIN</u> (Enter 9 digits, without hyphen)	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone ext.	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u>)		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company (LLC or PLLC)</u>		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u>)		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If ‘No,’ indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____			
<input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” Enter <u>DUNS</u> Number			

*All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” which can be found at www.osc.state.ny.us/vendrep/documents/definitions.pdf.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION

1.4 If the <u>Legal Business Entity's Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	--

If "Yes," provide the address and telephone number for one office located in New York State.

1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> , <u>Women-Owned Business Enterprise (WBE)</u> , <u>New York State Small Business (SB)</u> or a federally certified <u>Disadvantaged Business Enterprise (DBE)</u> ? If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise (WBE)</u> <input type="checkbox"/> <u>New York State Small Business (SB)</u> <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise (DBE)</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

Name	Title	Percentage Ownership <i>(Enter 0% if not applicable)</i>

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

II. REPORTING ENTITY INFORMATION

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

Legal Business Entity

Note: If selecting this option, “Reporting Entity” refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)

Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF “REPORTING ENTITY” AND “ORGANIZATIONAL UNIT” FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

Note: If selecting this option, “Reporting Entity” refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)

IDENTIFYING INFORMATION

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

Yes No

If “Yes,” enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity.
For each person, include name and title. Attach additional pages if necessary.

Name

Title

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each “Other,” provide an explanation which provides the basis for not definitively responding “Yes” or “No.” Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY

Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:

3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other

For each “Yes” or “Other” explain:

IV. INTEGRITY – CONTRACT BIDDING

Within the past five (5) years, has the reporting entity:

4.0 Been <u>suspended or debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers’ Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” explain:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

V. INTEGRITY – CONTRACT AWARD

Within the past five (5) years, has the reporting entity:

- | | |
|---|--|
| 5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

VI. CERTIFICATIONS/LICENSES

Within the past five (5) years, has the reporting entity:

- | | |
|---|--|
| 6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

VII. LEGAL PROCEEDINGS

Within the past five (5) years, has the reporting entity:

- | | |
|--|--|
| 7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious</u> or <u>willful</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.5 Other than previously disclosed:
a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or
b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant’s name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as “Initiated,” “Pending” or “Closed.” Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal, state or local tax laws</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If “Yes,” did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes” to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

IX. ASSOCIATED ENTITIES

*This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.
(See definition of "associated entity" for additional information to complete this section.)*

9.0 Does the Reporting Entity have any Associated Entities?

Yes No

Note: All questions in this section must be answered if the Reporting Entity is either:

- An Organizational Unit; or
- The entire Legal Business Entity which controls, or is controlled by, any other entity(ies).

If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.

9.1 Within the past five (5) years, has any Associated Entity Official or Principal Owner been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for:

Yes No

- a) Any business-related activity; or
- b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?

If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the Associated Entity, his/her relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

9.2 Does any Associated Entity have any currently undischarged federal, New York State, New York City or New York local government liens or judgments (not including UCC filings) over \$50,000?

Yes No

If "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the Lien holder or Claimant's name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

9.3 Within the past five (5) years, has any Associated Entity:

- a) Been disqualified, suspended or debarred from any federal, New York State, New York City or other New York local government contracting process?

Yes No

- b) Been denied a contract award or had a bid rejected based upon a non-responsibility finding by any federal, New York State, New York City, or New York local government entity?

Yes No

- c) Been suspended, cancelled or terminated for cause (including for non-responsibility) on any federal, New York State, New York City or New York local government contract?

Yes No

- d) Been the subject of an investigation, whether open or closed, by any federal, New York State, New York City, or New York local government entity for a civil or criminal violation with a penalty in excess of \$500,000?

Yes No

- e) Been the subject of an indictment, grant of immunity, judgment, or conviction (including entering into a plea bargain) for conduct constituting a crime?

Yes No

- f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any federal, New York State, New York City, or New York local government entity?

Yes No

- g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?

Yes No

For each "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

X. FREEDOM OF INFORMATION LAW (FOIL)

10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

If "Yes," indicate the question number(s) and explain the basis for the claim.

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE

Name	Telephone	Fax
	ext.	
Title	Email	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State contracting entities in making responsibility determinations regarding an award of a contract or approval of a subcontract; (2) recognizes that the Office of the State Comptroller (OSC) will rely on information disclosed in the questionnaire in making responsibility determinations and in approving a contract or subcontract; (3) acknowledges that the New York State contracting entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (4) acknowledges that intentional submission of false or misleading information may constitute a misdemeanor or felony under New York State Penal Law, may be punishable by a fine and/or imprisonment under Federal Law, and may result in a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the Reporting Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Reporting Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State will rely on the information disclosed in the questionnaire when entering into a contract with the Reporting Entity; and
- is under obligation to update the information provided herein to include any material changes to the Reporting Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State contracting entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Officer _____

Printed Name of Signatory _____

Title _____

Reporting Entity Name _____

Address _____

City, State, Zip _____

Sworn to before me this _____ day of _____ 20 _____ ;

_____ Notary Public



**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
SUBSTITUTE FORM W-9:
REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION**

TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.

Part I: Vendor Information

1. Legal Business Name:	2. Business name/disregarded entity name, if different from Legal Business Name:
3. Entity Type (Check one only): <input type="checkbox"/> Individual Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Co. <input type="checkbox"/> Corporation <input type="checkbox"/> Not For Profit <input type="checkbox"/> Trusts/Estates <input type="checkbox"/> Federal, State or Local Government <input type="checkbox"/> Public Authority <input type="checkbox"/> Disregarded Entity <input type="checkbox"/> Other _____	
<input type="checkbox"/> Exempt Payee	

Part II: Taxpayer Identification Number (TIN) & Taxpayer Identification Type

1. Enter your TIN here: (*DO NOT USE DASHES*)
See instructions.

--	--	--	--	--	--	--	--	--	--

2. Taxpayer Identification Type (check appropriate box):
 Employer ID No. (EIN) Social Security No. (SSN) Individual Taxpayer ID No. (ITIN) N/A (Non-United States Business Entity)

Part III: Address

1. Physical Address: Number, Street, and Apartment or Suite Number	2. Remittance Address: Number, Street, and Apartment or Suite Number
City, State, and Nine Digit Zip Code or Country	City, State, and Nine Digit Zip Code or Country

Part IV: Certification and Exemption from Backup Withholding

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (TIN), and
2. I am a U.S. citizen or other U.S. person, and
3. (Check one only):
 I am not subject to backup withholding. I am (a) exempt from back up withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding), or
 I am subject to backup withholding. I have been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, and I have not been notified by the IRS that I am no longer subject to back withholding.

Sign Here:

Signature	Title	Date
Print Preparer's Name	Phone Number	Email Address

Part V: Vendor Primary Contact Information – Executive Authorized to Represent the Vendor

Primary Contact Name: _____ Title: _____
 Email Address: _____ Phone Number: _____

DO NOT SUBMIT FORM TO IRS — SUBMIT FORM TO NYS ONLY AS DIRECTED

NYS Office of the State Comptroller Instructions for Completing Substitute Form W-9

New York State (NYS) must obtain your correct Taxpayer Identification Number (TIN) to report income paid to you or your organization. NYS Office of the State Comptroller uses the Substitute Form W-9 to obtain certification of your TIN in order to ensure accuracy of information contained in its payee/vendor database and to avoid backup withholding.¹ We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States. You are required to give us the information.

Any payee/vendor who wishes to do business with New York State must complete the Substitute Form W-9. Substitute Form W-9 is the only acceptable documentation. We will not accept IRS Form W-9.

Part I: Vendor Information

1. **Legal Business Name:** For individuals, enter the name of the person who will do business with NYS as it appears on the Social Security card or other required Federal tax documents. An organization should enter the name shown on its charter or other legal documents that created the organization. Do not abbreviate names.
2. **Business name/disregarded entity name, if different from Legal Business Name:** Enter your DBA name or another name your entity is known by.
3. **Entity Type:** Check the Entity Type doing business with New York State.

Part II: Taxpayer Identification Number (TIN) and Taxpayer Identification Type

The TIN provided must match the name in the "Legal Business Name" box to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, refers to IRS W-9 instructions for additional information. For other entities, it is your employer identification number (EIN). If you do not have a number or if the account is in more than one name, refer to IRS W-9 instructions for additional information.

1. **Taxpayer Identification Number:** Enter your nine-digit Social Security Number, Individual Taxpayer Identification Number (ITIN) or Employer Identification Number (EIN).
2. **Taxpayer Identification Type:** Check the type of identification number provided.

Part III: Address

1. **Physical Address:** Enter the location of where your business is physically located.
2. **Remittance Address:** Enter the address where payments should be mailed.

Part IV: Certification and Exemption from Backup Withholding

Check the appropriate box indicating your exemption status from backup withholding. Individuals and sole proprietors are not exempt from backup withholding. Corporations are exempt from backup withholding for certain types of payments. Refer to IRS Form W-9 instructions for additional information. The signature should be provided by the individual, owner, officer, legal representative, or other authorized person of the entity listed on the form. Certain exceptions to the signature requirement are listed in the IRS instructions for form W-9.

Part V: Vendor Primary Contact Information

Please provide the contact information for an executive at your organization. This individual should be the person who makes legal and financial decisions for your organization.

¹ According to IRS Regulations, OSC must withhold 28% of all payments if a payee/vendor fails to provide OSC its certified TIN. The Substitute Form W-9 certifies a payee/vendor's TIN.



Department of Taxation and Finance

Contractor Certification

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

ST-220-TD

(4/15)

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)		City	State ZIP code
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 or state agency	Contract number or description	Covered agency telephone number ()	
Covered agency address	City	State	ZIP code
Is the estimated contract value over the full term of the contract (but not including renewals) more than \$100,000?			
Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown at this time <input type="checkbox"/>			

General information

Tax Law section 5-a, 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 Form ST-220-CA, *Contractor Certification to Covered Agency*, 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.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and *Individual, Corporation, Partnership, or LLC Acknowledgement* on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and Tax Law section 5-a, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

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 12227-0826**

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



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, call the information center.

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.

Complete Sections 1, 2, and 3 below. Make only one entry in each section.

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 Tax Law sections 1134 and 1253, 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 Tax Law sections 1134 and 1253. 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 Tax Law sections 1134 and 1253. 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)



Contractor Certification to Covered Agency

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

ST-220-CA

(12/11)

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. 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.

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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Visit our Web site at www.tax.ny.gov
• get information and manage your taxes online
• check for new online services and features

Telephone assistance
Sales Tax Information Center: (518) 485-2889
To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

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, call the information center.

ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract? _____
Yes No

If yes, identify New York State businesses that will be used and attach identifying information.

Firm Name: _____

Signature _____ Date: _____

EEO, MWBE AND SDVOB PROGRAMS

Forms:

- I-1: EEO Policy Statement
- I-2: MWBE Staffing Plan
- I-3: MWBE and SDVOB Utilization Plan
- I-4: MWBE and SDVOB Waiver
- I-5: Monthly SDVOB Compliance Report

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The New York State Gaming Commission (the “Commission”) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the Commission, to fully comply and cooperate with the Commission in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.
- C. Failure to comply with all the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix and such other remedies are available to the Commission pursuant to the Contract and applicable law.

II. MWBE Contract Goals

- A. For purposes of this solicitation, the Commission hereby establishes an overall goal of **30%** for MWBE participation, % for New York State certified Minority-owned Business Enterprises (“MBE”) participation and % for New York State certified Women-owned Business Enterprises (“WBE”) and participation (collectively, “MWBE Contract Goals”) based on the current availability of qualified MBEs and WBEs.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>. Additionally, the Contractor is encouraged to contact the Division of Minority and Women’s Business Development at (212) 803-2414 or mwbebusinessdev@esd.ny.gov to discuss additional methods of maximizing participation by MWBEs on the Contract.
- C. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a supplier that shall be 60% of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
- D. The Contractor must document “good faith efforts,” pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:
1. Evidence of outreach to MWBEs;
 2. Any responses by MWBEs to the Contractor’s outreach;
 3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
 4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the Commission with MWBEs; and,
 5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

III. Equal Employment Opportunity (“EEO”)

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

B. In performing the Contract, the Contractor shall:

1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination, and rates of pay or other forms of compensation.
2. The Contractor shall submit an EEO policy statement to the Commission within seventy-two (72) hours after the date of the notice by the Commission to award the Contract to the Contractor.
3. If the Contractor, or Subcontractors, does not have an existing EEO policy statement, the Commission may provide the Contractor or Subcontractor a model statement (see Form I-1 Minority and Women-Owned Business Enterprises --Equal Employment Opportunity Policy Statement).
4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
 - c. 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.
 - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Staffing Plan—Form I-2

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the staffing plan form and submit it as part of their bid or proposal.

D. Workforce Audit Report

1. The Contractor shall submit a quarterly Workforce Audit Report, and shall require each of its subcontractors to submit a Workforce Audit Report, by the 10th day following the end of each quarter during the term of the contract. The form shall be submitted through the New York State Contract System (“NYSCS”) at <https://ny.newnycontracts.com>.
2. Separate forms shall be entered by the Contractor and any Subcontractors.
3. Pursuant to Executive Order #162, Contractors and Subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

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

IV. MWBE Utilization Plan – Form I-3

- A. The Contractor shall complete a **proposed** MWBE Utilization Plan on Form I-3 and submit it as part of their bid or proposal. Upon execution of the contract, the Contractor shall submit a MWBE Utilization Plan through the NYSCS at <https://ny.newnycontracts.com>.
- B. The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.
- C. The Contractor further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Commission shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

V. Waivers—Form I-4

- A. If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver on Form I-4. Such waiver request must be supported by evidence of the Contractor's good faith efforts to achieve the maximum feasible MWBE participation towards the applicable Contract Goals. The Commission shall evaluate the request and issue a written notice of approval or denial.
- B. If the Commission, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued regarding such non-compliance, the Commission may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

The Contractor will be required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS at <https://ny.newnycontracts.com> by the 10th day following the end of each quarter during the term of the Contract.

VII. Liquidated Damages - MWBE Participation

- A. Where the Commission determines that the Contractor is not in compliance with the requirements of this Appendix and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to the Commission liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Commission, the Contractor shall pay such liquidated damages to the Commission within sixty (60) days after they are assessed. Provided, however, that the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

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

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

I. SBVOB Contract Goals

- A. The Commission hereby establishes an overall goal of **6%** for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to the Commission’s Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).
 1. Evidence of outreach to SDVOBs;
 2. Any responses by SDVOBs to the Contractor’s outreach;
 3. Copies of advertisements for participation by SDVOBs in appropriate general circulation,
 4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the Commission with SDVOBs; and,
 5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for SDVOB participation.

II. SDVOB Utilization Plan – Form I-3

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed **proposed** SDVOB Utilization Plan on Form I-3 with their bid or proposal.
- B. The Contractor agrees to adhere to such SDVOB Utilization Plan in the performance of the Contract.
- C. The SDVOB Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the SDVOB Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of an SDVOB Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to the Commission.
- D. The Commission will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of the Commission's acceptance or issue a notice of deficiency.
- E. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to the Commission a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Commission to be inadequate, the Commission shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by the Commission, a request for a partial or total waiver of SDVOB participation goals on Form I-4. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- F. The Commission may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - 1. If a Bidder fails to submit an SDVOB Utilization Plan;
 - 2. If a Bidder fails to submit a written remedy to a notice of deficiency;
 - 3. If a Bidder fails to submit a request for waiver; or
 - 4. If the Commission determines that the Bidder has failed to document good faith efforts.
- G. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

- H. Contractor further agrees that a failure to use SDVOBs as agreed in the SDVOB Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Commission shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver—Form I-4

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at the Commission for guidance at gam.sm.gamingcompliance@gaming.ny.gov.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form I-4, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Commission at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, the Commission shall evaluate the request and issue a written notice of acceptance or denial.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to the Commission, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If the Commission, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (Form I-5) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, the Commission may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to the Commission at:

gam.sm.gamingcompliance@gaming.ny.gov.

IV. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

1. Copies of solicitations to SDVOBs and any responses thereto.
2. Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.

3. Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by the Commission with certified SDVOBs whom the Commission determined were capable of fulfilling the SDVOB goals set in the Contract.
4. Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
5. Other information deemed relevant to the waiver request.

V. Monthly SDVOB Contractor Compliance Report- Form I-5

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to the Commission during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using Form I-5 and should be completed by the Contractor and submitted to the Commission, by the 10th day following the end of each month during the term of the Contract, for the preceding month's activity to: gam.sm.gamingcompliance@gaming.ny.gov.

VI. Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

MWBE and SDVOB Participation / Equal Employment Opportunity Policy Statement

I, _____ (CONTRACTOR OR GRANT REPRESENTATIVE),
the _____ (GRANTEE/COMPANY NAME)
agree to adopt the following policies with respect to the project being developed or services rendered at
_____.

NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY POLICY

- (a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.
- (b) This organization shall state in all solicitation 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 and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.
- (c) At the request of the Commission, this organization shall request each employment agency, labor union, or authorized 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 this organization's obligations herein.
- (d) Organization shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The organization and its sub-vendors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- (e) The organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this contract.

MWBE PARTICIPATION (MWBE)

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the MWBE contract participation goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to MWBE contractor associations.

- (2) **Request a list of State-certified MWBEs from** the Commission or search the directory in the NYS Contract System (newnycontracts.com) and solicit bids from the listed vendors directly.
- (3) **Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective MWBEs.**
- (4) **Where feasible, divide the work into smaller portions to enhanced participations by MWBEs and encourage the formation of joint venture and other partnerships among MWBE contractors to enhance their participation.**
- (5) **Document and maintain records of bid solicitation, including those to MWBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting MWBE contract participation goals.**
- (6) **Ensure that progress payments to MWBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage MWBE participation.**

SDVOB PARTICIPATION (SDVOB)

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the SDVOB contract participation goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) **Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified SDVOBs, including solicitations to contractor associations.**
- (2) **Request a list of State-certified SDVOBs from** the Commission or search the directory (Office of General Services ny.gov) and solicit bids from the listed vendors directly.
- (3) **Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective SDVOBs.**
- (4) **Where feasible, divide the work into smaller portions to enhanced participations by SDVOBs and encourage the formation of joint venture and other partnerships among SDVOB contractors to enhance their participation.**
- (5) **Document and maintain records of bid solicitation, including those to SDVOBs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting SDVOB contract participation goals.**
- (6) **Ensure that progress payments to SDVOBs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage SDVOB participation.**

Agreed on this _____ day of _____ 20_____.

By: _____
(SIGNATURE)

Print Name: _____

Title: _____



Minority & Women-owned Business Enterprise-Equal Employment Opportunity Liaison

_____ (name of designated contractor/grantee liaison) is designated as the Minority and Women-owned Business Enterprise Liaison responsible for administering the Minority and Women-owned Business Enterprises-Equal Employment Opportunity (MWBE-EEO) program.

MWBE Contract Goals

_____ % Minority Business Enterprise Participation
_____ % Women’s Business Enterprise Participation
_____ % **TOTAL/OVERALL MWBE Participation Goal**

EEO Contract Goals

NOT APPLICABLE % Minority Labor Force Participation
NOT APPLICABLE % Female Labor Force Participation

SDVOB Contract Goals

_____ % Service Disabled Veteran Business Participation

(Signature of Contractor’s Authorized Representative)

***Name:** _____
***Company:** _____
***Title:** _____
***Phone:** _____
***Fax:** _____
***Address:** _____



Staffing Plan

(REQUIRED ONLY OF CONTRACTS VALUED AT \$250,000 OR MORE)

Submit with Bid or Proposal – Instructions on page 2

Contract No.:	Project Location:	Report includes Prime Contractor/Subcontractors: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force <input type="checkbox"/> Prime Contractor <input type="checkbox"/> Subcontractor Subcontractor Name(s):
Contract Name / Details:		
Company Name: Company Address and Contract Details:		

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification														
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)		
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

PREPARED BY (Signature):	NAME:	ALTERNATE TEL:
DATE:	TITLE:	EMAIL:
	TELEPHONE:	OTHER:

Staffing Plan Instructions

(REQUIRED ONLY OF CONTRACTS VALUED AT \$250,000 OR MORE)

General Instructions: All Contractors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (Form J-2) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or Subcontractor's total work force, the Contractor shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or Subcontractor's total work force, the Contractor shall complete this form for the contractor's and/or Subcontractor's total work force.

Instructions:

1. Enter the Contract or Solicitation number that this report applies to along with the name and address of your company or organization.
2. Check off the appropriate box to indicate if the Contractor completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Contractor's total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the MWBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name and contact details of the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION:

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES:

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female



MWBE and SDVOB Utilization Plan

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This MWBE and SDVOB Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (MWBE) and/or Service Disabled Veteran Owned Business (SDVOB) under the contract. Attach additional sheets if necessary.

* indicates mandatory fields

* Contractor Name: _____

Address: _____

* Representative Name: _____

Town, State & Zip: _____

* Phone: _____

* Contract/Project Number: _____

* Fax: _____

RFP/RFQ/Solicitation Number: _____

* Email: _____

* MWBE Goal: MBE _____% + WBE _____% = MWBE GOAL _____%

* Total Dollar Value of Contract/Grant: \$ _____

* SDVOB Goal: _____%

1. * Certified MWBE or SDVOB Firm Name, Contact Person's Name, Address, Phone and Email.	2. * Check All That Apply	3. * Federal ID No.	4. * Detailed Description of Work (Attach additional sheets, if necessary, Attach Contract if available)	5. * Check Firm Type That Applies for Work Completed on this Project	6. * Dollar Value of Contract (if unavailable or yet undetermined, indicate \$1)
A.	<u>NYS CERTIFIED</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB			<input type="checkbox"/> Subcontractor <input type="checkbox"/> Subconsultant <input type="checkbox"/> Materials Supplier <input type="checkbox"/> Trade Agents/Brokers	
B.	<u>NYS CERTIFIED</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB			<input type="checkbox"/> Subcontractor <input type="checkbox"/> Subconsultant <input type="checkbox"/> Materials Supplier <input type="checkbox"/> Trade Agents/Brokers	



MWBE and SDVOB Utilization Plan

7. If unable to fully meet the MWBE and/or SDVOB goals set forth in the contract, the Contractor must submit a Waiver Request form.

PREPARED BY (Signature): _____ DATE: _____

Preparer's Name (Print or Type): _____

Preparer's Title: _____

Date: _____

SUBMISSION OF THIS FORM CONSTITUTES THE CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE MWBE AND SDVOB REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW ARTICLES 15-A AND 17-B, 5 NYCRR PART 143, 9 NYCRR PART 252, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.

The MWBE Certification status of the firms listed on this form **MUST** be verified using the New York State Contract System's Directory of Certified Minority and Women-owned Business Enterprises.
This directory is available at <https://ny.newnycontracts.com>.

The SDVOB Certification status of the firms listed on this form **MUST** be verified using the Directory of New York State Certified Service-Disabled Veteran-Owned Businesses.
This directory is available at <https://online.ogs.ny.gov/SDVOB/search>.

TELEPHONE NO.:	EMAIL ADDRESS:
<p><u>Policy Regarding Use of MWBE Suppliers and Brokers</u></p> <p>Only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal.</p> <p>FOR CONSTRUCTION/CAPITAL PROJECTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.</p> <p>FOR ALL OTHER PROJECTS - The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.</p>	
** FOR COMMISSION USE ONLY **	
REVIEWED BY:	DATE:
<p>UTILIZATION PLAN APPROVED?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> PARTIAL <input type="checkbox"/> NO Date: _____</p>	

Waiver Request Form

Request for Waiver		
Contractor Name:	Fed ID No.:	
Full Address:	Contract / Project Number:	
Project Details (Project Name, Project Location):	Have you Previously submitted a Waiver Request? (YES/NO)	
Current Contract Value:	MWBE Goal: MBE % + WBE % Overall MWBE Goal: % SDVOB Goal: %	
<p>By submitting this form and the required information, the Contractor certifies that every “Good Faith Effort” has been taken to promote MWBE and SDVOB participation pursuant to the MWBE and SDVOB requirements set forth under the contract. Review 5 NYCRR § 142.8 and 9 NYCRR § 252, Contractor’s Good Faith Efforts, for the precise definition of “Good Faith Effort.” Failure to adequately demonstrate Good Faith Efforts will result in a denial of your Waiver Request. It is the Contractor’s responsibility to ensure that adequate, clear and complete information is presented to the Commission.</p>		
<p>*UTILIZATION VALUE MET:</p> <p style="text-align: center;">MBE: \$ _____ WBE: \$ _____ SDVOB: \$ _____</p>		
<p>*CONTRACTOR IS REQUESTING :</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> MBE Waiver – A waiver of the MBE Goal for this procurement is requested. REQUESTED MBE GOAL: _____% 2. <input type="checkbox"/> WBE Waiver – A waiver of the WBE Goal for this procurement is requested. REQUESTED WBE GOAL: _____% 3. <input type="checkbox"/> OVERALL MWBE Waiver – A waiver of the MWBE Goal for this procurement is requested. REQUESTED MWBE GOAL: _____% 4. <input type="checkbox"/> SDVOB Waiver – A waiver of SDVOB Participation Goal for this procurement is requested. REQUESTED SDVOB GOAL: _____% 		
<p>PREPARED BY (Signature): _____ Date: _____</p> <p>SUBMISSION OF THIS FORM CONSTITUTES THE CONTRACTOR’S ACKNOWLEDGEMENT AND AGREEMENT THAT IT HAS MADE GOOD FAITH EFFORTS, PURSUANT TO 5 NYCRR §142.8 AND/OR 9 NYCRR §252, TO INCLUDE THE PARTICIPATION OF NEW YORK STATE CERTIFIED MINORITY AND WOMEN OWNED BUSINESSES AND SERVICE DISABLED VETERAN OWNED BUSINESSES IN THE ABOVE PROJECT OR CONTRACT. CONTRACTOR HEREBY AGREES TO PROVIDE ANY AND ALL RELEVANT DOCUMENTATION IN SUPPORT OF THE DEMONSTRATION OF ITS GOOD FAITH EFFORTS AND ACKNOWLEDGES THAT IT HAS PROVIDED WITH THIS WAIVER REQUEST ALL AVAILABLE DOCUMENTATION SUPPORTING ITS GOOD FAITH EFFORTS.</p>		
*Name and Title of Preparer:	*Telephone Number:	*Email:

Waiver Request Form

Contractor's Good Faith Efforts

- (a) Contractors must document their good faith efforts toward utilizing certified firms, including but not limited to, those identified within a utilization plan. Such documented efforts, shall include, at a minimum:
- (1) Copies of its solicitations of certified firms enterprises and any responses thereto;
 - (2) If responses to the contractor's solicitations were received, but a certified firm was not selected, the specific reasons that such firm was not selected;
 - (3) Copies of any advertisements for participation by certified firms timely published in appropriate general circulation, trade, MWBE and SDVOB oriented publications, together with the listing(s) and date(s) of the publication of such advertisements;
 - (4) The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the State agency awarding the State contract, with certified firms enterprises which the State agency determined were capable of performing the State contract scope of work for the purpose of fulfilling the contract participation goals;
 - (5) Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified firms.
- (b) In addition to the information provided by the contractor in subdivision (a) above, the State agency may also consider the following to determine whether the contractor has demonstrated good faith efforts:
- (1) where applicable, whether the contractor submitted an amended utilization plan consistent with the subcontract or supplier opportunities in the contract;
 - (2) the number of certified firms in the region listed in the directory of certified businesses that could, in the judgment of the State agency, perform work required by the State contract scope of work;
 - (3) the actions taken by the contractor to contact and assess the ability of certified firms located outside of the region in which the State contract scope of work is to be performed to participate on the State contract;
 - (4) whether the contractor provided relevant plans, specifications or terms and conditions to certified firms sufficiently in advance to enable them to prepare an informed response to a contractor request for participation as a subcontractor or supplier;
 - (5) the terms and conditions of any subcontract or provision of suppliers offered to certified firms and a comparison of such terms and conditions with those offered in the ordinary course of the contractor's business and to other subcontractors or suppliers of the contractor;
 - (6) whether the contractor offered to make up any inability to comply with the certified firms goals in the subject State contract in other State contracts being performed or awarded to the contractor;
 - (7) the extent to which contractor's own actions, including but not limited to, any failure by contractor to discharge contractor's duties pursuant to this Part, Articles 15-A or 17-B of the Executive Law, contributed to contractor's inability to meet the maximum feasible portion of the contract goals;
 - (8) whether the contractor knowingly utilized one or more certified firms, in the performance of the subject State contract, that contractor knew or reasonably should have known could not perform a commercially useful function.

Waiver Request Form

- (9) whether the contractor submitted compliance reports, which identified certified firms that contractor knew or reasonably should have known did not perform a commercially useful function on a State contract on which goals were assigned. and
- (10) any other information that is relevant or appropriate to determining whether the contractor has demonstrated a good faith effort.

Submit with the Bid or Proposal.	***** FOR COMMISSION USE ONLY *****	
	REVIEWED BY:	DATE:
	<p>Waiver Granted: <input type="checkbox"/> YES MBE: <input type="checkbox"/> WBE: <input type="checkbox"/> SDVOB: <input type="checkbox"/></p> <p><input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver</p> <p><input type="checkbox"/> *Conditional <input type="checkbox"/> Notice of Deficiency Issued _____</p> <p>* <u>Comments:</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	



CONTRACTOR'S MONTHLY SDVOB COMPLIANCE REPORT (DUE ON THE 10TH DAY OF EACH MONTH FOR THE PRECEDING MONTH'S ACTIVITY AS EVIDENCE TOWARDS ACHIEVEMENT OF THE SDVOB GOALS ON THE CONTRACT

Contract No.: _____

Contractor/Vendor Name, Address and Phone No.:	Contractor/Vendor Federal ID No.:	SDVOB Goals	Reporting Period		
			%	Month	Year
SDVOB Firm Name, Address and Phone Number (List All Firms)	Description of Work or Supplies Provided	SDVOB Payment	Total Monthly Payments from NYS		
Federal ID No.:		<input type="checkbox"/> No Payment This Month			
Federal ID No.:		<input type="checkbox"/> No Payment This Month			
Federal ID No.:		<input type="checkbox"/> No Payment This Month			
Federal ID No.:		<input type="checkbox"/> No Payment This Month			

_____ Signature	_____ Print Name and Title	_____ Date
Submission of this form constitutes the Contractor's acknowledgement as to the accuracy of the information contained herein. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, suspension and/or termination of the Contract.		For Commission's Use Only
		<table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">Reviewed By:</td> <td style="width: 50%;">Date:</td> </tr> </table>
Reviewed By:	Date:	

Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Firm offering to provide services pursuant to this [RFP/Contract], as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this [RFP/Contract] does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;
2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;
3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;
4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;
5. During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment,

hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms responding to this [RFP/Contract] should note that the State recognizes that conflicts may occur in the future because a Firm may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name, Title:

Signature:

Date:

This form must be signed by an authorized executive or legal representative.

Statement on Sexual Harassment

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

Contractor certifies that this statement provided to the Agency with respect to State Finance Law §139 (l) is complete, true and accurate.

Authorized Signatory

Signature

Title

Company Name

Anti-Discrimination EO 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. 3

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor:

By: _____

Name: _____

Title: _____

Date: _____, 20__

INSURER QUALIFICATIONS AND INSURANCE REQUIREMENTS

Insurer Qualifications

All insurance required under this IFB must be written by a company with a current rating of "A-" or better as rated by A.M. Best & Co. and a record of successful continuous operation, that is licensed, admitted, and authorized to do business in the State of New York, and that is approved by the New York State Gaming Commission ("the Commission").

Required coverage and limits must be put into effect as of the effective date of the Contract and must remain in effect throughout the term of the Contract, as determined by the Commission.

To the extent that lesser, incomplete, or improper insurance coverage is offered and/or procured by the Contractor, the Contractor acknowledges and agrees that it is financially responsible for any shortages, discrepancies, and liabilities remaining if coverage is denied or not available for a claim made that would otherwise have been covered by the insurance requirements herein.

To the extent that the Contractor is self-insured for any portion of the required insurance program, the Contractor must provide a letter explaining the substantive coverage provided through self-insurance and the limits of such self-insurance, as signed by the Contractor's authorized representative with direct knowledge of and responsibility for that insurance/risk management program.

Insurance Requirements

Prior to the start of work the Contractor¹ shall procure at its sole cost and expense and shall maintain in force at all times during the term of the Contract, policies of insurance as herein below set forth, written by companies authorized by the New York State Department of Financial Services to issue insurance in the State of New York (Admitted Carriers). The Commission may, at its sole discretion, accept policies of insurance written by a non-authorized insurance carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed ELANY Affidavit.

Upon award, the Contractor shall deliver to the Commission evidence of such insurance coverage as defined below. In the event there is a claim asserted that is covered by insurance, the Contractor shall make available for inspection to the Commission upon the Commission's request, at Commission headquarters, during reasonable business hours, any applicable insurance policy required by this Contract.

Throughout the Contract period, the Contractor and/or the insurance carrier shall notify the Commission of any material changes to the insurance policy coverages, or any cancellation, termination, or failure to renew any policy, prior to the expiration date.

¹ Within the IFB, Contractor is also referred to as "Bidder", "Successful Bidder", "Firm", and "Vendor".

General Conditions

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

1. Coverage Types and Policy Limits. The types of insurance coverage and policy limits required from the Contractor are specified in Paragraph B below – “Specific Coverages and Limits”.

2. Policy Forms. Policies must be written on an **occurrence** basis, except as may be otherwise specifically provided herein or agreed to in writing by the Commission. Under certain circumstances, the Commission may elect to accept policies written on a claims-made basis provided that, at a minimum, the policy remains in force throughout the performance of the services and for three (3) years after completion of the Contract. If the policy is cancelled or not renewed during that time, the Contractor must purchase at its sole expense Discovery Clause coverage sufficient to complete the three-year period after completion of the Contract. Written proof of this extended reporting period must be provided to the Commission prior to the expiration or cancellation of the policy.

3. Certificates of Insurance/Notices. Liability certificates must be provided on a form approved by the New York State Department of Financial Services. Approved forms include the ACORD 25, 27, 28 and 855 NY.

The Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Commission, before commencing any work under this Contract. Certificates shall be mailed using the contact information provided in this IFB. Complete copies of any insurance policy shall be provided to the Commission by the Contractor upon request, should the content of the policy become relevant as part of a claim.

Unless otherwise agreed, insurance policies shall be written so as to include a provision that the insurance policy will not be canceled, materially changed, or not renewed without at least thirty (30) days’ prior written notice to the Commission.

Certificates of Insurance shall:

- a. be in the form approved by the Commission.
- b. disclose any Deductible, Self-Insured Retention, and/or Aggregate Limit, and any exclusion to the policy that materially changes the coverage. Deductibles or Self-Insured Retentions above \$100,000.00 shall be subject to approval from the Commission. Additional security may be required in certain circumstances.
- c. specify the Additional Insureds as required herein.
- d. when coverage is provided by a non-admitted insurance carrier, be accompanied by a completed Excess Line Association of New York (“ELANY”) Affidavit,
- e. be signed by an authorized representative of the insurance carrier or producer.

4. Primary Coverage. All insurance policies, including, but not limited to, umbrella liability and excess liability policies, shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to the Commission. Any other insurance maintained by the Commission shall be excess of and shall not contribute with the Contractor's insurance regardless of the "other insurance" clause contained in the Commission's own policy or policies of insurance, or any self-insurance maintained by the Commission or the State of New York.

5. Policy Renewal/Expiration. Upon policy renewal/expiration, evidence of renewal, or replacement of coverage that complies with the insurance requirements set forth in the IFB and any Contract resulting from the IFB shall be delivered to the Commission. If, at any time during the term of any Contract resulting from the IFB, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the IFB, the resulting Contract, or proof thereof is not provided to the Commission, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by the Commission.

6. Deadlines for Providing Insurance Documents after Renewal or Upon Request. As set forth herein, certain insurance documents must be provided to the Commission contact identified in the Contract Award Notice after renewal or upon request by the Commission. This requirement means that the Contractor shall provide any applicable insurance documents to the Commission as soon as possible, but in no event later than the following time periods:

- For certificates of insurance: five business days from request or renewal, whichever is later;
- For information on self-insurance or self-retention programs: 15 calendar days from request or renewal, whichever is later;
- For other requested documentation evidencing coverage: 15 calendar days from request or renewal, whichever is later;
- For additional insured and waiver of subrogation endorsements: 30 calendar days from request or renewal, whichever is later; and
- For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: five business days from request or renewal, whichever is later.

Notwithstanding the foregoing, if the Contractor shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to the Commission, but fails to provide the documents within the timeframes above, the Commission shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 calendar days from the Commission's original request.

7. Self-Insured Retention/Deductibles. Additional surety/security may be required in certain circumstances. The Contractor shall be solely responsible for all claim expenses and loss payments within any Deductible or Self-Insured Retention.

8. Subcontractors. Should the Contractor engage a subcontractor, the Contractor shall endeavor to impose the insurance requirements of this document on the subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the subcontractor. An Additional Insured endorsement evidencing such coverage shall be provided to the Contractor prior to the commencement of any work by a subcontractor and shall be provided to the Commission upon request. For subcontractors that are self-insured, the subcontractor shall be obligated to defend and indemnify the above-named Additional Insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the subcontractor would have been required pursuant to this section had the subcontractor obtained insurance policies to provide such defense and indemnity. Proof of insurance or self-insured status shall be supplied to the Commission. To the extent that a subcontractor does not obtain the insurance requirements outlined above, the Contractor, through insurance or self-insurance, shall supplement the subcontractor's insufficient or incomplete insurance coverage to ensure that the Commission and the State are made whole.

9. Additional Insured. In each of the liability policies required below, the Contractor shall cause coverage to be included for ongoing and completed operations, including, but not limited to, during any products and completed operations phases, naming as Additional Insureds the following specifically, or as part of an additional insured endorsement that extends additional insured status to these entities based on the Contractor's entry into the Contract:

The People of the State of New York, the Commission, its commissioners, officers, agents and employees.

The Contractor shall provide the Commission with evidence of such coverage within 30 days of renewal or upon request, whichever is later. If the evidence is in the form of a specific Additional Insured endorsement, the endorsement must specify that coverage is available to the People of the State of New York, the Commission, its commissioners, officers, agents, and employees as "Additional Insureds", without limiting the scope of coverage available based on the source of negligent conduct otherwise covered under the pertinent insurance policy. Regardless of how additional insured status is conferred, the "Additional Insured" coverage should be the same as if the Additional Insureds were included as Named Insureds on the insurance policy. For Contractors who are self-insured, the Contractor shall be obligated to defend and indemnify the above-named Additional Insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Contractor would have been required to defend and indemnify pursuant to this Attachment had the Contractor obtained such insurance policies.

10. Excess/Umbrella Liability Policies. Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided upon request

B. Specific Coverages and Limits. The types of insurance and minimum policy limits shall be as provided below.

1. General Liability. Commercial General Liability (CGL) Insurance, covering the liability of the Contractor for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this Contract. The limits under such policy shall not be less than the following:

- Each Occurrence limit: \$1,000,000
- General Aggregate: \$2,000,000
- Products/Completed Operations should equal the General Aggregate limit
- Personal Advertising Injury \$1,000,000
- Medical Expense \$5,000

Coverage shall include, but not be limited to, the following: premises liability; independent contractors; blanket contractual liability, including tort liability of another assumed in a Contract; defense and/or indemnification obligations, including obligations assumed under this Contract; cross-liability for additional insureds; products/completed operations for a term of no less than three years, commencing upon acceptance of the Contractor's and any subcontractor's work, as required by the Contract; and liability resulting from Section 240 or Section 241 of the New York State Labor Law.

The following ISO forms must be endorsed to the policy:

- CG 20 37 12 19 or the equivalent
- CG 20 10 12 19 or the equivalent
- CG 20 38 12 19 or the equivalent

2. Professional Errors and Omissions. The Contractor shall procure and maintain during, and for a period of one year after completion of, this Contract, Professional Errors and Omissions Insurance in the amount of \$1,000,000 issued to and covering damage for liability imposed on the Contractor by this Contract or law arising out of any negligent act, error, or omission in the rendering of or failure to render services required by this Contract.

The insurance policy shall include coverage for third-party fidelity including cyber theft, if coverage is not provided for in a Data Breach and Privacy/Cyber Liability policy.

3. Crime Insurance. The Contractor must maintain crime insurance with a limit of not less than \$1,000,000 protecting the State of New York and the Commission against losses resulting from fraudulent or dishonest acts by the Contractor, any subcontractors, or any officer, employee or agent of the Contractor or any subcontractors.

4. Workers' Compensation and Disability. For work to be performed in New York State, the Contractor shall provide and maintain insurance coverage during the life of this Contract for the benefit of such employees as are required to be covered by the New York State Workers' Compensation Law (www.wcb.ny.gov).

Evidence of New York State Workers' Compensation and Employers Liability coverage and New York State Disability Benefits coverage, or exemption from coverage, must be provided on **one** of the following forms specified by the Commissioner of the New York State Workers' Compensation Board. For forms and guidance, the Board's website is:

http://www.wcb.ny.gov/content/main/forms/Forms_EMPLOYER.jsp

A. Workers' Compensation and Employers Liability Coverage:

- **Form CE-200** - Certificate of Attestation for New York Entities with No Employees and Certain Out of State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required); or
- **Form C-105.2** - (September 2015, or most current version) – Certificate of Workers' Compensation Insurance, sent to the Commission by the Contractor's insurance carrier upon request; or
- **Form U-26.3** – Certificate of Workers' Compensation Insurance from the State Insurance Fund. Contractor must request that the State Insurance Fund send this form to the Commission; or
- **Form SI-12** – Certificate of Workers' Compensation Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office; or
- **Form GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance, available from the Contractor's Group Self-Insurance Administrator.

B. Disability Benefits:

- **Form CE-200** - Certificate of Attestation for New York Entities with No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required); or
- **Form DB-120.1** (September 2015 or most current version), Certificate of Insurance Coverage under the New York State Disability Benefits Law. Contractor must request its business insurance carrier send this form to the Commission.
- **Form DB-155**, Certificate of Disability Benefits Self-Insurance.

All forms must name THE NEW YORK STATE GAMING COMMISSION as the Entity Requesting Proof of Coverage (i.e., the entity being listed as the Certificate Holder).

All forms are valid for one year from the date the form is signed/stamped, or until policy expiration, whichever is earlier. (ACORD forms are NOT acceptable proof of Workers' Compensation insurance coverage).

ATTACHMENTS

- Attachment 1: Bidder Acknowledgement of Addendum
- Attachment 2: Pricing Proposal Form
- Attachment 3: Document Submittal Checklist
- Attachment 4: Non-Bid Response Form



IFB: C202109V2 – Haivision equipment, installation, and maintenance

BIDDER ACKNOWLEDGEMENT OF ADDENDUM

Amendment Number: _____

Date Issued: _____

Summary:

By signing below, the bidder attests to receiving and responding to the amendment number indicated above.

FIRM NAME: _____

REPRESENTATIVE SIGNATURE: _____

Haivision Equipment, Installation and Maintenance

Award will be made to the responsive and responsible bidder offering the lowest Total Five Year Cost. If there are no additional charges for a line item, enter \$0.

	Price Per Unit*	Quantity	Extended Price
S-MX4E-SDI4-UHD Makito X4 SDI Encoder Appliance (or equivalent)	\$	4	\$
S-MX4D-SDI4-UHD Makito X4 UHD SDI Decoder Appliance (or equivalent)	\$	11	\$
Haivision 1RU Appliance Mounting Bracket	\$	9	\$
Haivision 6 Slot Chassis (Redundant AC)	\$	2	\$
Additional Units of S-MX4D-SDI4-UHD Makito X4 UHD SDI Decoder Appliance (or equivalent) and mounting bracket to be deployed throughout the term of the contract, as needed**	\$	25	\$
Haivision SRT Gateway Appliance (or equivalent) and configuration	\$	2	\$
Installation and Configuration of One Haivision Encoder and One Haivision Decoder to be installed at the New York State Office of General Services, Media Services Center located at 36th Floor, Corning Tower, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, NY 12242.	\$	1	\$
Installation and Configuration of Two (2) Haivision Encoders and one (1) Haivision Decoder to be installed at the Commission's Headquarters located at One Broadway Center, Schenectady, NY 12305.	\$	1	\$
Installation and Configuration at receiving sites	\$	9	\$
Additional Installation and Configuration at receiving sites, as needed throughout the contract term**	\$	25	\$
Removal of equipment at receiving sites, as needed throughout the contract term**	\$	25	\$
Removal of equipment at the Commission's Headquarters with installation at new site**	\$	1	\$
Training	\$	1	\$
Annual Haivision Premium Support	\$	5	\$
Parts and Consumables, as needed	%markup ____	x Est. \$1,000	\$
Total Five Year Cost:			\$

*Rates shall be effective for the duration of the Contract term.

**Amount is an estimate only. No minimum amount is guaranteed. Payment will be made based on actual units purchased. Actual travel costs may be reimbursed for locations outside of New York State, pursuant to IFB Section 2.6.

Bidder's Company Name: _____

Authorized Signature: _____

Date: _____

Print Name: _____



DOCUMENT SUBMITTAL CHECKLIST - IFB C202109V2

All items should be submitted with the Proposal, unless otherwise noted (checkbox is shaded out). Refer to sections in IFB for details of each requirement.

Submit with Response to IFB		IFB Section	<input checked="" type="checkbox"/>
Transmittal Letter: stating bid is valid for 120 days from bid due date; must be signed	4.1		
Attachment 1: Bidder Acknowledgement of Addendum (for each addendum)	1.10		
Appendix B: Contract Form (incorporates Appendix A); must be signed	2.2		
Appendix C Bidder/Offeror Disclosure/Certification Form	1.90		
Appendix D: Non-Collusive Bidding Certification	1.11		
Appendix E: New York State Vendor Responsibility Questionnaire	1.12		
Appendix H: Encouraging Use of New York State Businesses in Contract Performance	2.15		
Appendix I-2: Work Force Employment Staffing Plan	2.11		
Appendix I-4: MWBE Utilization Plan Form; Proposed plan, including estimated percentage	2.11		
Appendix J: Vendor Assurance of No Conflict of Interest or Detrimental Effect	1.18		
Appendix K: Statement on Sexual Harassment	1.24		
Appendix L: Anti-Discrimination EO 177 Certification	1.25		
Appendix M: Insurer Qualifications and Insurance Requirements; Compliance Statement due with bid.	2.10		
Designation of Proprietary Information (FOIL)	1.13		
Disclosure of Litigation	1.17		
References	4.1		
Pricing Included with Response to IFB		IFB Section	<input checked="" type="checkbox"/>
Attachment 2: Bid Form (Bidders must use Attachment 2 for their Pricing. Alternate forms will be considered non-responsive)	4.1		
Due Subsequent to Award		IFB Section	<input checked="" type="checkbox"/>
Appendix F: Substitute Form W-9	2.7		
Appendix G: ST-220 Contractor Certification forms; Due within 7 calendar days of notice of award Form ST220-TD, Submit to DTF Form ST220-CA, Submit to Commission	2.9		
Appendix I-1; EEO and MWBE Program Equal Employment Opportunity Policy Statement; Within 72 hours of notice of award	2.11		
Appendix M: Insurance Certificates due upon award.	2.10		

Company Name: _____



NON-BID RESPONSE

IFB – C202109V2 Haivision equipment, installation, and maintenance

Company Name: _____

If your company will not be submitting a response to the IFB, it would be helpful in the preparation of future bidding opportunities to understand why your company is not submitting a bid. Please help us by selecting your reason from the choices below or selecting "Other" with a brief explanation.

_____ Although the bid is within the scope of our business, and we are interested in principle, at present, we are unable to respond, due to other commitments.

_____ The services / products described in the subject IFB are not within our area of expertise.

_____ We do not have the staffing / resources available at this time to provide the services requested.

_____ There were certain requirements or restrictions stated in the IFB that preclude our company from bidding. Those requirements are:

_____ Other: _____

This form may be emailed to: officer.contracting@gaming.ny.gov, or mailed to:

New York State Gaming Commission
Contract Unit, 4th Floor
One Broadway Center
Schenectady, NY 12305

Please be advised that **no response** may result in removal of your company from our Bidders List.