



**STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
Office of Budget & Management Analysis
Bureau of Fiscal Services
Building 9, Room 234
W.A. Harriman Campus
Albany, NY 12227**

Patricia Mitchell, Chief Financial Officer
Eric Mostert, Assistant Director, Budget & Accounting Services
Catherine Golden, Assistant Director, Procurement Services

September 8, 2009

Dear Bidder,

The New York State (NYS) Department of Taxation and Finance (DTF) is soliciting proposals from state or federally chartered commercial banks with at least one branch in New York State (see Section VII A) to provide banking services associated with the issuance and payment of Personal Income Tax (PIT) refunds (the Program). Qualifications and mandatory requirements are outlined in the Request for Proposals (RFP) 09-01 for this procurement.

The RFP 09-01 will be posted on Tuesday, September 8, 2009 after 1:00 p.m. on the Department's web site at: <http://www.nystax.gov/procurement>. If you are unable to obtain a copy of the RFP from our website, please e-mail bfs_contracts@tax.state.ny.us or call (518) 457-0954 to request a copy.

Vendors should be advised of new legislation for Procurement Lobbying on ALL Procurement Contracts effective January 1, 2006. Details of guidelines, regulations, forms and the designated contact(s) are provided on the Department's web site at: <http://www.nystax.gov/procurement>. Additional information can be found at the New York State Office of General Services website at: <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

Interested bidders must meet the minimum qualifications described in Section IV, Qualifying Requirements. All questions regarding this RFP must be submitted via (1) e-mail (preferred) to bfs_contracts@tax.state.ny.us; (2) fax to (518) 435-8413; or (3) mail to the above address. All questions must be received by September 15, 2009, 4:00 p.m. EST. Please reference the relevant page and section of the RFP as well as the RFP number, 09-01.

All proposals must be received no later than November 9, 2009, 4:00 p.m. EST.

Sincerely,

A handwritten signature in black ink that reads "Karen Brino". The signature is written in a cursive style with a large, stylized 'K' and 'B'.

Karen Brino
Contract Administrator

STATE OF NEW YORK



DEPARTMENT OF TAXATION & FINANCE



REQUEST FOR PROPOSAL

PIT Refund Controlled
Disbursement and Direct
Deposit Services

September 8, 2009

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PREFACE

Bid Administration

Please refer to Section III, Administrative Conditions and Proposal Response Requirements, of this RFP for information concerning the procurement process. Additional questions or concerns regarding this RFP should be addressed to (e-mail preferred):

Catherine Golden
Procurement Bureau
NYS Department of Taxation and Finance
Building 9, Room 234
Albany, NY 12227
(518) 457-0954
(518) 435-8413 (fax)
bfs_contracts@tax.state.ny.us

Designated Contacts

All inquiries concerning this solicitation should be addressed to the following designated contacts:

Catherine Golden	(518) 457-0954	bfs_contracts@tax.state.ny.us
Karen Brino	(518) 457-0954	bfs_contracts@tax.state.ny.us
Dorothy Lechmanski	(518) 485-7875	bfs_contracts@tax.state.ny.us

Contacting individuals other than the designated contacts listed above may result in the disqualification of the bidder's proposal - please refer to the Procurement Lobbying Act (Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005) and the department guidelines posted on the Department's procurement website at: <http://www.nystax.gov/procurement>.

Private Delivery Services:

Mail deliveries requiring a signature of receipt should be addressed to the Department's campus address, but the delivery service should be instructed to deliver the bid documents to the following address:

90 Cohoes Avenue
Green Island, New York 12183.

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Key Events Timetable

Issuance of RFP	09/08/2009
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Deadline for filing the "Offerer Affirmation and Understanding of, and Compliance with, Procurement Lobbying Guidelines" (Appendix B-7, see also Section III C6)	09/15/2009
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Deadline for Submission of Questions	09/15/2009 (by 4:00 PM EST)
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Department Response to Bidder Questions	09/22/2009
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Deadline for Submission of Follow-up Questions	09/28/2009
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Department Response to Bidder Follow-up Questions	10/5/2009
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Deadline for Filing the "Notification of Intent to Bid" (Appendix B-1)	10/13/2009 (by 4:00 PM EST)
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Proposals Due	11/09/2009 (by 4:00 PM EST)
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Notification of Intent to Award	01/15/2009
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Deadline for Contract Signature	03/16/2010
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Department User Acceptance Testing Begins	08/09/2010
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Certification Date	11/02/2010
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Implementation Date	12/01/2010

SECTION I - INTRODUCTION

A. Purpose

The New York State Department of Taxation and Finance (the Department) is requesting proposals from state or federally chartered commercial banks with at least one branch in New York State (see Section VII A) to provide banking services associated with the issuance and payment of Personal Income Tax (PIT) refunds (the Program). The required services to be provided include: controlled disbursement/zero balance account; account reconciliation; online inquiry; draft cancellation ability; business continuity/disaster recovery; customer service, inclusive of resolution of forgery claims, provision of images of paid drafts and research of issues related to payment of drafts; and initiation of direct deposits via ACH credit.

B. Program Overview

It is important to note that the overview that follows describes the Program as it exists today. The Department reserves the right to modify the program in the future, in ways that may benefit the Department.

The Department issues PIT refunds each year to taxpayers that are overpaid on their PIT liabilities. Currently, the refunds may be issued as paper drafts or as an ACH direct deposit. See tables in Exhibit A – Volumes.

The Department issued approximately 7.2 million PIT refunds, valued at \$7.5 billion in 2008. This included approximately 4 million paper drafts and approximately 3.2 million ACH direct deposits. The issuance pattern of refunds is based upon an April 15th filing date and the Department's need to issue refunds within 45 days of the due date to minimize refunds paid with interest.

The Department's direct deposit program has shown a steady increase over the last three years:

	Direct Deposits Initiated	Percentage of all Refunds Issued
2006	2,455,130	37%
2007	2,833,436	40%
2008	3,201,993	44%

The Department expects to see continued growth in this program throughout the contract period resulting in a corresponding decrease in paper drafts. For more information, refer to Exhibit A.

Miscellaneous Services

The following are 2008 processing year annual volumes for miscellaneous services:

<u>Item</u>	<u>Volume</u>
Online Cancel Payment Requests	23,721
Forgery Claims	2,502
Exchange Account	363

C. Procurement Objectives

The objective of this RFP is to procure services which:

- Achieve certification and implementation deadlines.

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- Meet the stated requirements.
- Ensure accurate and timely processing of refunds.
- Allow for growth and changes to the Program.
- Provide system and operational security.
- Provide fail safe, disaster recovery and associated business continuity services.

The bidder awarded this contract ("Contractor") must achieve the required accuracy and timeliness performance standards for the processing of refunds. Section II - Performance Standards, Liquidated Damages and Reimbursements identifies the standards for the Program that the successful Contractor must achieve to meet their contractual obligation. The bidder must provide a comprehensive implementation plan which satisfies the Program Development and Implementation Requirements in Sections VII and VIII, respectively, of this RFP. The bidder must demonstrate the ability to meet deadlines and to produce deliverables in a timely manner. The successful bidder must cooperate with the Department during the certification process.

The bidder must demonstrate the ability and resources to respond rapidly and in a manner to change systems and/or operations due to legislative mandate, administrative directive, program enhancement, or changes in taxpayer behavior. Consistent with the Department's Strategic Plan (available at <http://www.tax.state.ny.us/nyshome/aboutus.htm>), the Department may request that the successful bidder provide Program enhancement services. Depending on the nature of the Program enhancement, the Department will work with the successful bidder to evaluate the cost-benefit of implementing these changes. However, the Department is under no obligation to do so through the successful bidder, and reserves the right to develop and implement program enhancements internally or by entering into agreements with other third party service providers. The successful bidder must be willing to work in good faith with the Department and any other involved party or parties to develop and/or implement the requested program enhancement services.

The bidder must demonstrate that the processing facility (ies) and system(s) are secure, and that confidential material and information will be safeguarded. Disaster preparedness and disaster recovery plans must exist and be operational to ensure minimal disruption to the Program(s) in the event of such occurrences. Section VII details the disaster recovery/business continuity and fails safe requirements.

Finally, the Department requires the successful bidder to meet the requirements of this RFP regardless of other present or future business commitments.

D. Contract Duration

The initial contract term will be four (4) years, with renewal options for two (2) one year periods at the discretion of the Department. The final contract for this procurement will be based on the invariable contract conditions and negotiable topics set forth in Section XI – Contract Conditions, and the Performance Standards set forth in Section II - Performance Standards, Liquidated Damages and Reimbursements. If the bidder disagrees with any of the Section II and/or Section XI provisions, specific alternative language must be provided as part of the bidder's proposal. Upon selection of the successful bidder, the Department reserves the right to negotiate the final contract and standards based on the RFP and the responses to the RFP. The successful bidder must sign the contract within sixty (60) calendar days after the award of the bid. If the successful bidder fails to do so, the Department reserves the right to begin negotiations with the second-highest rated bidder.

E. Bid Evaluation

Proposals submitted in response to this RFP will be evaluated based on the merits of the technical and financial proposals, alternate language proposed to Sections II and XI of this RFP, site visits (if deemed necessary), and interviews with bidders (if deemed necessary). For more details on the evaluation process, please see Section V - Evaluation Process, of this RFP.

SECTION II - PERFORMANCE STANDARDS, LIQUIDATED DAMAGES and REIMBURSEMENTS

A. Purpose of the Performance Standards

Performance Standards establish the acceptable level of service for all aspects of the Contractor's processing systems and operations. The Performance Standards for this RFP include:

1. Automated Environment.
2. General Controls (including Logical System Security; Security/Confidentiality; Physical Security & Internal Controls; Change Management; Fail Safe/Disaster Recovery; and Procedures Documentation).
3. Performance Monitoring.
4. Processing.
5. Transmissions, Files and Reports.
6. Image Output.

B. Future Program Changes

The Performance Standards reflect current statutes, rules, regulations, policies and procedures. Future changes that alter the existing processing requirements may require the Performance Standards to be adjusted accordingly.

C. Evaluating Contractor Compliance with Standards

The Department's performance monitoring program for Contractor services provides a means to evaluate compliance with the Performance Standards. The Contractor's performance will be evaluated through performance monitoring reviews and audits to assess the effectiveness of specific functions and/or processes and to determine compliance with the Performance Standards. Accordingly, the performance monitoring program would ensure that:

1. Appropriate controls are implemented and maintained for complete and accurate processing of drafts, reports, and electronic files consistent with the Performance Standards.
2. Timely and accurate processing of drafts and initiation of direct deposits is achieved, consistent with the Performance Standards.
3. Manual procedures and automated processing systems are implemented and maintained consistent with the Performance Standards.
4. Security measures are implemented and maintained, consistent with the Performance Standards.
5. Disaster recovery and business continuity capability is maintained, consistent with the Performance Standards.
6. Complete and accurate documentation is maintained, consistent with the Performance Standards.

D. Liquidated Damages Structure

Failure to comply with the Performance Standards may result in the imposition of liquidated damages and reimbursements. Additionally, civil and/or criminal penalties exist for violation of secrecy and confidentiality

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statutes.

E. Definitions

The following terms, when utilized within the language of the Performance Standards are defined as follows:

Business Day: Monday through Friday, with the exception of legal bank holidays.

Contractor: the selected bidder resulting from the competitive bid process with respect to this RFP.

F. Alternative Language

The Program Performance Standards, Liquidated Damages and Reimbursements, as set forth in this section, represent the Department's preferred standards and liquidated damages. In the event a bidder provides specific alternative language to the Program Performance Standards, Liquidated Damages and Reimbursements, such alternative language will be evaluated utilizing a scaled rating whereby an affirmation of the Department's standard and/or liquidated damage receives the highest rating and the maximum deviation (based on the minimum allowed values stated below) from a standard or liquidated damage receives the lowest rating. The minimum values are as follows:

- 1) For Performance Standards: the Department will not accept any alternative language to the general controls standards. The Department will allow alternate language for timeliness standards on data and image output files of up to one business day.
- 2) For Liquidated Damages, the Department will not accept any alternative language that reduces a liquidated damage by more than 25% for specified dollar damages (e.g.:\$1,000). The Department will not accept percentage reductions in the reimbursement column.

A bid which does not meet the minimum allowed values will be subject to disqualification.

G. Standards, Liquidated Damages and Reimbursements

STANDARDS	LIQUIDATED DAMAGES
1. Automated Environment	
A. Timeliness, Completeness and Accuracy – 100%	
1. A.1 Initial Environment All hardware and software required to operate and support the Program must be operational according to the agreed upon schedules and requirements. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.	Only liquidated damages associated with failure to achieve other performance standards are applicable.
1. A.2 Program Certification All program development activities and deliverables required for the Contractor to receive certification must	Flat fee of \$500 per calendar day for the first week the initial certification date is missed. For each subsequent

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STANDARDS	LIQUIDATED DAMAGES
<p>be available and operational according to the agreed upon certification dates in the implementation plan. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p>	<p>week, or portion thereof, a flat fee of \$2,500 will be assessed.</p>
<p>1. A.3 Program Development and Implementation Activity</p> <p>All program development activities and deliverables, required for implementation, must be available and operational according to the agreed upon implementation dates in the implementation plan. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p>	<p>Flat fee of \$2,000 per calendar day for the first week the initial implementation schedule results in delayed processing. For each subsequent week, or portion thereof, a flat fee of \$10,000 will be assessed.</p>
<p>1. A.4 System Modification</p> <p>The Contractor must accurately and timely implement and test any data and production system modifications and enhancements/maintenance which affect the Program, whether initiated by the Contractor, or as agreed upon pursuant to the Change Control Procedure (Appendix E). The Contractor must work with the Department to test and certify such system modifications and enhancements/maintenance prior to implementation. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p>	<p>Reimbursement to the Department and/or taxpayer will be made whole for any expenses, loss of revenue, etc. for failure to meet the standard.</p>
<p>1. A.5 System/Program Documentation</p> <p>All documentation related to the required services must be complete, accurate and available for Department review upon request. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p> <p>The Department and the Contractor shall jointly determine a documentation delivery schedule, recognizing there may be a delay between the system/program completion and final documentation. See Section VII - Program Development and Support Requirements and Section VIII - Implementation</p>	<p>A flat fee of \$500 for each occurrence the deliverable is incomplete, inaccurate, or late based upon the agreed upon schedule.</p>

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STANDARDS	LIQUIDATED DAMAGES
Requirements.	
2. General Controls	
A. Timeliness, Completeness and Accuracy – 100%	
<p>2. A.1 Logical System Security</p> <p>The Contractor must implement and maintain the logical system security, according to the agreed upon requirements, to prevent unauthorized access to taxpayer and tax administration data. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p> <p>The Contractor must implement and maintain the agreed upon adequate logical system security to prevent unauthorized access to the Department depository accounts. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p>	<p>Reimbursement to the Department and/or taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard;</p> <p>And /Or</p> <p>At the Department’s discretion, liquidated damages of \$2,500 for each violation of unauthorized access. Corrective action and a timetable will be specified by the Department for each violation.</p>
<p>2. A.2 Security/Confidentiality</p> <p>The Contractor must implement and maintain the agreed upon security and confidentiality measures articulated in its technical proposal response. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p> <p>The Contractor must agree to support Department efforts to criminally prosecute employees who have violated the secrecy provisions of the NYS Tax Law and the Internal Revenue Code with respect to the services. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p>	<p>Reimbursement to the Department and/or taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard;</p> <p>And /Or</p> <p>Liquidated Damages of \$2,500 for each violation of the security measures as they relate to the services. Corrective action and a timetable will be specified by the Department for each violation.</p>
<p>2. A.3 Physical Security and Internal Controls</p> <p>The Contractor must maintain physical security and internal controls for all sites and services required in order to adequately prevent or minimize the risk of loss, destruction or theft of physical assets and unauthorized access. See Section VII - Program Development and Support Requirements and Section VIII -</p>	<p>Reimbursement to the Department and/or taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard;</p> <p>And /Or</p>

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STANDARDS	LIQUIDATED DAMAGES
Implementation Requirements.	Liquidated damages of \$2,500 for each violation as it relates to the services. Corrective action and a timetable will be specified by the Department for each violation.
<p>2. A.4 Change Management</p> <p>The Contractor must provide the Department thirty (30) days prior notification of planned changes to the organization, expansion of services to other clients, and/or hardware and software modifications that either directly or indirectly impact required services. See Section VII - Program Development and Support Requirements.</p> <p>The Contractor must utilize the Change Procedures (Appendix E) to identify, request, analyze, prioritize, and track any changes to the services. See Section VII - Program Development and Support Requirements.</p>	<p>Reimbursement to the Department and/or taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard.</p> <p>And /Or</p> <p>Liquidated damages of \$2,500 for each violation as it relates to the Services. If appropriate, corrective action and a timetable will be specified by the Department.</p>
<p>2. A.5 Fail Safe/Disaster Recovery</p> <p>The Contractor must implement and maintain the agreed upon fail safe/disaster recovery procedures articulated in its technical proposal response throughout the duration of the contract, and implement the procedures when the Department and the Contractor jointly determine that a disaster has occurred. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p> <p>The Contractor must maintain and retain both on-site and off-site processible electronic copies of all data files that are transmitted to the Department. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p>	<p>Reimbursement to the Department and/or taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard.</p> <p>And /Or</p> <p>Liquidated Damages of \$5,000 for each failure to maintain the agreed upon fail safe/disaster recovery operations procedures which impact the services.</p>
<p>2. A.6 Procedures Documentation</p> <p>The Contractor must implement and maintain all procedures in accordance with the agreed upon requirements. See Section VII - Program Development and Support Requirements and Section VIII - Implementation Requirements.</p>	<p>Liquidated damages of \$500 for each failure to meet the standard. Corrective action and a timetable will be specified by the Department for each violation.</p>
<p>3.0 Performance Monitoring</p>	

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STANDARDS	LIQUIDATED DAMAGES
3. A. Timeliness, Completeness and Accuracy – 100%	
<p>3. A.1 Performance Monitoring</p> <p>The Contractor must cooperate fully with the Department and the Office of State Comptroller, and/or their designees for all performance monitoring audits and reviews. See Section VII - Program Development and Support Requirements.</p>	<p>Liquidated damages of \$1,000 per day for each failure to meet this standard.</p>
4.0 Processing	
4. A. Timeliness of Processing - 100% Timeliness	
<p>4. A.1 Report Unmatched Drafts</p> <p>The Contractor must report all unmatched drafts to the Department by 10:00 a.m. on the day after presentment to determine the disposition of such drafts.</p>	<p>Liquidated damages of \$100 per unmatched draft not reported timely.</p>
<p>4. A.2 Cancel Payment Orders</p> <p>The Contractor must post cancel payment orders by the agreed upon cut-off time. See Section VI – Functional Requirements.</p>	<p>Liquidated damages of \$100 per draft for cancel payment instruction not completed timely.</p>
<p>4. A.3 Report Daily Funding</p> <p>The Contractor must notify OSC of the daily presentment total no later than 10:00 a.m., in accordance with requirements in Section VI – Functional Requirements.</p>	<p>In the event the Contractor has not notified OSC in accordance with the requirement, the Contractor must provide funds to ensure all drafts are paid and are not returned for insufficient funds for failure of the Contractor to make the notification by 10:00 a.m.</p> <p>Liquidated damages of \$100 per each paid draft that fails to meet the standard</p>
<p>4. A.4 Paid Draft Retention</p> <p>The Contractor must maintain paid drafts for at least one year from the paid date and must make copies</p>	<p>Liquidated damages of \$100 per each paid draft that fails</p>

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STANDARDS	LIQUIDATED DAMAGES
available to the Department, upon request, within one business day.	to meet the standard. And /Or Reimbursement to the Department and/or taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard.
<p>4. A.5 Images of Paid Drafts</p> <p>Images of paid drafts must be received by the Department within the agreed upon timeframe. See Section VI – Functional Requirements.</p>	<p>Liquidated damages of \$100 per each paid draft that fails to meet the standard</p> <p>And</p> <p>Reimbursement to the Department of direct expenses incurred up to the value of the draft as a result of failure to produce the image of the draft.</p>
<p>4. A.6 Draft Issue File</p> <p>The Contractor must provide for the daily receipt of draft issue files with the agreed upon frequency and schedule. See Section VI - Functional Requirements.</p>	<p>Liquidated damages of \$1,000 per each occurrence for failure to meet the standard.</p>
<p>4. A.7. Forgery Drafts</p> <p>The Contractor must reimburse the Department within three (3) business days for any paid draft that is deemed to be a forgery.</p>	<p>Liquidated damages of \$100 per each occurrence for failure to meet the standard.</p> <p>And</p> <p>Reimbursement to the taxpayer for lost interest for failure to meet the standard.</p>
<p>4. A.9. Online System</p> <p>All online systems must be available during the agreed upon times based on the proposal. See Section VI - Functional Requirements.</p> <p>Information on drafts must be accessible on the online system on the business day following payment by the agreed upon time. See Section VI - Functional Requirements.</p>	<p>Liquidated damages of \$500 a day for each day an interruption in service occurs.</p>

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STANDARDS	LIQUIDATED DAMAGES
<p>4. A.10. Outstanding Drafts</p> <p>At the request of the Department, the Contractor must provide an electronic list of outstanding drafts issued during the calendar year specified by the Department.</p> <p>The Contractor must, at the request of the Department, remove any outstanding drafts (including cancelled items) issued at least one year prior, as defined in § 102 of the State Finance Law, but not yet presented. A file and report of the removed issuances must be sent to the Department, in accordance with the agreed upon timeframe and method (see Section VI – Functional Requirements).</p>	<p>Liquidated damages of \$100 per draft that is not appropriately removed from the systems.</p>
<p>4. A.11. Direct Deposit</p> <p>All funds transfers (i.e., ACH credits) must be initiated so that funds are available for withdrawal by the taxpayer(s) at the opening of business on the specified dates contained on the data transmission(s) and/or file provided by the Department. See Section VI - Functional Requirements.</p>	<p>Reimbursement to the Department and/or taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard.</p> <p>And/or</p> <p>Liquidated damages of 100% reduction in total fees associated with the deposit.</p>
<p>4. B. Accuracy and Completeness - 100%</p>	
<p>4. B.1 Unmatched Drafts</p> <p>The Contractor must not pay any unmatched draft without prior Department approval.</p>	<p>Reimbursement to the Department for amounts paid for all unmatched drafts.</p> <p>And</p> <p>Reimbursement to the Department for lost interest on the amounts paid for unmatched drafts.</p>
<p>4. B.2 Cancel Payment Orders and Reports</p> <p>The Contractor must post all cancel payment orders accurately and completely.</p> <p>The Contractor must keep cancel payment orders in effect until the Department authorizes its removal.</p>	<p>Reimburse the Department for any loss incurred for each cancel order that fails to meet the standard</p> <p>OR (whichever is greater)</p> <p>Liquidated damages of \$100 per each cancel order that fails to meet the standard.</p>

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<p>4. B.3 Report Daily Funding</p> <p>The Contractor must accurately report the daily funding requirements to OSC. See Section VI - Functional Requirements.</p>	<p>Reimbursement to the Department for lost interest for over funding the account</p> <p>And</p> <p>The Contractor must provide funds to ensure all drafts are paid and are not returned for insufficient funds due to underfunding the account as the result of an inaccurate funding report.</p>
<p>4. B.4 Paid Draft Retention</p> <p>The Contractor must accurately provide copies of archived paid drafts, in accordance to RFP requirements. See Section VI- Functional Requirements.</p>	<p>Liquidated damages of \$100 per each paid draft that fails to meet the standard</p> <p>And</p> <p>Reimbursement to the Department for the value of the draft if failure to meet the standard results in a direct cost to the Department.</p>
<p>4. B.5 Images of Paid Drafts</p> <p>The Contractor must provide accurate images of the paid drafts to the Department, in accordance with the agreed upon format. See Section VI - Functional Requirements.</p> <p>The Contractor must image the front and back of all paid remittances and ensure that each image meets generally accepted industry standards for quality, and maintains or improves the readability of the original remittance document.</p> <p>100% of the images must be retrievable by paid date and draft number.</p>	<p>Liquidated damages of \$100 per each paid draft that fails to meet the standard</p> <p>And</p> <p>Reimbursement to the Department for the value of the draft if failure to meet the standard results in a direct cost to the Department.</p>
<p>4. B.6 Forgery Drafts</p> <p>The Contractor must accurately process all forgery affidavits received from the Department within three business days after notification. See Section VI - Functional Requirements.</p>	<p>Liquidated damages of \$100 per each forgery affidavit that fails to meet the standard.</p>

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<p>4. B.7 Outstanding Drafts</p> <p>The Contractor must, at the request of the Department, remove from the controlled disbursement system any outstanding drafts and cancelled payments on any outstanding drafts after one (1) year from the date of issuance as defined in Section 102 of the State Finance Law. The removal must occur within two (2) business days of the request.</p>	<p>Liquidated damages of \$100 per draft that is not cancelled and/or not removed from the controlled disbursement system.</p>
<p>4. B.8 Destruction of Original Drafts</p> <p>The Contractor must provide for the confidential destruction of original drafts after the required retention period.</p>	<p>Liquidated damages of \$100 per draft that is not confidentially destroyed.</p>
<p>4. B.9 Direct Deposit</p> <p>All direct deposits initiated by the Contractor (i.e., ACH credits) must be accurate and complete.</p>	<p>Reimbursement to the Department and/or taxpayer for any expenses, loss of revenue, etc. for failure to meet the standard</p> <p>And/or</p> <p>Liquidated damages of \$1,000 per occurrence.</p>
<p>5.0 Transmissions, Files and Reports</p>	
<p>5.A Accuracy and Completeness – 100%</p>	
<p>5. A.1 Reports</p> <p>The Contractor must provide the Department and OSC with accurate, complete and legible reports</p>	<p>The Contractor will correct reports at the Contractor's expense.</p>
<p>5.A.2 Data and Image Transmissions</p> <p>All data and image transmissions shall be processible in accordance with requirements and procedures of this RFP. See Section VI - Functional Requirements.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation</p> <p>And/or</p> <p>At the Department's discretion, liquidated damages of \$5,000 for each violation for failure to meet the corrective</p>

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STANDARDS	LIQUIDATED DAMAGES
	action and/or the timetable as mutually agreed upon by the Contractor and the Department.
5. B. Timeliness of Image Output - 100%	
<p>5. B.1 Reports</p> <p>The Contractor must provide the Department and OSC with reports in accordance to the agreed upon timeframe.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation. Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation</p> <p>And/or</p> <p>At the Department's discretion, liquidated damages of \$5,000 for each violation for failure to meet the corrective action and/or the timetable as mutually agreed upon by the Contractor and the Department.</p>
<p>5.B.2 Data Transmissions</p> <p>All data transmissions shall be processible in accordance with the agreed upon timeframe.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation</p> <p>And/or</p> <p>At the Department's discretion, liquidated damages of \$5,000 for each violation for failure to meet the corrective action and/or the timetable as mutually agreed upon by the Contractor and the Department.</p>
6. Image Output	
6. A. Accuracy of Image Output - 100%	
<p>6. A.1 Image Output</p> <p>The Contractor must provide the Department with accurate image output for the front and back of each paid draft.</p>	<p>Liquidated damages of \$100 per each paid draft image that fails to meet the standard</p> <p>And</p> <p>Reimbursement of direct expenses incurred up to the value of the draft image as a result of failure to produce</p>

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STANDARDS	LIQUIDATED DAMAGES
	the draft.
6. B. Timeliness of Image Output - 100%	
<p>6. B.1 Image Output</p> <p>The Contractor must provide the Department with image output of paid drafts at the agreed upon timeframe, the business day following the date of payment.</p>	<p>Corrective action and a timetable will be specified by mutual agreement between the Contractor and the Department for each violation</p> <p>And/or</p> <p>At the Department's discretion, liquidated damages of \$5,000 for each violation for failure to meet the corrective action and/or the timetable as mutually agreed upon by the Contractor and the Department.</p>

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SECTION III – ADMINISTRATIVE CONDITIONS AND PROPOSAL RESPONSE REQUIREMENTS

I. Procurement Events

A. Notification of Intent to Bid

Bidders intending to submit a proposal to this RFP should provide a "Notification of Intent to Bid" (Appendix B-1) by the date referenced in the Preface. The "Notification of Intent to Bid" must be filed by the Prime Contractor only. Refer to the Preface section of this RFP for the filing date.

B. Submission of Questions

Bidders will have an opportunity to submit questions to the Department regarding this RFP, as indicated in the Preface of this RFP. The Department will subsequently make available, at the Department's web site (refer to the Preface section of the RFP), written answers to all substantive questions, and will make an effort to answer all questions by the dates noted in the Preface. If the Department is not able to do so by those dates, additional notification will be provided.

C. Submission of Proposals

The dates for Submission of Proposals are listed in the Preface section of this RFP. No late bids will be accepted. Delays in the United States Postal Service deliveries or any other means of transmittal, including couriers or agents of the State, shall not excuse late bid submissions.

II. Proposal Requirements

A. Proposal Packaging

The proposal and other related materials must be enclosed in sealed containers and delivered to the address referenced in the Preface section of this RFP. The following must be visibly inscribed on the outside of each package:

Proposal to Provide Services for the
"PIT Refund Controlled Disbursement and Direct Deposit Program"
Contractor Name and Address
Date of Submission

Mail deliveries requiring a signature of receipt should be addressed to the Department's campus address, but the delivery service should be instructed to deliver the bid documents to the address referenced in the Preface of this RFP. The Department will provide bidders with confirmation of receipt of bids.

Bidders must submit:

1. Ten copies of the Bid Documents detailed below, at C.1.through C.6 and found in Appendix B.
2. Ten bound copies of the Technical Proposal, including page numbers on all pages, and five copies of the technical Proposal in .pdf format on CDs.
3. Ten bound copies of the Financial Proposal, including page numbers on all pages, and five copies of the Financial Proposal in .pdf format on CDs.
4. Ten bound copies of the responses to Section II – Performance Standards, Liquidated Damages and Reimbursements and Section XI – Invariable Contract Conditions and Negotiable Topics and five copies of the responses in .pdf format on CDs.

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5. To facilitate requests for information under the Freedom of Information Law (FOIL), contractors are required to provide two (2) copies, on CDs, of its complete proposal in a non-.pdf format (e.g., MS Word, MS Excel, etc.).

Bidders are responsible for ensuring that the .pdf version on CDs mirrors the paper version.

B. Requirement Responses

The requirements in Sections IV, VI, VII, VIII, IX, X, and XI are mandatory and responses to each must be included within the Technical and Financial proposals. The responses to these requirements will be considered in the evaluation and award process and will be implemented by the Department. Additionally, bidders may identify alternative language or terms, as permitted by RFP language to Section II – Performance Standards, Liquidated Damages and Reimbursements and Section XI – Invariable Contract Conditions and Negotiable Topics.

C. Bid Documents

The following forms and documents, Appendix B-2 through B-6, must be submitted with the proposals (see I. C, above):

1. Attestation Form

Each bidder must acknowledge and attest that it has read and agrees to the general contract requirements as outlined in Sections VI through X of the RFP (see Appendix B-2 of this RFP).

2. Non-Collusive Bidding Practices Certification

Each bidder is required to submit a Non-Collusive Bidding Certification (see Appendix B-3 of this RFP) as part of the bid submission.

3. McBride Fair Employment Principles

Each bidder is required to complete the MacBride Fair Employment Principles Form (see Appendix B-4 of this RFP), as part of the bid submission.

4. Contractor Certification and Certificates of Authority (Sales and Use Tax Documentation)

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department that that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

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

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See Appendix B-5 for contractor certification forms and instructions for completing the forms. Unless the information upon which the ST-220-TD is based on changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s), a new sST-220-TD must be filed with the Department.

Form ST-220-CA must be filed with the Department (see Appendix B-5 of this RFP) and submitted certifying that the contractor filed the ST-220-TD with the Department. Bidders may call the Department at 1-800-698-2931 (outside NY State call 518-485-6800) for any questions relation to Section 5-a of the Tax Law and relating to a company's registration status with the Department. For additional information and frequently asked questions, please refer to the Department's web site: <http://www.nystax.gov>.

5. Vendor Responsibility Questionnaire

Article XI Section 163(4) (d) of the State Finance Law states that "service contracts shall be awarded on the basis of best value to a responsive and responsible offerer." Each bidder must complete and submit a Vendor Responsibility Questionnaire (see http://www.osc.state.ny.us/vendrep/vendor_index.htm, either online or on paper). The Bidder Responsibility Questionnaire will be analyzed to ensure that the bidder is responsible. Bidders, who are not deemed to be responsible, based on this analysis, may be rejected.

6. Procurement Lobbying Act – Offerer Affirmation of Understanding and Compliance with Procurement Lobbying Guidelines

New York State Finance Law 139-j(6)(b) requires the Department of Taxation and Finance seek written affirmation from all Offerers as to the Offerer's understanding of and agreement to comply with the DTF procedures relating to permissible contacts during a government procurement. Information related to the Procurement Lobbying Law and the Department's guidelines are posted on the Department's procurement website at <http://www.nystax.gov/procurement> and are referenced below.

Offerers are required to sign and submit the "Offerer Affirmation of Understanding of, and Compliance with, Procurement Lobbying Guidelines" (see Appendix B-6).

Offerer Disclosure of Prior Non-Responsibility Determinations New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (1) a violation of State Finance Law §139-j or (2) the intentional provision of false or incomplete information to a Governmental Entity. The terms "Offerer" and "Governmental Entity" are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement

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Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this Section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10) (b) and 139-k (3).

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or Contract documents, as applicable, for Procurement Contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

a. Offerer's Certification of Compliance with State Finance Law 139-k(5)

New York State Finance Law 139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law 139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Government Entity with respect to State Finance Law 139-k is complete, true and accurate.

The Department reserves the right to terminate any Contract awarded as a result of this RFP in the event it is found that the certification filed by the Offerer/Bidder in accordance with New York State Finance Law 139-k was intentionally false or intentionally incomplete

7. Public Officers Law

All Bidders/Contractors and their employees must comply with Public Officers Law §73 and §74, Chapter 1 of the Laws of 2005, the Procurement Lobbying Reform Act of 2005, and other state statues, rules, regulations, and executive orders establishing the ethical standards for the conduct of business with New York State. In signing the Bid, the Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, Contracts, services, offers, relationships etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of Contracts, and/or other civil or criminal proceedings as required by law.

The Contractor shall complete and sign Appendix B-7, Public Officer's Law, Section 73.4 which addresses business or professional activities by state officers and employees and party officers. This form shall be made part of the resultant contract.

D. Technical Proposal

The Technical Proposal must include the following sections:

1. Section 1 – Executive Summary

This section should be directed to the Department's upper level management and should contain a summary of management considerations. Bidders should utilize this Section to demonstrate how their proposal, services, and/or products meet the Department's procurement objectives as outlined in Section 1 – Introduction of this RFP. The Executive Summary must address, at a minimum:

- a. The executive commitment of the bidder, including the responsible executives and a description of their responsibilities in the organization and in this particular procurement.

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- b. Plans for the acquisition, merger or other restructuring of the organization or that of any sub-contractor.
 - c. The bidder's strategic direction, including current technology policies, ongoing commitment to research and development, and plans for future services and product lines which may affect the Program(s) and services required herein.
 - d. Conceptual overview of the solution that is being proposed for the program.
 - e. A brief corporate history.
2. Section 2 – Alternative language to Section II – Performance Standards, Liquidated Damages and Reimbursements and to Section XI – Contract Conditions, if applicable
 3. Section 3 – Responses to Requirements – Sections III – IX
This section must contain responses to the individual requirements contained in Sections III – IX.

E. Financial Proposal

The bidder must submit a Financial Proposal, which must include a narrative response, as dictated by the response column of the financial proposal requirements in Section X – Financial Requirements, as well as tabular responses as dictated by the Financial Tables included in that same section.

The Financial Proposal must identify all one-time development fees and all operations fees to ensure that the Department can accurately determine the full life cycle cost of this procurement. The data and volumes provided in Exhibit A – Volumes should be used to develop the Financial Proposal. However, it should be noted the volumes describe the Program as it exists today. The Department reserves the right to modify the program in the future, in ways that may benefit the Department.

F. Clarifications and Bidder Presentations

The Department reserves the right to require a bidder to provide clarification and validation of its proposal, to the satisfaction of the Department, through any means the Department deems necessary. Failure of a bidder to cooperate with the Department's effort to clarify a proposal may result in the proposal being labeled as non-responsive and be given no further consideration. The Department reserves the right to use information submitted by the bidder in response to the Department's request for clarifying information in the course of evaluation and selection under this RFP. Additionally, bidders may be required to participate in individual presentations or to provide written clarification. Such clarifications will be considered in the evaluation process.

G. Proposal Effective Date

All bidders' proposals will be considered valid for twenty four (24) months from the date of the proposal due date.

H. Prime Bidder

The bidder shall act as the prime contractor under the contract, and shall be held solely responsible for contract performance by the bidder, its partners, officers, employees, subcontractors (including vendors) and agents. The bidder shall be responsible for payment of all subcontractors and suppliers, including all third-party service providers contracted by or through the bidder in performance of the contract(s) awarded as a result of this RFP. Where services are supplied by or through the bidder under the contract, it is mandatory for the bidder to assume full integration

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responsibility for delivery, installation, maintenance, performance and support services for all functions. The bidder shall also be responsible for payment of any license fees, rents or other monies due third parties for services or materials provided under the contract.

I. Prime Contractor

If a bidder's proposal includes another provider's services (subcontractor), the bidder is required to assume responsibility for those services as prime contractor. The Department considers only the prime contractor in regard to contractual matters. If services are not provided as required under the contract, the Department's recourse will be against the prime contractor.

J. Subcontracting

DTF shall have the right to approve each and every such subcontractor prior to giving written approval to the Contractor to enter into such subcontract. DTF reserves the right to review and approve other subcontract(s) directly related to the proposed services and/or products for the performance of contractual obligations. All such contract(s) shall contain provisions specifying that:

- 1.) The work performed by the subcontractor must be in accordance with the terms of the contract between DTF and the prime contractor.
- 2.) Nothing contained in such agreement shall impair the rights of DTF.
- 3.) Nothing contained under the contract between DTF and the prime contractor shall create any contractual relationship between any subcontractor and DTF.
- 4.) DTF reserves the right to request that a member or members of the subcontractor's staff be removed for work related cause from any work activity performed as a result of the subcontract, provided that such cause is not one which is prohibited by law as a basis for terminating an employee.
- 5.) The prime contractor is solely responsible for subcontractor performance.
- 6.) DTF has final approval of subcontractors.
- 7.) In the event of contract termination, DTF reserves the right to have any subcontracts assigned to it on the same terms and conditions as applied to the prime contractor (to the extent consistent with New York State Law).

K. Proposal Security/Freedom of Information Law

During the evaluation process, each Bidder's proposal will be held in strict confidence by Department staff and will not be disclosed except to the Office of the Attorney General and the Office of the State Comptroller as may be necessary to obtain the approvals of those agencies for the final contract.

Public inspection of the bids is regulated by the Freedom of Information law (Article 6 of the New York State Public Officers Law). The bids are presumptively available for public inspection. The Freedom of Information Law provides for exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. The Freedom of Information Law provides that agencies may deny access to records or portions thereof that "....."are trade secrets or submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise..." (Public Officers Law §87.2(d)). This exception would be effective both during and after the evaluation process.

Where a Freedom of Information request is made for trade secret or other information which, if disclosed, may cause substantial injury to the competitive position of the Bidder, the Bidder must explain with particularity why the designated portion of the bid meets the statutory criteria for exemption from disclosure.

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The provisions of the Freedom of Information Law will also govern the confidentiality of any and all products or services supplied by the successful Contractor.

The ethical standards of the Public of the Public Officers' Code of Ethics (Section 74 of the Public Officers Law) provide that no officer or employee of a State agency shall disclose confidential information that he acquires during the course of his official duties except as otherwise required by law.

These standards control the confidentiality of a Bidder's proposal unless the Department grants a petition for records access in accordance with the Freedom of Information Law.

L. Proposal Ownership

All proposals and accompanying documentation become the property of the State of New York and will not be returned.

M. Contractor Selection and Notification of Intent to award

Selection of the successful bidder(s) will be based on best value. The successful bidder(s) will be advised of their selection by the Department through the issuance of a "Notification of Intent to Award" letter.

N. Debriefing

Unsuccessful bidders will be notified in writing and may request the opportunity for a debriefing session. Such sessions will be limited to discussions of evaluation results with respect to the bidder's proposal as they apply to the bidder receiving the debriefing.

O. Contract Negotiations and Approval

During contract negotiations, the Department must have direct access to the Contractor's personnel who have full authority to make commitments on behalf of the Contractor and sub-contractors. The negotiated contract must conform to the laws of New York State, and will be subject to approval by the Office of the Attorney General and the Office of the State Comptroller. The contract will not be considered finally executed until formal approval has been granted by the Office of the Attorney General and the Office of the State Comptroller. The RFP, the Contractor's proposal, and all associated modifications and clarifications will be made part of the negotiated contract.

The Contractor(s) must sign a contract within 60 days of award, and if the Contractor fails to do so, the Department reserves the right to begin negotiations with the second rated bidder.

P. Amendments

Amendments to the contract awarded as a result of this RFP will not be effective until approved by the Office of the Attorney General and the Office of the State Comptroller, where necessary.

Q. Bid Protest Policy

The Department's procedures for handling protests of bid awards are set forth in Appendix C of this RFP.

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R. Bid Solicitation

This RFP is a solicitation to bid, not an offer of a contract.

S. Issuing Office

This RFP is issued by the New York State Department of Taxation and Finance which is responsible for all requirements stated herein and for evaluation of all proposals submitted.

T. Liability

The State of New York is not liable for any costs incurred by a bidder in the preparation and production of any proposal, or for any work performed prior to the final execution of a contract.

U. Reserved Rights

The Department reserves the right to:

- 1.) Disqualify a bidder from receiving an award if such bidder has previously failed to perform satisfactorily in connection with public bidding or contract(s) or is deemed otherwise not responsible.
- 2.) Reject any or all proposals received in response to this RFP and to reissue modified version of this RFP.
- 3.) Withdraw the RFP (in whole or in part).
- 4.) Use the proposal, information obtained through site visits, management interviews and the Department's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the Department's request for clarifying information in the course of evaluation and selection under this RFP.
- 5.) Change any of the scheduled dates stated herein.
- 6.) Develop and implement program enhancements in-house or by entering into agreements with other third party providers. If the Department does not select the contractor(s) to develop and/or implement a program enhancement, the contractor(s) must be willing to work in good faith with the Department and/or any other involved party of parties to develop the requested program enhancements. Should the Department determine that enhancement services being provided by a third party does not meet the Department's expectations, the Department reserves the right to begin negotiations with the Contractor(s) to provide such services.
- 7.) Eliminate any mandatory specification that cannot be complied with by any of the prospective bidders.
- 8.) Determine a tie-breaking mechanism for award of the contract based upon an in-house established methodology which serves the best interest of the State.
- 9.) Negotiate with the successful bidder within the scope of the RFP in the best interests of the State; and conduct contract negotiations with the next eligible responsible bidder should the Department be unsuccessful in negotiating an agreement with the selected bidder within a time frame acceptable to the Department. Such time frame is to be determined solely by the Department based on the best interests of the State.

W. News Releases

Public announcements or news releases pertaining to the selection of the Contractor or award of a contract must not be made without prior written approval from the Department. Such approval shall not be granted until a finally executed and approved contract is in place.

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SECTION IV – QUALIFYING REQUIREMENTS

An initial review will determine if a bidder meets the minimum qualifications necessary to bid as stated in this Section.
A bidder not meeting such minimum qualifications will be disqualified without further evaluation.

REQUIREMENT	RESPONSE
1.0 Technical Qualifications	Affirm understanding of, and agreement with requirements 1.1 below. The bidder must provide a detailed description of how each requirement will be met, including, but not limited to the specific details identified below.
<p>1.1</p> <p>The Contractor must be a state or federally chartered commercial bank with at least one branch in New York State (see Section VII – Program Development and Support) and must possess the technical qualifications to develop, implement and operate the program defined herein.</p>	<p>Respond to 1.1 by providing, at a minimum, the following information:</p> <ol style="list-style-type: none"> 1. Statement of capacity and willingness of the Contractor to perform the work set forth in Section VI - Functional Requirements, and Section VII - Program Development and Support Requirements, regardless of any contingencies which may occur. 2. Evidence of the bidder's recent experience in providing services such as those required by this RFP and of comparable scope. Such evidence should include: <ol style="list-style-type: none"> a. Description of the project(s) (e.g., client served, application, daily volumes, and duration). b. Names and telephone numbers of client staff who administered the bidder's contract (s) and/or supervised the bidder during the course of the project. These persons may be contacted in order to validate bidder's experience. c. Description of any activities in which the Contractor is engaged which may constitute a conflict of interest to this program. 3. List of all litigation in which the bidder has been, or currently is involved, and a complete description (including current status) of litigation which may reflect on the ability of the bidder to provide the requested services.
2.0 Financial Stability Conditions	Affirm understanding of and agreement with requirements 2.1 through 2.2 below. The bidder must provide a detailed description of how each requirement will be met, including, but not limited to the specific details identified below.
<p>2.1</p> <p>The primary Contractor must be a financially stable commercial bank, such that it may initiate and perform its obligations through the duration of the project.</p>	<p>Respond to 2.1 by providing, at a minimum, the following information:</p>

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REQUIREMENT	RESPONSE
<p>Prospective Bidders must have a LACE Financial Rating of at least C- as published in the most current issue of LACE Financial Rating in order to bid on the Contract. Bidders not meeting this minimum qualification will be disqualified without further consideration. In addition, bidders must maintain a LACE Financial Rating of at least C- throughout the bid evaluation process. After the bid evaluation, if the highest scoring Bidder has not maintained its LACE Financial Rating of at least C-, as published in the most current issue of LACE Financial Rating, the Department will proceed to the next highest-scoring Bidder.</p> <p>The Department will not enter into a contract with any entity who cannot demonstrate itself to be financially stable and capable of initiating and performing its obligations throughout the duration of the contract. The Department will conduct an evaluation of the bidder's financial stability which will include, but not be limited to, a review of the bidder's equity position, liquidity, profitability trends, and future prospect for financial growth. The financial stability evaluation will also include a review of the entity's officers and management team, its organizational structure and the financial and operating relationship between business units and divisions.</p> <p>As a condition of any resulting contract, the Contractor must continue to evidence financial stability. The on-going financial stability of the Contractor will be evaluated based upon criteria similar to that used in the evaluation process. Annual financial statements prepared by an accountant in accordance with GAAP will be required to be submitted for review to the Department within ninety days of the fiscal year end. The annual financial statements will be required for the Contractor, as well as any of its subsidiaries or parent companies. Any material change in ownership of the Contractor, or material financial change of the Contractor, will require a reevaluation of the contract in its entirety by the Department.</p>	<p>Financial Data</p> <p>Proof of financial stability, as set forth in the requirements listed below:</p> <p>The bidder must submit proof of financial stability required for their particular organizational structures as set forth in the requirements listed in paragraphs below. Audited/reviewed financial statements, required where indicated below, must have been prepared by a CPA in accordance with GAAP. All required information must be provided for any predecessor company within the last three years and any other subsidiary, affiliate, and/or related company requested by the Department. Any additional information requested must be submitted.</p> <ol style="list-style-type: none"> 1. If the bidder is a subsidiary of a parent company that is publicly held, the bidder must comply with the preceding requirements by either (a) submitting separate, audited/reviewed, annual financial statements for the parent and subsidiary for the last three years OR (b) by submitting audited/reviewed, annual financial statements for the parent for the last three years, unaudited/ internal annual financial statements for the subsidiary for the last three years and the spreadsheet(s) used for consolidation. <p style="padding-left: 40px;">In addition to 1(a) or (b) above, the most recent interim financial statements (audited, reviewed, or unaudited/internal) are required for both the parent and subsidiary.</p> <ol style="list-style-type: none"> 2. If the bidder is a subsidiary of a parent company that is privately held, the bidder must either (a) comply with the requirement outlined in paragraph one OR (b) submit separate annual, unaudited/internal company financial statements for both the parent and subsidiary for the last three years, a separate Dunn and Bradstreet Comprehensive Report (dated within 21 days of bid submittal) for both the parent and bidder, and a statement explaining why annual, audited/reviewed statements are not available. <p style="padding-left: 40px;">In addition to 2 (a) or (b) above, the most recent interim financial statements (audited, reviewed, or unaudited/ internal) are required for both the parent and subsidiary.</p> <ol style="list-style-type: none"> 3. If the bidder is a publicly held company and is not a subsidiary of a parent company, it must provide audited or reviewed annual financial statements for the last three years. Plus, the most recent interim financial statements (audited, reviewed, or unaudited/internal) are required. 4. If a bidder is a privately held company and is not a

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	<p>subsidiary of a parent company, it must either (a) fulfill the requirements set forth in paragraph three above or (b) provide annual, unaudited/internal company financial statements for the last three years, a Dunn and Bradstreet Comprehensive Report (dated within 21 days of bid submitted) and a statement explaining why annual audited/reviewed statements are not available.</p> <p>In addition to 4 (a) or (b) above, the most recent interim financial statements (audited, reviewed, or unaudited/internal) are required.</p> <p>Bidders must also provide:</p> <ol style="list-style-type: none"> 1. Documentation attesting to any significant line(s) of credit that are available to the bidder. This documentation must include information identifying the source of such lines and detailing the maximum credit amount(s) available to the bidder, outstanding balance(s), and current amount(s) available. 2. The bidder must indicate whether or not it guarantees the debt of any other entity. 3. If the bidder is a subsidiary of a parent company, the bidder must explain, in detail, the inter-company financial relationship between the parent company and the bidder. The bidder must indicate if the parent company guarantees the debt of the bidder, or if the bidder guarantees the debt of the parent company. <p>Organizational Data</p> <p>At a minimum, the bidder must provide:</p> <ol style="list-style-type: none"> 1. Organizational charts, including a listing and detailed description of: <ol style="list-style-type: none"> a. The bidder's primary business units and divisions. b. Key executives. c. Any and all subsidiaries. d. Any and all minority interests, joint ventures or other type of business affiliations. 2. Brief biographies of its key officers and management.

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<p>2.2</p> <p>The bidder must agree to allow the Department to perform a financial stability analysis, during bid evaluation.</p> <p><u>Basis of Financial Stability Evaluation:</u></p> <p>The Department will conduct a standardized evaluation of the financial statements, or equivalent. Bidder's financial information will be evaluated in a similar fashion to the process a bank would utilize to evaluate financial transactions. Each proposal will be rated on the aggregate of factors to include, at a minimum, the following:</p> <ul style="list-style-type: none"> A. Strength of balance sheet. B. Consistency and strength of earnings and cash flow (trend analysis). C. Prospects for future earnings. D. Comparison of bidder's financial information to industry statistics as provided on the customary suitability analysis (see above). E. Credit history: external sources will be utilized to determine if a bidder is meeting its credit obligations in a prescribed manner. F. Review of the LACE financial rating. 	

SECTION V – EVALUATION PROCESS

Pursuant to Article XI of the State Finance Law, the basis for an award of a contract(s) pursuant to this RFP is a best value offer which means that the proposal “optimizes quality, cost and efficiency, among responsive offerers” (State Finance Law, Sec. 163), and which is consistent with the best interests of the State of New York.

A. Evaluation Process Overview

An evaluation team comprised of Department management and staff representing applicable programmatic and administrative units will be organized into separate sub-teams, one for technical evaluation, one for financial evaluation and a third for the management evaluation.

The evaluation will be based on an assessment of the following:

1. Technical Proposal.
2. Financial Proposal.
3. Bidder’s affirmations and/or alternate language proposed for Section II – Performance Standards, Liquidated Damages and Reimbursements and Section XI – Contract Conditions.
4. Bidder’s qualifications, based on technical and financial stability conditions included in Section IV – Qualifying Requirements.
5. If deemed necessary by the Department:
 - a. On-site evaluation of the bidder’s operations and proposed technology applications as applicable.
 - b. Interviews with and presentations by the bidder’s proposed management team, including appropriate executives and technical specialists.

B. Evaluations

1. Bidder Qualification and Responsibility Review

The initial review will determine if a bidder meets the minimum qualifications necessary to bid as stated in Section IV – Qualifying Requirements. A bidder that does not meet such minimum qualifications will be recommended to the Management Committee for possible disqualification. If the proposal response and other independent fact gathering indicate that a bidder’s responsibility may be questionable, the concerns and sources of information will be documented for the Management Committee. The Management Committee will make the final determination for disqualification.

2. Technical Evaluation: 30 points

The Bidder’s responses to individual functional (Section VI); program development and support (Section VII); implementation (Section VIII); and cash management (Section IX) requirements will be evaluated as part of the Technical Evaluation. A failure to meet a requirement may lead to disqualification of a bidder’s proposal.

The technical proposals are evaluated based on a hierarchical review process. Unless otherwise indicated all requirements are considered to be mandatory. Failure to meet a requirement may lead to disqualification of a bidder’s proposal. Evaluation of Section IX will be finalized at this point. Section VIII – Implementation Plan will be further reviewed by the Management Committee.

The technical evaluation scoring process will continue as follows:

- a. Functional Review (Section VI) - At the function level (e.g., unmatched items, file transmissions, etc.), bidder responses will be evaluated for comprehensiveness, effectiveness, flexibility and control.
- b. Program Development and Support Review (Section VII) - At the topic level (e.g., processing site and electronic funds transfer site origination, internal controls and security etc.), bidder responses will be evaluated for comprehensiveness, effectiveness, flexibility and control.

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- c. Integration Review - At this step in the evaluation process, the teams will evaluate the bidder's proposal based on the following:
 - i. Integration of workflow, systems, functional approaches and resources for the proposed program.
 - ii. Appropriateness of any proposed technologies.
 - iii. If the performance standards can be met.
 - iv. The bidder's ability to manage the project.

3. Financial Evaluation: 60 points

Financial proposals will be evaluated based on the life cycle cost for the base term of the resultant contract (see Section I - Introduction, E - Contract Duration, of this RFP for applicable base term), as reflected by the direct fees proposed for development and operations. The financial evaluation will utilize the volumes identified in Exhibit A of this RFP, in combination with the bidder's financial proposals to compute the life cycle cost.

Management Committee Evaluation: 10 points

The Department will perform a management evaluation valued at 10 points. Included in this management evaluation will be:

- 4. Bidder's experience developing, implementing and operating programs of similar size and complexity.
 - a. Bidder's proposed implementation plan (Section VIII – Implementation Requirements of this RFP);
 - b. Evaluation of bidder's financial and technical qualifications and responsibility.
 - c. Bidder's adaptability and flexibility to accommodate program changes and enhancements.
 - d. Bidder's financial stability.
 - e. Bidder's affirmations and/or alternate language proposed for Section II – Performance Standards, Liquidated Damages and Reimbursements and for Section XI – Contract Conditions (see Footnote¹ below) of this RFP.

D. Proposal Scoring

The Financial Evaluation component of each proposal will be valued at 60 points, the Technical Evaluation component will be valued at 30 points, and the Management Evaluation will be valued at 10 points, for a total of 100 possible points. The table below summarizes the evaluation point distribution:

Evaluation Component	Points
Financial Evaluation	60 points
Technical Evaluation	30 points
Management Evaluation	10 points
TOTAL	100 points

E. Final Ranking/Contract Award

Upon completion of the Technical, Management and Financial Evaluation, the points are combined. A LACE Financial Rating review will be performed on the highest-scoring bidder. If that Bidder has not maintained a Financial Rating of at least C-, as published in the most current issue of LACE Financial Rating, the Department will proceed to the next highest scoring bidder. Award will be made to the highest-scoring Bidder that maintains a LACE rating of at least C-.

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¹ The Performance Standards, Liquidated Damages and Reimbursements, as set forth in Section II of this RFP, represent the Department's preferred standards and liquidated damages. In the event a bidder provides specific alternative language to the Performance Standards, Liquidated Damages and Reimbursements, such alternative language will be evaluated utilizing a scaled rating whereby an affirmation of the Department's standard and/or liquidated damage receives the highest rating and the maximum deviation (based on the minimum allowed values stated below) from a standard or liquidated damage receives the lowest rating. The minimum allowed values are as follows:

- 1) For Performance Standards: the Department will not accept any alternative language to general control standards or deposit standards. The Department will allow alternate language for timeliness standards on data and image output of up to one business day. The Department will allow alternate language for completeness and accuracy standards for refund processing, however, the accuracy standards cannot be less than 98%; and,
- 2) For Liquidated Damages, the Department will not accept any alternative language that reduces a liquidated damage by more than 25% for specified dollar damages (e.g.; \$1,000). The Department will not accept percentage reductions in the reimbursement column.

A bid which does not meet the minimum allowed values will be subject to disqualification.

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Section VI – Functional Requirements

Note: Unless otherwise noted all functional requirements must be responded to and must be adhered to by the subsequent Contractor. Functional Requirements designated as “desirable” must be responded to and points will be awarded based on the response.

FUNCTIONAL REQUIREMENT	REQUIRED RESPONSE
A. CONTROLLED DISBURSEMENT SERVICES AND PROCESSING	The Contractor must affirm understanding of and agreement with requirements A.1.0 – A.4.2. In addition, provide the individual requirement detail listed below.
A. 1.0 BANK ACCOUNTS	
A. 1.1 The Contractor must establish a joint custody main concentration account and three joint custody zero balance sub-accounts for payment of PIT Refunds. It is desirable that the accounts be within New York State.	A. 1.1 Describe the proposed funding of the accounts and identify any additional account requirements, including the location of the accounts.
A. 1.2 The Contractor will utilize the joint custody main concentration account for the receipt of PIT Refund direct deposit funds from the NYS Office of the State Comptroller.	
A. 1.3 The Contractor must establish a sole custody main concentration (exchange) account and an undetermined number of sole custody zero balance sub accounts, to reissue drafts on forgery cases for which reimbursement has been received. The Department must receive credit to the exchange account when a forgery case is resolved and associated documentation indicating to which case the credit pertains.	A. 1.3 Describe the proposed method for providing notification to the Department of forgery credits.
A. 1.4 The Contractor must provide the Department and NYS OSC the following information electronically: <ul style="list-style-type: none"> • Daily statements for sub-accounts due on 	A. 1.4 Describe the proposed method of reporting daily and monthly account statements to the Department and NYS OSC.

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<p>the next business day.</p> <p>Monthly account statements for the main concentration account within two business days of the end of the month.</p>	
<p>A.1.5 Account Monitoring</p> <p>The Contractor must provide the Department and NYS OSC with account monitoring access through an intra-day online balance reporting system, retrievable in a BAI-2 format. The intra-day online balance reporting system must report daily account activity, including transaction codes, for all credit and debit activity.</p> <p>The Contractor must also provide the Department and NYS OSC with previous day reporting through an online system. The previous day reporting system must report previous day account activity, including transaction codes, for all credit and debit activity.</p> <p>Access to transaction history must be maintained and be available for inquiry for a minimum of six months.</p>	<p>A. 1.5</p> <p>Describe the proposed online reporting system, including the required functionality, as well as any additional standard functionality offered by the bidder. Specifically identify available data access and reporting features. In addition:</p> <ul style="list-style-type: none"> a. Describe the hours of system availability. b. Scheduled downtime and maintenance. c. User access (number of possible users, limitations on usage).
<p>A. 1.6 Draft Reimbursement</p> <p>The Contractor will be reimbursed by the NYS Office of the State Comptroller (NYS OSC) daily for the total amount of paid drafts through an electronic Federal Funds Wire Transfer on the same business day</p> <p>NYS OSC requires actual dollars and will fund all items presented. Over the counter presentments must be held for next day funding.</p>	
<p>A.1.7 Account Reconciliation Processing (ARP) Requirements</p> <p>The Contractor must provide the Department with electronic ARP reports in an agreed upon format that will be compatible with MS Excel.</p>	<p>A. 1.7</p> <p>Describe the proposed ARP system including standard reporting options, frequency of reports, formatting details on such reports, delivery timeframes, and any options for customizing.</p>
<p>A. 1.8</p> <p>The Contractor must ensure that no costs are assessed against the bank accounts associated with this RFP without the prior written consent of the</p>	

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FUNCTIONAL REQUIREMENT	REQUIRED RESPONSE
NYS OSC.	
<p>A 1.9</p> <p>The Contractor must provide customer service in order to effectively and timely address issues related to all bank accounts. This service must include research of issues related to the payment of drafts.</p>	<p>A. 1.9</p> <p>Describe the proposed customer services.</p>
A. 2.0 PROCESSING FILES	
<p>A. 2.1 Draft Issuance Files</p> <p>The Contractor must accept separate issuance files - transmitted for each account (Exhibit B-1 – Draft Issuance File Layout). The Contractor must also accept check issuance text files for multiple accounts.</p>	<p>A. 2.1</p> <p>Describe the proposed method for processing the draft issuance files ensuring that next day presentments are not unmatched. Include proposed issuance file receipt cut-off time and the proposed retention period.</p>
<p>A. 2.2 Listing of Paid Drafts</p> <p>The Contractor must create and send daily listings of paid drafts (see Exhibit B - 2 – Paid Draft File Layout) to the Department. This file must not include encoding errors or drafts issued out of other accounts. The Contractor must notify the Department of file delivery.</p>	<p>A. 2.2</p> <p>Provide the proposed listings of paid drafts – the timing of the delivery of the paid file to the Department. Also describe the method and timing of notification, as well as the content.</p>
<p>A 2.3 Presented Draft Notification</p> <p>The Contractor must provide NYS OSC, with the total dollar amounts of matched presented drafts no later than 10:00 a.m. each business day.</p> <p>The Contractor must not pay any unmatched items without prior DTF approval. The Department will accept estimates on an exception basis. The Contractor should consult with OSC prior to the 10:00 a.m. EST deadline to determine the funding estimate.</p>	<p>A. 2.3</p> <p>Describe the proposed process for determining the value of paid drafts (e.g. in-house processing of drafts, use of Federal Reserve services, etc.); for completing the match of presented drafts against the issuance file data; for ensuring that an accurate presentment dollar total and item total is provided to OSC; and for the time frame for notification to OSC.</p>
A. 3.0 DRAFT PROCESSING	
<p>A. 3.1 Positive Pay Exception Items</p> <p>The Contractor must report to the Department any</p>	<p>A.3.1</p> <p>Describe the proposed method of reporting all positive pay</p>

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<p>positive pay exception items. The reporting must be for each account, as well as a summary of all accounts.</p> <p>Note: A positive pay exception item is any item that the Contractor cannot reconcile even after manual intervention. Positive pay exception items do not include damaged drafts, cancels or misencoded items. Positive pay exceptions may not include any item accurately identified on an issuance file.</p> <p>The Contractor must notify Treasury electronically, preferably via email, of any positive pay exception items by 10:00 a.m. EST on the business day following presentment.</p>	<p>exception items to the Department as well as the cut off time for Treasury to reconcile such unmatched items and to notify the contractor of the decision.</p>
<p>A. 3.2 "On Us" Drafts</p> <p>It is desirable for the Contractor to cash "on us" drafts, regardless of whether or not the taxpayer has an account with the Contractor. It is the Department's preference that the method used to validate taxpayers is as unobtrusive as possible. The Department will not indemnify the Contractor for losses incurred for cashing "on us" drafts.</p>	<p>A. 3.2</p> <p>Describe your policy on cashing "on us" drafts.</p> <p>If the bidder's policy enables cashing "on us" drafts, provide the procedures and required identification.</p>
<p>A. 3.3 Payment Cancels</p> <p>The Contractor must enable the Department to cancel previously issued payments. Such cancellations must remain in effect until the Department authorizes their removal. The contractor must enable the Department to remove a previously placed cancel, preferably online. The Contractor must notify the Department that the payment has been cancelled or the cancel has been rejected.</p>	<p>A.3.3</p> <p>Provide a description of the cancel payment processes, timing and controls, including a description of the notification and/or reporting to the Department that the cancel payment order has been placed (i.e., indicator flag on the online system, report listing, etc.) or rejected. Provide the proposed timing for the cancel payment process.</p>
<p>A. 3.4 Outstanding Drafts</p> <p>At the request of the Department, the Contractor must provide an electronic list of outstanding drafts issued during the calendar year specified by the Department.</p> <p>The Contractor must, at the request of the Department, remove any outstanding drafts (including cancelled items) issued at least one year prior, as defined in § 102 of the State Finance Law, but not yet presented. A file and report of the</p>	<p>A.3.4</p> <p>Provide the proposed method of removing certain outstanding drafts, at the request of the Department, and identify the method of reporting such action.</p>

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<p>removed issuances must be sent to the Department.</p> <p>Note: Outstanding drafts are removed in calendar year blocks after the last issuance date for the calendar year has aged at least 12 months.</p> <p>For example, the Department will not request the removal of outstanding drafts for calendar year 2008 before January 1, 2010.</p>	
A. 4.0 FORGERY ITEMS	
<p>A. 4.1 Forgery Affidavit Processing</p> <p>The Contractor must process all forgery claims, reimbursing the Department within three business days after notification from the bank of first deposit. The Contractor must credit the main concentration exchange account (see requirement A. 1.3 above) and each credit must identify the claim reference number(s) involved and the contact name and phone number for the bank of first deposit. A weekly status report of all forgery claims will be provided. The Contractor is responsible for complete resolution of forged items.</p>	<p>For A.4.1 provide:</p> <ul style="list-style-type: none"> a. Affirmation of assumption of complete responsibility for the resolution of forged items. b. A description of the procedures for processing a forgery claim, including a schedule of follow-up activities with banks that have not responded to prior requests. This procedure should clearly define positions of increasing responsibility within the bidder's organization to ensure timely resolution of forgery claims and the average turnaround period for resolution of forgery claims. The bidder must also provide a description of the level of customer service.
<p>A. 4.2</p> <p>The Contractor must pursue payment of a forged draft with Federal Deposit Insurance Corporation (FDIC) or Resolution Trust Corporation (RTC) if cashing bank has become insolvent.</p>	
B. 1.0 CONTROLLED DISBURSEMENT ONLINE APPLICATION	<p>The Contractor must affirm understanding of and agreement with requirement B.1.1. In addition, provide the individual requirement detail listed below.</p>
<p>B.1.1</p> <p>The Contractor must provide an online application with access for the Department and NYS OSC including, but not limited to the following functionality:</p> <ul style="list-style-type: none"> a. Notification of total presented drafts. b. Notification of paid drafts. c. Inquiry into the status of an issued draft. d. Draft cancellation status. 	<p>For requirement B.1.1:</p> <ul style="list-style-type: none"> a. Describe the proposed online capabilities, including, but not limited to: <ul style="list-style-type: none"> 1.) Access hours. 2.) Access options, including any limitations (i.e., maximum number of characters allowed in fields, etc.) 3.) Data retention and retrieval timeframe b. Provide proposed sample screens and reports.

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<p>e. Access to images of all paid drafts by, at a minimum, draft number. In addition, it would be desirable to have additional access to the images by taxpayer name, draft amount, issuance date, paid date, and date ranges.</p> <p>Access to this data must be available for at least seven years, of which thirty-six months (from the paid date) worth must be accessible via the online application.</p>	Describe any necessary equipment and connectivity for access.
C. 1.0 MAINTENANCE, ACCESS AND DESTRUCTION OF ORIGINAL DRAFTS	
<p>C. 1.1</p> <p>The Contractor must maintain original drafts for at least one year from the paid date.</p>	<p>C. 1.1</p> <p>Provide a detailed description of the proposed draft storage location and associated security controls.</p>
<p>C. 1.2</p> <p>The Contractor must provide requested original drafts within one business day (of the agreed upon request cut-off time).</p>	<p>C. 1.2</p> <p>Describe the proposed process for providing original paid drafts to the Department, including the proposed request cut-off time.</p>
<p>C. 1.3</p> <p>The Contractor must provide for the confidential destruction of original drafts after the required one year retention period.</p>	<p>C. 1.3</p> <p>Describe the proposed method of destruction.</p>
D. DIRECT DEPOSIT SERVICES AND PROCESSING	The Contractor must affirm understanding of and agreement with requirements D.1.0 – D.6.1. In addition, provide the individual requirement detail listed below.
D. 1.0 TRANSMISSION RECEIPT	
<p>D. 1.1</p> <p>The Contractor must be able to receive from the Department a data transmission(s) formatted to NACHA specifications (see Exhibit B-3 – Direct Deposit Initiation File Layout) to initiate ACH Credit transactions. Prior to implementation, the Department and the Contractor must agree to a mutually acceptable data transmission protocol.</p>	<p>D. 1.1</p> <p>Provide the proposed receipt timeframe of the ACH Credit transactions.</p>

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<p>D.1.2</p> <p>The confirmation and authorization to release direct deposit transactions shall be accomplished with a secure, automated, and password protected system. The State requires unique passwords for OSC and the NYS Division of Treasury, who will each assign a security administrator(s). The security administrators will assign authorizations to transmit or release files. No user shall be allowed to do both.</p> <p>If an entry is returned to the contracting bank, the contracting bank must notify the Department electronically within one business day of the day of receipt.</p>	<p>D.1.2</p> <p>Describe current ACH authorization and release process.</p>
<p>D. 2.0 DIRECT DEPOSIT INITIATION</p>	
<p>D. 2.1</p> <p>The Contractor must transmit PIT Refund direct deposits so that funds are available for withdrawal by the taxpayer(s) at the opening of business on the specified dates contained on the data provided by the Department.</p>	<p>D. 2.1</p> <p>Provide the proposed back-up time frames to transmit to the ACH network if, for any reason, the initial transmission is not initiated or the transmission fails. Also provide the control structure for the PIT Controlled Disbursement account (i.e., how transfers into/out of the account will be identified and segregated from other ACH Credit transactions).</p>
<p>D. 2.2</p> <p>The Contractor must provide ACH Credit rejection reports and information (see Exhibit B-4 – Direct Deposit Reject File Layout); including reason codes (based on the most recent publication of the NACHA rules). The return notification must identify the tax payer by name, identification number, intended recipient, trace number, and other identification information which is mutually agreed upon.</p>	<p>D. 2.2</p> <p>Describe the proposed timeframe and format for provision of the ACH Credit rejection reports and information to the Department.</p>
<p>D. 3.0 ACH CREDIT REJECTIONS</p>	
<p>D. 3.1</p> <p>The Contractor must credit ACH Credit rejections to the main PIT Controlled Disbursement account. The dollar value of all returns must be transferred to the Controlled Disbursement Account within 24 hours of</p>	<p>D. 3.1</p> <p>Provide the proposed timeframe for which the ACH Credit rejections are credited to the main concentration PIT refund account.</p>

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receipt of the returned items.	
D. 4.0 ACH CREDIT REVERSAL	
<p>D. 4.1</p> <p>Upon notification, the Contractor will initiate retrieval actions from those ACH Credit transactions which the Department has deemed to be erroneous.</p>	<p>D. 4.1</p> <p>Describe the work flow and provide the procedures to be used to initiate ACH credit retrievals, including, but not limited to:</p> <ul style="list-style-type: none"> a. Customer service. b. Contact phone number. c. Fax number. d. Online service. e. Documentation. f. Timing of events. g. Effects on funding. h. Handling of aged items. <p>Specify the time frame when reversal actions will be initiated, and any legal impediments, industry requirements, or NACHA rules which will inhibit the ability to retrieve ACH Credits.</p> <p>Indicate whether an attempt will be made to re-initiate the ACH Credit to a corrected taxpayer account or if the ACH Credit retrieval process requires the Department to re-initiate a new ACH Credit transaction to the taxpayer.</p>
<p>D. 4.2 Bulk Cancels or Reversals</p> <p>The Contractor must have the ability to process bulk ACH Credit cancels or reversals.</p>	<p>D. 4.2</p> <p>Describe the proposed method for processing bulk ACH Credit cancels and reversals.</p>
D. 5.0 ACH EXCEPTIONS	
<p>D. 5.1</p> <p>The Contractor will be required to assist the Department in the resolution of ACH exceptions.</p>	<p>D. 5.1</p> <p>Describe the level of support for handling ACH exceptions, including:</p> <ul style="list-style-type: none"> a. Customer service. b. Hours of availability. c. Contractor acts as intermediary or not.

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	<p>d. Systematic method to provide name of taxpayer's bank, contact name, contact information.</p> <p>e. Average time to report failed transactions to DTF, etc.</p>
D. 6.0 TRANSIT AND ROUTING NUMBER VERIFICATION INFORMATION AND NACHA RULES	
<p>D. 6.1</p> <p>The Contractor must provide on a monthly basis, to the Department, transit and routing number verification information in an agreed upon electronic file format.</p> <p>The Contractor must also provide the Department, on an annual basis, the NACHA Rules, with periodic updates, as appropriate.</p>	<p>D. 6.1</p> <p>Identify the proposed timing of and method for delivery of updates to the transit and routing number verification information (e.g., available to the Department within 15 days after the update), as well as the means of providing the Department with the annual NACHA Rules publication and any periodic updates.</p>
E. 1.0 DRAFT IMAGE OUTPUT	<p>The Contractor must affirm understanding of and agreement with requirements E.1.1 – E.1.3. In addition, describe the proposed approach including, but not limited to, the following details:</p> <ul style="list-style-type: none"> a. The proposed equipment (hardware) and software to be used. b. Identification of any subcontractors (including for application development). c. The reconciliation process that will guarantee that each draft is imaged and that each image file is included on the Image Control File (see Exhibit C – Image Indexing).
<p>E. 1.1</p> <p>The Contractor must provide images (and related indexing) of all drafts (front and back), post endorsement. The indexing approach must ensure that:</p> <ul style="list-style-type: none"> a. There is one multi-page (front and back) TIFF image file for each separate draft. b. Each image file consists of fewer than one billion bytes. <p>Each image must have a file name consisting of the twelve digit tracking number (the DLN) and a three character suffix (e.g., 123456789112.001 and 123456789112.002). The suffix is to represent the sequential number of images (i.e., a front would be</p>	

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the .001 and the back would be the .002).	
<p>E. 1.2</p> <p>c. The Contractor must create a corresponding image index file for all scanned images (see Exhibit C – Image Index Layout).</p>	
<p>E. 1.3</p> <p>The Contractor must bundle the images and their associated header records (see Exhibit C – Image Index Layout) into a ZIP file formatted archive, encrypted using EDE's public PGP key and transfer the files (FTP put) via the internet to the Department . The images must reconcile to the number of images included in the image index file.</p>	<p>E 1.3</p> <p>The Contractor must specify the time of delivery of the image files.</p>

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Section VII – Program Development and Support Requirements

Note: For each required response state whether the proposed actions/solutions are currently in existence, based on modification to existing functionality or whether they will require new development. Bidders must respond to each of the Guiding Principles in this section.

Guiding Principles	Required Response
<p>A. Processing Site and Electronic Funds Origination Site</p> <p>The Contractor must establish and maintain a controlled disbursement processing clearance site. The Department's preference is for the draft clearance site to be located within New York State. Furthermore,</p> <ul style="list-style-type: none"> • The bank must be a state or federally chartered commercial bank and must have a branch in New York State. • The bank must agree, if the draft processing site is located outside of the state, that the face of the draft will contain only the bank's name and will not include the draft processing location. • In the case of forgeries, if the drafts are processed outside of the state, the bank must be able to accept a subpoena served on a New York State branch. <p>In addition, an EFT origination site is required which must be located in the continental United States. The proposed schedule and method of transmission must incorporate times and frequencies that support DTF Direct Deposit standards (as stated in Section II – Performance Standards, Liquidated Damages and Reimbursements).</p> <p>The processing site(s) must comply with applicable building codes, regulations and laws.</p>	<p>A. Affirm understanding with and agreement to meet the Guiding Principle, and provide details including, but not limited to the:</p> <ol style="list-style-type: none"> 1. Proposed site for controlled disbursement processing operations. 2. Proposed location for EFT originations. 3. The direct deposit transmission strategy/proposal which supports processing. 4. Floor plan of the physical location for each Controlled Disbursement processing function (e.g., draft presentment, draft storage) during peak and non-peak periods. 5. Daily and weekly peak and non-peak processing capacity for PIT Refund drafts, and direct deposits. The bidder should address this in terms of the volumes and performance standards (Section II – Performance Standards, Liquidated Damages and Reimbursements). 6. Percentage that DTF issuances would represent when compared to the total number and dollar value of issuances processed by the Contractor for all clients; and the details regarding the ownership of the processing site - is it to be owned or leased, and if leased, the term of the lease.
<p>B. Internal Controls, Security and Confidentiality</p> <p>The Contractor must utilize generally accepted industry standards and procedures to minimize the risk of loss, destruction or theft of physical assets and to prevent unauthorized access to taxpayer information. These standards and procedures must be auditable and must address all points in the workflow including, but not limited to, the intake process, applications, transactions, storage (physical and electronic), and data transmission.</p> <p>The Contractor understands that in the performance of the banking services under this Agreement, the Contractor, its employees, directors, officers and sub-contractors may</p>	<p>B. Affirm understanding with and agreement to meet the Guiding Principle, and provide details addressing the Guiding Principle, including, but not limited to:</p> <ul style="list-style-type: none"> • The existing internal controls and security and confidentiality procedures. • Security tools (e.g., locks, alarms, badges, cameras, etc) to be used to ensure that physical security is maintained. • The screening process for staff hired by the Contractor, as well as any other persons having access to the processing site and drafts, within the Contractor's site. • The approach used to present the secrecy

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Guiding Principles	Required Response
<p>receive or have access to Confidential Information, and agrees that the Contractor, its employees, directors, officers and sub-contractors are: (i) required to take all appropriate action to protect the confidentiality of all Confidential Information supplied to it or developed by it during the course of its performance under the Agreement; (ii) required to abide by all State confidentiality policies and procedures and (iii) prohibited from copying, removing, communicating, or otherwise revealing any Confidential Information of the State.</p> <p>Note the General Controls Program Performance Standards in Section II – Performance Standards, Liquidated Damages and Reimbursements, of this RFP.</p>	<p>and confidentiality provisions to employees for signature.</p> <ul style="list-style-type: none"> • The prevention of unauthorized access to physical site(s) and systems (i.e., code and data); record keeping of such attempts; the methods used to address these attempts by the Contractor, and the method used to communicate them to the Department. • The method used to record access to systems and data, including supervisory data capture overrides, and how long these records are maintained. • Identification and designation of high risk areas (e.g., data transmission areas, draft storage areas) and any unique internal control and security procedures used to mitigate this risk. • Security procedures that will be used for moving work within and among the processing site(s). • If subcontractors are used, delineate who the material subcontractors are and the nature of the relationship (e.g., security, courier, and systems design).
<p>C. Training and Training Tools</p> <p>The Contractor must demonstrate the ability to adequately train all persons.</p>	<p>C. Affirm understanding with an agreement to meet the Guiding Principle, and provide details, including, but not limited to the training approaches during the Development, Implementation and Post-Implementation phases. Include a description of the circumstances that would require additional training and/or retraining.</p>
<p>D. Systems Environment</p> <p>The Contractor must use generally accepted industry standards to implement and operate the systems environment to ensure that the requirements and performance standards (Section II – Performance Standards, Liquidated Damages and Reimbursements) are achieved. This must include the use of auditable procedures for system operations, change control, capacity planning, performance management, problem management, backup (including off-site storage), and fail safe and disaster recovery.</p> <p>The systems environment must be scalable to accommodate future systems expansion.</p> <p>The systems environment must reside in the continental</p>	<p>D. Affirm understanding with, and agreement to, meet the Guiding Principle, and provide details, including, but not limited to:</p> <ol style="list-style-type: none"> 1. The hardware, software and associated throughput capabilities, including the percentage of total capacity to be utilized during peak periods for the program(s). 2. The location of the system(s) for all services. 3. An indication of whether the systems environment is to be shared. If shared, identify the process to establish and administer priorities for the systems environment, the process for resolving conflicts and provide any Service Level Agreements that will impact provision of services to the Department.

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<p>United States of America.</p> <p>If the systems environment is shared, the Contractor must follow auditable procedures which ensure the security and confidentiality of the Department's programs and data.</p> <p><u>Data Connectivity</u></p> <p>The Contractor must be able to engage in electronic data file exchange with the Department using an exchange protocol acceptable to the Department.</p> <p>The Department would prefer this exchange via the Internet. Data file exchange processes that are specifically <u>unacceptable</u> to the Department are: magnetic tapes, email, paper, CD, floppy Disc, removable drives, analog and digital dial up, Value Added Networks (VAN) or DSL connections.</p> <p>The Department has approved using a secure file transfer protocol (SFTP) provided by Opens' and Shell as our Client and Server secure FTP connection software, respectively. The Contractor will be responsible for implementing compatible software with these products. The Department has approved the use of Public/ Private Key authentication for the SFTP protocol, and as such, requires the use of SSH2, 1024 byte, RSA algorithms in the key generation. Additionally, the Department has approved and prefers the encryption of the data file using PGP with PGP encryption key exchange. This connection will need to meet all Department and industry standard security measures, including using the standard TCP Port 22.</p> <p><u>Internet Connectivity</u></p> <p>The Contractor must have acceptable internet browser software to enable access to the Department's website, if applicable. The current minimum requirement is Microsoft Internet Explorer 5.5.</p> <p>The Department strongly prefers that any access provided for Department employees to the Contractor's system be done online via the Internet. The Contractor's system must be compatible with MS Proxy using standard HTTP or HTTPS on TCP ports 80 or 443.</p>	<ol style="list-style-type: none"> 4. The auditable procedures for system operations, change control, capacity planning, performance management, problem management, security and confidentiality, and fail safe and disaster recovery and the availability of these procedures for the Department's review. 5. Provide a detailed description of the proposed method(s) for electronic file data exchange and online access for Department employees.

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<p><u>Image Media</u></p> <p>The Department requires either LTO-2 tapes or file transfer. For the file transfer, the images are to be bundled into a ZIP archive, which must be encrypted, using EDE's public PGP key and then transferred (ftp put) to the Department, over the internet.</p> <p><u>Test Environment</u></p> <p>The Contractor must maintain a test environment, separate from the processing environment, which is configured to allow enhancements in a controlled environment.</p>	
<p>E. Automated Systems Design, Development, Maintenance and Enhancement</p> <p>The Contractor must adhere to generally accepted information technology standards for development, documentation, maintenance and enhancement of the proposed applications solution. This includes the use of auditable procedures for quality and version control. The proposed development tools and procedures must support rapid application development for the initial implementation and for addressing future changes. The Contractor must ensure that all software components are maintainable over the life of the contract and that the software and associated documentation is transferable to DTF, or designee, in the event that the Contractor was no longer able to carry out its responsibilities or at the end of the contract to support transition to the subsequent service provider, if that is not the incumbent.</p> <p><u>Back-up of Data and Software.</u></p> <p>The Contractor must maintain and retain both on-site and off-site processible electronic copies of all tax data and image files that are transmitted to DTF. The Contractor must back-up all data transmission/image tapes or data/image files which are sent to the Department and retain them in a secure, environmentally controlled, off-site location for no less than twelve (12) months.</p> <p>The Contractor must back-up source and object code each week, at a minimum, and retain in a secure and environmentally controlled off-site location for the duration of the contract, to assist in the restoration of files.</p> <p>The Contractor must be able to provide the Department,</p>	<p>E. Affirm understanding with an agreement to meet the Guiding Principle, and provide details including, but not limited to:</p> <ol style="list-style-type: none"> 1. An identification of where the development will take place and a description of the experience of the developer(s). If development will be subcontracted, describe the Contractor's previous development experience with that subcontractor. 2. A description of a recently developed, automated, high-volume transaction system, including: <ol style="list-style-type: none"> a. The development methodology which was utilized. b. The procedures used to ensure quality and version control. c. The utilization of modularized programming (i.e., reusable code). d. Ad hoc reporting tools which were utilized and whether these tools would be used for the system(s) developed for this RFP. e. The method used to control errors found during testing, and whether this method would be used for system(s) developed for this RFP. <p>In addition, the following must be included:</p> <ol style="list-style-type: none"> a. The proposed conceptual systems design. b. The proposed workload estimates for the systems development.

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<p>upon request, with an exact duplicate of any data transmission/image tapes or data/image files which had been sent to the Department within the following timeframes:</p> <ol style="list-style-type: none"> 1. if the original transmission or transmittal of the data/images occurred within the past seven days, then the duplicate file must be available to the Department within 24 hours of the request; or 2. If the original transmission or transmittal of the data/images occurred more than seven days previous, then the duplicate file must be available to DTF within five business days of the request. 	<ol style="list-style-type: none"> c. Proposed staffing plan for systems development. d. Proposed development project schedule (from conceptual systems design through implementation). <p>For back-up of data and software requirements, the Contractor must provide the following information:</p> <ol style="list-style-type: none"> a. Proposed back-up processes for electronic and other data and images. b. Proposed period of retention for all backed-up data transmissions. c. Proposed period of retention for backed-up source and object code. d. Proposed retention site. e. Proposed security plans for the delivery process and retention site(s). <p>Three related deliverables are to be provided during implementation (see Section Val– Implementation Requirements):</p> <p>Deliverable 1: Detailed Systems Requirement Documentation (including, but not limited to requirement documents, system design specifications, general and detailed workflows, data entry requirements, custom system requirements, image requirements, and custom reporting) – to be delivered during program development and again, prior to implementation.</p> <p>Deliverable 2: Test Result Documentation, prior to DTF's UAT (including, but not limited to the Contractor's UAT plan, business cases tested and UAT results prior to DTF's UAT test).</p> <p>Deliverable 3: System Architecture Documentation (including, but not limited to system architecture diagrams) – to be delivered during program development and again, prior to implementation.</p>
<p>F. Systems Maintenance, Testing and User Acceptance Testing</p> <p>The Contractor must prepare and execute, during</p>	<p>F. Affirm understanding with an agreement to meet the Guiding Principle. and provide details, including, but not limited to:</p>

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<p>development, prior to certification, a comprehensive system test of all processing components (e.g., hardware, software, work-flow procedures, integration of third part data and payment information, etc) developed, modified and/or acquired for the programs of this RFP. Such testing should include the use of scaled down staffing with a mix of permanent and temporary staff – mirroring actual peak processing.</p> <p>The Contractor must, as part of its system test, or as a separate test (prior to execution of DTF user test cases), participate fully in a jointly-managed test of all file transfers required pursuant to this RFP (as specified in Section Val and Val). This test will include, at a minimum, testing all file formats for adherence to specifications, transmission procedures and encryption solutions, as applicable; and must include testing appropriate volumes of data for the following file transfers:</p> <p>From DTF:</p> <ol style="list-style-type: none"> 1. Draft issuance files. 2. ACH credit files. <p>To the Department:</p> <ol style="list-style-type: none"> 1. Paid drafts and paid checks files. 2. ACH acknowledgment files. 3. ACH rejection code files. 4. ACH transit and routing number verification table. 5. Image index output files and associated images, on LTO-2 or file transfer, as described above. <p><u>Annual Cycle Testing</u></p> <p>The Contractor will be required to perform a PIT Refund annual cycle test prior to actual annual payment processing, including testing of the PIT Refund draft paid file.</p> <p><u>Change Control Procedure</u></p> <p>The Contractor must follow the agreed upon change control procedure for identifying, communicating to the Department and correcting any production problems with the system(s) developed and/or modified pursuant to this</p>	<ol style="list-style-type: none"> 1. The automated tools used to develop the test cases and support the process, such as reviewing data output for expected volumes, etc. 2. Throughout development, reports which account for test conditions developed, executed, defects, defects corrected, defects identified during component testing, system testing, integration testing and user acceptance testing. 3. Staff qualifications/experience of those conducting the user testing, and their role in the design and development of the implementation deliverables, such as conceptual design, detail design, etc. 4. Explanation of the methodology to develop the scenarios that will be tested, including the expected role of the Department. 5. A description of the projects where this methodology/ approach has been used before. 6. Proposed timeframes for the complete testing cycle, including development of test cases/scenarios, and turnaround time to complete the tests.

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<p>RFP.</p> <p><u>Production Problems</u></p> <p>The Contractor must agree to implement data fixes as necessary to correct production programs, pursuant to approval from a Department-authorized representative, including but not limited to utilization of the following methods:</p> <ol style="list-style-type: none"> 1. Complete file restoration. 2. Re-running programs. 3. Direct fixes to the database(s), as applicable. 	
<p>G. Organizational Structure and Staffing for Operations</p> <p>The Contractor must provide and maintain an organizational structure and level of staffing to adequately operate the program(s) as required by the requirements of this RFP and to achieve the performance standards (Section II – Performance Standards, Liquidated Damages and Reimbursements).</p>	<p>G. Affirm understanding with an agreement to meet the Guiding Principle, and provide details, including, but not limited to:</p> <ol style="list-style-type: none"> 1. The Contractor’s organizational structure within the overall corporate structure (if applicable) and the organizational structure as it pertains to these programs. 2. For the development component of this engagement, provide the name of the project/engagement manager responsible for development and implementation, and the project manager’s immediate direct reporting subordinate for : <ul style="list-style-type: none"> a) Controlled disbursement services planning and analysis. b) Systems development. c) User acceptance testing. d) Contract negotiations. <p>For each of these positions provide the percentage of time to be devoted to this program and describe their managerial role in two previous business engagements of similar complexity to the services in this RFP.</p> <p>For the operations component of this engagement, identify the key executives and managers, by title; their experience in</p>

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	<p>managing controlled disbursement and direct deposit operations and the amount of time that each manager will be allocated to those programs during operations.</p> <ol style="list-style-type: none"> 3. The supervisory structures for the controlled disbursement and direct deposit operations, including the identification of the supervisor to staff ratios, key supervisors by function and their allocation of time to supervision tasks versus line tasks, and the process which will be utilized to maintain adequate levels of staff at all times. 4. The staffing levels, by function, that would be utilized including the variations between permanent and temporary staff, during both peak and non-peak periods. 5. The supervisor to staff ratio, by function, during peak and non-peak periods. 6. The recruitment methods that would be utilized to maintain adequate levels of staff at all times. 7. The methods utilized to encourage trained temporary employees to return for future peak periods. <p>Note: During program development and again, prior to implementation, Deliverable 4 – Operational Procedures Documentation must be provided. As described in Section VIII – Implementation Requirements, the Operational Procedures Documentation will include, among other things, a description of current staffing plans.</p>
<p>H. Performance Monitoring, Audits and Reviews</p> <p>The Contractor must cooperate fully with the Department, or designees, in all performance reviews. Cooperation includes, but is not limited to, provision of all necessary documents in a timely manner and provision of adequate working space to conduct such reviews.</p> <p>In addition to reviews by the Department, the Contractor must cooperate fully with the Office of the State Comptroller (OSC), or its designee(s), for all aspects of audits, reviews, etc.</p>	<p>H. Affirm understanding with an agreement to meet the Guiding Principle, and provide details including, but not limited to:</p> <ol style="list-style-type: none"> 1. The provision of adequate working space, including, but not limited to: private office or conference room, work stations, access to phone and data lines, photocopier, file cabinet with locks, etc.
<p>I. Cooperation with Department/State Investigations</p> <p>The Contractor must agree to cooperate fully with any</p>	<p>I. Affirm understanding with an agreement to meet the Guiding Principle, providing, if necessary, details as to how this Guiding Principle will be met.</p>

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<p>lawful investigation conducted by the Department or its designee acting on its behalf including the Inspector General's Office, the NY State Police or any municipal law enforcement agency within New York State.</p> <p>In the case of Department criminal investigations, an out of state commercial bank which performs depository bank services must accept a subpoena served on one of its New York State branches/ offices.</p> <p>In the event that the Department determines it necessary to investigate evidence relative to a possible or actual 1) crime, or 2) breach of confidentiality or security (e.g., loss of return documents, or loss of remittances), Contractor and its subcontractors shall cooperate fully with the Department to the extent permitted by law to investigate and identify the responsible individuals. Contractor and its subcontractors shall, to the extent permitted by law, make their employees and all relevant records, including personnel records and employee photographs, available to Department investigators upon request by the Department's Office of Deputy Inspector General. The Department may interview Contractor's employees and/or agents in connection with an investigation during normal business hours.</p>	
<p>J. Adaptability to Program Changes</p> <p>The Contractor must demonstrate its ability to respond rapidly or by a fixed deadline to functionality changes due to legislative or administrative requirements (often in constrained time frames). Common examples of program changes include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Reduced interest period to pay refunds, thus accelerating the release of refund drafts to earlier in the year. 2. The addition of new security features on drafts. 	<p>J. Affirm understanding with an agreement to meet the Guiding Principle, and provide details including, but not limited to:</p> <ol style="list-style-type: none"> 1. A description of the capabilities and limitations with regard to the ability to respond rapidly to change requests. At a minimum, the following topics should be discussed: <ol style="list-style-type: none"> a. The methodology to be used to analyze program changes and the identification of the resource commitment to implement those changes. b. The levels of flexibility (tolerance for change) built into the proposed processing approach. c. A description of the scalability of the physical site and automated environment to accommodate functionality changes and/or workload expansion. <p>For response item J.1.a, above, provide an estimate</p>

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	of the number of development and testing hours to implement these changes within the conceptual systems design provided in response to Guiding Principle D, E, & F in this section.
<p>K. Disaster Recovery/Fail Safe Operations</p> <p>The Contractor must provide a sufficient level of fail safe and disaster recovery operations to ensure that disruptions to services are transparent to taxpayers. <u>All functionality must have full redundancy.</u></p> <p>The Contractor must provide an approach to and provisions for continued processing in the event of conditions short of disaster. Including but not limited to: short term power failure, inclement weather conditions, high rate of absenteeism, etc., including but not limited to having a required back-up power source/generator for the processing site.</p> <p>As part of the initial implementation and certification, the Contractor shall develop and deliver a disaster recovery plan for the Programs.</p> <p>The Contractor must maintain and test the disaster recovery plan at least once annually, on a date jointly determined with the Department. The Contractor must inform the Department on an annual basis as to the status of disaster recovery/fail safe operations. The Contractor shall provide the Department with any updates to the disaster recovery plan, and/or any plans to implement recommendations resulting from routine testing/Contractor review of the disaster recovery plan.</p> <p>The Contractor must maintain, in a secure, off-site location, complete and up-to-date copies of disaster recovery/fail safe plans and processing center procedures and required forms, etc. applicable to the programs and all forms and procedures developed and used to assist in the restoration of operations at an alternate disaster recovery site.</p> <p>The Department must have the right to annually inspect the portion of the Disaster Recovery Plan that relates to services to be performed under the resulting contract.</p> <p>The Contractor shall provide DTF with any reports or findings from any regulatory agency (unless it is prohibited from making such disclosures by law or by such agency),</p>	<p>K. Affirm understanding with an agreement to meet the Guiding Principle, and provide details including, but not limited to:</p> <ol style="list-style-type: none"> 1. Identify and describe the existing or proposed fail-safe and disaster recovery plan(s) and the extent to which the plan(s) will be able to accommodate the programs in this RFP. Provide the basic plan, the conditions it covers how it will address the conditions and any impacts to processing throughput. State the recovery window to a full restoration and throughput in a disaster situation. The description of the fail safe and disaster recovery plans should include, at a minimum, whether or not this is an automatic switch over to systems at a separate site, shared workload at multiple sites, hot site disaster recovery, and cold site disaster recovery. In addition, the priority that the Department's programs would have within these plans. If existing plans will be utilized, identify any enhancements which will be made in order to accommodate these requirements. 2. Describe whether or not the Department would have access to the fail-safe and disaster recovery plan(s) for review purposes. 3. Provide a diagram which identifies the level of redundancy at the network, operating, and application level; including any interest processing delays during a fail-safe (e.g. check routing strategy between the main processing site and back-up site). 4. Describe any service agreements with vendors providing identification and remediation of foreign substances in the workplace and the corresponding response timeframes. 5. Identify how program documentation and supporting equipment will be stored off-site and available to ensure disaster recovery/fail safe operations. 6. Identify how the deposit disaster recovery timeframe meets or exceeds the Department's desire to minimize cash flow losses in the event of a disaster.

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<p>independent auditors, etc., relating to disaster recovery capabilities as they pertain to the services under the contract.</p> <p>Note: Any costs associated with the disaster recovery and fail safe services should be built into the fully loaded transaction costs reflected in Section X – Financial Requirements.</p>	<p>7. Address business continuity/ disaster recovery as it pertains to the services of this RFP for functional requirements specified for electronic services and ensure that the Contractor can meet their recovery time frames for transmissions to and from ACH and NYACH; to and from the Department and online balance reporting.</p>
<p>L. Document Destruction</p> <p>The Department requires that when records maintained by the Contractor on behalf of the Department in connection with these programs become obsolete (as determined by the Department) such records shall be destroyed. The Contractor shall, if such records are easily transported, timely return such records to the Department for destruction. If such records are not easily transported, the Contractor shall destroy such records in accordance with directions from the Department. In the latter case, an officer or principal of the Contractor shall certify to the Department, in writing and under penalty of perjury, that such destruction has been completed in accordance with the Department's direction.</p>	<p>L. Affirm understanding with an agreement to meet the Guiding Principle, and provide details addressing the Guiding Principle.</p>

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SECTION VIII – IMPLEMENTATION REQUIREMENTS

Requirements	Response
1.0 Implementation Plan	
<p>1.1</p> <p>The Contractor must develop a comprehensive implementation plan which supports the Contractor's complete proposal for all development activities and ongoing operational activities.</p>	<p>1.1</p> <p>The Contractor must affirm understanding of and agreement with requirement 1.1. In addition, the Contractor must provide the individual requirement detail requested in 1.2 below.</p>
<p>1.2</p> <p>The Contractor must identify the key milestones, critical paths and associated timeframes required for the completion of all development activities in order to conform to the Department's required certification and implementation dates (see Preface). Included in the implementation schedule must be Deliverables 1, 2, 3 and 4 from Section VII.</p>	<p>1.2</p> <p>The Contractor must respond to requirement 1.2 by providing a comprehensive implementation schedule which integrates each of the required elements, identifying the key milestones, dependencies, associated time frames, responsible party, and points of DTF approval for both controlled disbursement and direct deposits. At a minimum, the key milestones must include, as applicable:</p> <p style="margin-left: 40px;">A. Integration/development of each required system, including:</p> <p style="margin-left: 80px;">Conceptual design;</p> <p style="margin-left: 80px;">Preliminary and final logical and physical database design; and,</p> <p style="margin-left: 80px;">Detailed system design review/approval points for:</p> <p style="margin-left: 80px;">- Account reconciliation</p> <p style="margin-left: 80px;">- Online services</p> <p style="margin-left: 80px;">- Online balance reporting</p> <p style="margin-left: 80px;">- Image output</p> <p style="margin-left: 40px;">B. Systems Testing, including:</p> <p style="margin-left: 80px;">Component testing;</p> <p style="margin-left: 80px;">System testing;</p> <p style="margin-left: 80px;">User acceptance testing;</p> <p style="margin-left: 80px;">Integrated performance testing; and,</p> <p style="margin-left: 80px;">DTF certification.</p> <p style="margin-left: 40px;">C. System implementation</p>

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Requirements	Response
	<p>D. End-User and computer site preparation, including: Processing site selection (if applicable); Procurement completion (if applicable); Site preparation (if applicable); and, Equipment installation and testing.</p> <p>E. Equipment, including: Procurement, installation and testing of end user processing equipment; and, Procurement, installation and testing of computer equipment.</p> <p>F. Procedure(s) development, including: Function level procedures; Internal forms; Security and confidentiality; and, Fail-Safe and disaster recovery.</p> <p>G. Training development and execution, including: Training by function; Supervisory training; and, Staff training.</p> <p>H. Recruitment of supervisors and staff.</p> <p>I. Sub-Contractor procurement of services (if applicable).</p> <p>For each milestone identified, the responsible party (i.e., Contractor, sub-contractor or Department) must be indicated.</p>

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SECTION IX – CASH MANAGEMENT REQUIREMENTS

REQUIREMENT	RESPONSE
	Respond to Section IX by affirming understanding of, and agreement with, each requirement. In addition, provide the individual requirement detail requested below.
1.0 Reporting	
1.1 The Contractor must agree and sign (subsequent to award and prior to implementation) the Undertaking for Bank Deposits and Assignment of Securities agreement (see Appendix H of this RFP).	
2.0 Funds Processing and Availability	
2.1 The Contractor must ensure the prevention of unauthorized debits, both paper remittance and EFT, presented against a Department account, and must report any such unauthorized debits to the Department.	2.1 Describe how unauthorized debits, including paper remittance and EFT, presented against a Department account will be prevented and reported.
2.2 The bidder must provide their standard banking and/or service agreement(s). Submission of such agreement(s) is for informational purposes. The bidder must be willing to negotiate the terms of such agreement(s) prior to their inclusion in any subsequent contract for the services in this RFP.	2.2 Provide any standard banking and/or service agreement(s) with the proposal response.
2.3 The Contractor must inform NYS OSC and the Department of any changes that affect individual check end-point and availability schedules. Any changes and/or revised availability schedules must be transmitted to NYS OSC and the Department in a timely manner.	2.3 Affirm agreement to inform NYS OSC and the Department of any changes that affect individual check end-points and availability schedules. In addition, address other issues affecting availability, including, but not limited to the following issues/questions: A. If availability is determined by individual check endpoint, provide latest availability schedule that will apply to the NYS OSC and the Department (include a separate weekend schedule, if applicable). If this schedule does not pertain to checks of all dollar sizes, explain. Specify any charge for this service. B. Is availability assignment made

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REQUIREMENT	RESPONSE
	<p>continuously as the Department's checks are released for collection, or is assignment made at specific times during the day? If at specific times, state these times.</p> <p>C. List the transit deadlines for availability assignment to the Department accounts. Include both weekday and weekend deadlines.</p> <p>D. State the willingness and capacity to provide Saturday availability.</p> <p>E. State the level of willingness to negotiate funds availability.</p> <p>F. Quantify the direct send program for a normal weekday, as follows:</p> <ol style="list-style-type: none"> 1. Direct sends to Correspondents. 2. Direct sends to Federal Reserve Bank. 3. Direct sends to Regional Check Processing Centers. <p>G. State how frequently updated availability schedules are published and confirm willingness to provide revised availability schedules to NYS OSC and the Department in a timely manner.</p>
3.0 Collateral	
<p>3.1</p> <p>Sections 105 and 106 of the State Finance Law require financial institutions holding deposits of State monies to pledge collateral with OSC to the extent deemed appropriate by the OSC. As required by such law, the Bidder must agree to pledge securities as outlined in Section 105 of the State Finance Law or to obtain a surety bond by an insurance company with an AAA rating to secure the State's interest in any depository account and any "pass through" accounts to the extent deemed appropriate by OSC. OSC shall establish and periodically review and adjust, as necessary, the amounts held as collateral. Collateral must be held at the NYS fiscal agent. DTF reserves the right to periodically verify the amount of collateral held.</p>	
4.0 Wire Transfers	
<p>4.1</p> <p>The Contractor must agree (subsequent to award and prior to implementation) with a NYS OSC Funds Transfer Agreement (see Appendix D of this RFP). The Contractor must also agree to wire transfer funds from any accounts associated with the Program to a NYS OSC designated account.</p>	<p>For 4.1 and 4.2 affirm agreement and willingness to comply with the requirement and/or provide comments regarding the NYS OSC Funds Transfer Agreement, along with changes the commercial bank would request.</p>
<p>4.2</p> <p>The Contractor must provide a system for OSC to</p>	

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REQUIREMENT	RESPONSE
initiate/release wire transfers from the State's general account.	
5.0 Automated Clearing House (ACH) Network Rules and Regulations	
5.1 The Contractor must be a member of the National Automated Clearinghouse Association (NACHA) and agree to conform to all ACH Rules and Regulations.	
5.2 The Contractor must be able to act as both an Originating Depository Financial Institution (ODFI) and a Receiving Depository Financial Institution (RDFI) – able to both initiate and receive ACH entries.	
5.3 The Contractor must notify the Department and NYS OSC of rule changes that impact the processing of the Department's transactions through the ACH network prior to the change becoming effective.	

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SECTION X – FINANCIAL REQUIREMENTS

Requirements	Response
<p>ALL COSTS ASSOCIATED WITH THE REQUIREMENTS OF THIS RFP MUST BE INCORPORATED INTO THE BIDDER'S FINANCIAL PROPOSAL RESPONSE - NO OTHER ADD ON COSTS WILL BE PERMITTED.</p> <p>Payments to the Contractor will be made in accordance with Article 11 of the New York State Finance Law.</p> <p>The State reserves the right to reimburse the commercial bank Contractor via <u>direct payments</u> or <u>compensating balance payments</u>, or a combination of both, at the State's discretion. The method of payment selected by the State will be the one that provides the least cost to the State (which will be calculated using the volumes provided in Exhibit A - Volumes of this RFP).</p> <p><u>Note</u> that the volumes provided in Exhibit A – Volumes, of this RFP, are shown to give a sense of what the volumes have been for the programs. Such volumes, or any other, do not represent a volume guarantee. Payments by the State to the Contractor will be based on items processed the previous month.</p> <p>Payment by Direct Fee</p> <p>If the State elects to pay by direct fee, the State may chose to either offset the fee payment with earnings credits (as hereinafter defined) or request direct reimbursement from the Contractor. Earnings credits are to be calculated using the following formula:</p> <p>Earnings Credits =</p> <p>(average available account balance) x (1-RR) x (ECR) x Time</p> <p>Where:</p> <p>RR = Federal Reserve Bank Reserve Requirement percentage (currently 10%)</p> <p>ECR = Earnings Credit Rate (the determination of which is described below); and</p>	<p>Respond to Section X by affirming understanding of, and agreement with, each requirement. In addition, provide the individual requirement detail requested.</p>

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Requirements	Response
<p>Time = Number of days in period/365.</p> <p>The Earnings Credit Rate is the monthly average investment yield on the three-month Treasury Bill, as determined at the weekly auction and published in the <u>New York Times</u>. The Earnings Credit Rate shall be determined by NYS OSC and confirmed with the Contractor. If payment is by direct fee, the Contractor must provide a monthly account analysis, along with an invoice to DTF.</p> <p>Payment by Compensating Balance</p> <p>If the State elects to pay by compensating balance, the value of the compensating balance shall be calculated using the same formula as shown above under "Payment by Direct Fee", provided, however, that the Earnings Credit Rate shall be 50 basis points higher than the monthly average investment rate on the three-month Treasury Bill as determined at the weekly auction and published in the <u>New York Times</u>. The Earnings Credit Rate shall be determined by NYS OSC and confirmed with the Contractor. If payment is made via compensating balance, the Contractor must provide a monthly account analysis to DTF and OSC. Such an analysis must include the processed volume as well as total costs associated with each account.</p> <p>Payment for Services</p> <p>Payment for services shall be billed by the Contractor to DTF and will be paid in accordance with the voucher and audit procedures established by OSC.</p> <p>The Contractor shall provide DTF with any outstanding invoice or voucher by the 15th of the month after which services are rendered, in appropriate detail to permit DTF to identify all fees and charges imposed by the Contract for such invoice/voucher.</p> <p>In addition, the Contractor shall provide DTF with any invoice or voucher within thirty calendar days after the end of New York State's fiscal year and for all required payments for change control enhancements and for development and operation fee payments approved by DTF in such fiscal year</p>	

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Requirements	Response
and in accordance with the change procedure. Contractor must include the appropriate detail to permit DTF to justify payment of such invoice or voucher.	
1.0 Operations Fees	
1.1 All proposed fees must be guaranteed for the first three years of the base term (see Introduction) and adjustable thereafter on an annual basis, using the CPI-U methodology stated in CPI-U attachment of this section. Any desired CPI-U change requests must be made within thirty calendar days prior to the end of the contract year. However, if the Department initiates change controls which result in efficiencies, it is expected that Contractor operations fees will be reduced through the change control procedure. (See Appendix E – Change Control Procedures)	1.1 Affirm understanding of an agreement with the requirement and the CPI-U methodology stated in CPI-U attachment on this section.
1.2 Fully Loaded Operations Fee – Paid Drafts A fully loaded operations fee must include, but not be limited to <u>all</u> costs related to services required in this RFP, including staffing, facilities, equipment, systems maintenance, management, program support activities, training, and any indirect costs related to the required functions for each PIT Refund draft paid.	1.2 Complete Financial Tables 1 and 2 of this Section.
1.3 Fully Loaded Operations Fee – Direct Deposit A fully loaded operations fee for direct deposits must include, but not be limited to, all costs related to services required in this RFP, including staffing, facilities, equipment, system maintenance, management, program support activities, training, and any indirect costs related to the required functions for each PIT Direct Deposit paid.	
2.0 Development Costs	
2.1 Development costs (if applicable) may be proposed for systems development, testing and all program support requirements incurred prior to the operational date.	2.1 Complete Financial Tables 1 and 2 of this Section, as applicable, for services prior to the operational date.

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Requirements	Response
<p><u>Note</u> that the Department may elect to pay development fees either as a one-time payment or as monthly payments over a two year period (Financial Tables 1 and 2 enable both options to be proposed). However, regardless of the Department's selected payment method, no payment will be made until after certification of all services.</p> <p><u>Note</u> that systems maintenance costs must be priced as a part of the fully loaded operations fee (1.2 and 1.3, above).</p>	
3.0 System Enhancement Rates	
<p>3.1 System Enhancement Programming Rates</p> <p>Indicate any hourly programming rates for systems enhancement services.</p>	<p>3.1</p> <p>Complete Financial Tables 1 and 2 of this Section, as applicable.</p>
<p>3.2 System Enhancement Testing Rates</p> <p>Identify the hourly user acceptance testing (UAT) rates for systems enhancement services. The rates provided shall be applicable to both testing performed in connection with the development of an agreed upon enhancement, as well as resources necessary to support the Department's testing of any such agreed upon enhancement.</p>	<p>3.2</p> <p>Complete Financial Tables 1 and 2 of this Section, as applicable.</p>
4.0 Other Fees	
<p>4.1 FDIC Fees</p> <p>FDIC fees must be stated separately, and should not be included within the operational fees. FDIC fees must be a pass-through cost only and no additional fees may be added. The State may elect to pay for FDIC fees as an add on to this contract or include the fees in any overall existing relationship with the Contractor and pay for them by compensating balance.</p>	<p>4.1</p> <p>Provide the proposed FDIC fees within Financial Tables 1 and 2 of this Section.</p>

Section X – Financial Requirements

**FINANCIAL TABLE 1
 DIRECT FEES**

	Program Years			
	Years 1-3	Year 4	Year 5	Year 6
Operations Fees (Requirement 1.0):				
Fully Loaded Transaction Fee – PIT Refund paid drafts (1.2)		CPI-U	CPI-U	CPI-U
Fully Loaded Transaction Fee – PIT Refund Direct Deposit		CPI-U	CPI-U	CPI-U
Development Costs (Requirement 2.1):				
Development Costs (2.1)				
System Enhancement Rates (Requirement 3.2):				
System Enhancements – Programming Hourly Rate (3.1)		CPI-U	CPI-U	CPI-U
System Enhancement – UAT Hourly Rate (3.2)		CPI-U	CPI-U	CPI-U
Other Fees (Requirement 4.0):				
FDIC Fees (4.1)		CPI-U	CPI-U	CPI-U

Note: All proposed fees must be guaranteed for the first three years of the base term.

Section X – Financial Requirements

**FINANCIAL TABLE 2
 Compensating Balances**

	Program Years			
	Years 1-3	Year 4	Year 5	Year 6
Operations Fees (Requirement 1.0):				
Fully Loaded Transaction Fee – PIT Refund paid drafts (1.2)		CPI-U	CPI-U	CPI-U
Fully Loaded Transaction Fee – PIT Refund Direct Deposit		CPI-U	CPI-U	CPI-U
Development Costs (Requirement 2.1):				
Development Costs (2.1)				
System Enhancement Rates (Requirement 3.2):				
System Enhancements – Programming Hourly Rate (3.1)		CPI-U	CPI-U	CPI-U
System Enhancement – UAT Hourly Rate (3.2)		CPI-U	CPI-U	CPI-U
Other Fees (Requirement 4.0):				
FDIC Fees (4.1)		CPI-U	CPI-U	CPI-U

Note: All proposed fees must be guaranteed for the first three years of the base term.

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CONSUMER PRICE INDEX – URBAN (CPI-U) COMPUTATION METHODOLOGY

Consumer Price Index for All Urban Consumers (CPI-U) adjustments shall not exceed the annual change for the prior one-year contract year. No CPI-U increase may be added until after three years of operations under the contract have concluded. The CPI-U adjustment shall use, in deriving the CPI-U adjustment, the average annual change for the twelve (12) month period ending three (3) months prior to the period the change is to take effect.

The authoritative document in computing the CPI-U shall be the U.S. Department of Labor, Bureau of Labor Statistics, summary data from the *Consumer Price Index, Table 10, Consumer Price Index for All Urban Consumers (CPI-U): Selected areas*. All items indexed (1982-1984 = 100) unless otherwise noted within the Summary Data.

The index used shall be the selected local area if the service provided is among those listed (e.g., N.Y. - Northern N.J.-Long Island). If the local area is not among those listed, then the appropriate regional location should be utilized (e.g., Northeast Urban region).

For example, if the contract term was for four years and began on December 1, 2005, and the operations fees are fixed for the initial three years of operations (year 1 will be December 1, 2005 to November 30, 2006; year 2 will be December 1, 2006 to November 30, 2007; and year 3 will be December 1, 2007 to November 30, 2008) a CPI-U adjustment may be requested starting in December 1, 2008.

At such time, the twelve month adjustment period will be determined to be September 2007 through August 2008.

Example:

Selected Local Area	=	Northeast Urban region
Third contract year	=	December 1, 2007 to November 30, 2008
Computation Methodology	=	<u>(August 2008) – (September 2007)</u>
		(September 2007)
		<u>(233.788 – 221.559)</u>
		(221.559)
CPI-U	=	5.52%

Date	Index
August 2007	221.559
September 2007	221.436
October 2007	221.951
November 2007	223.356
December 2007	223.425
January 2008	224.325
February 2008	225.213
March 2008	226.926
April 2008	228.133
May 2008	230.089
June 2008	232.649
July 2008	234.545
August 2008	233.788
September 2008	232.842

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SECTION XI – CONTRACT CONDITIONS

Part A: Contract Conditions outlines conditions directly related to the submission of bids in response to this RFP.

Part B: Invariable Contract Conditions outlines invariable conditions related to the submission of bids as well as any resultant Contract. **Invariable Contract Conditions** will be included in any Contract awarded as a result of this RFP without change. The Bidder must agree to the invariable conditions without change. Bidders are not permitted to propose extraneous terms with respect to these provisions. If extraneous terms are proposed, the bid will be disqualified as non-responsive.

Part C: Negotiable Topics are negotiable contract conditions to be addressed in the Contract awarded as a result of this RFP. Bidders are allowed to propose extraneous terms for each of these provisions.

A. CONTRACT CONDITIONS

REQUIREMENT	RESPONSE
A. 1.1 The Bidder must accept each standard contract clause as stated in Appendix A of this RFP. Appendix A contains important information related to the contract and will be incorporated, without change or amendment, in the contract entered into between DTF and the successful bidder. By submitting a proposal to this RFP, the Bidder agrees to comply with all the provisions of Appendix A.	For A. 1.1 affirm understanding and agreement with the provisions of Appendix A.
A. 1.2 The Bidder must be willing to, and capable of, entering into a contract with DTF with respect to this RFP award, subject to the terms and conditions specified in Section II –Performance Standards, Liquidated Damages and reimbursements, and in Section XI –Contract Conditions.	<p>A. 1.2 Provide the following:</p> <ul style="list-style-type: none"> A. A statement of the capability and willingness to enter into a contract in accordance with the terms and conditions specified in Section II – Performance Standards, Liquidated Damages and reimbursements, and Section XI – Contract Conditions; and, B. Respond in the affirmative to each clause in the referenced “Performance Standards”, and to Section XI - Contract Conditions, B. Invariable Contract Conditions and C. Negotiable Topics, or by proposing specific alternative language, where permitted. Note 1: Appendix A – Standard Contract Clauses and part B – Invariable Contract Conditions of Section XI – Contract Conditions are non-negotiable). <p>Note 2: DTF reserves the right to propose additional contract conditions or modifications to the Negotiable mandatory topics contained in this Section, based on its review of the Bidder’s proposal.</p>
A. 1.3 The Bidder must be willing to, and be capable of, entering into a contract within sixty calendar days after award is granted. Note: If the Bidder fails to agree to this	

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REQUIREMENT	RESPONSE
requirement, or if the bidder fails to enter into a contract within 60 calendar days after award is granted, DTF reserves the right to begin negotiations with the second – highest rated bidder for the Program.	
A. 1.4 The Contractor must ensure that any contract with its material subcontractors (e.g. consulting, systems development, etc., who are involved with providing services which support the services required in this RFP) conforms to the provisions of the contract between DTF and the Contractor.	

PART B - INVARIABLE CONTRACT CONDITIONS

The following conditions will not be subject to negotiation.

1. "Appendix A," "Standard Clauses for New York State Contracts," will be incorporated as part of the contract without change or amendment and will be given precedence over all other documents. By submitting a response to the RFP, the bidder agrees to comply with all provisions of **Appendix A**.

2. Outstanding Tax Liabilities

All outstanding tax liabilities, if any, due to the State of New York from the Contractor, or from Contractor's partners, officers, employees, agents or subcontractors engaged in providing services under this Agreement, must be satisfied prior to Agreement execution or a payment schedule arranged for their speedy satisfaction.

3. Equal Employment/Business Participation Opportunities for Minority Group Members and New York State Certified Minority/Women-Owned Business

In accordance with Article 15-A of the New York State Executive Law (Participation by Minority Group Members and Women with Respect to State Contracts) 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 at 5 NYCRR Parts 140-144, the Contractor agrees to be bound by the following to promote equality of economic opportunities for minority group members and women, and the facilitation of minority and women-owned business enterprise participation on all covered DTF Contracts.

- a. Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Offerer agrees with all of the terms and conditions of Appendix A, including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that the provisions of Appendix A, Clause 12 – Equal Employment Opportunities for Minorities and Women, are included in every subcontract in such a manner that the requirements of these provisions will be binding upon each Subcontractor as to work in connection with the State Contract.

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b. Participation Opportunities for New York State Certified Minorities and Women-Owned Businesses

Authorized Users are encouraged to make every good faith effort to promote and assist the participation of New York State Certified Minority and Women-owned Business Enterprises (M/WBE) as Subcontractors and suppliers on this Contract for the provision of services and materials. To locate New York State Certified M/WBE, the directory of Certified Businesses can be viewed at:
http://www.empire.state.ny.us/Small_and_Growing_Businesses/mwbe.asp.

4. Confidentiality of Tax Information

- (a) The Contractor will comply with all secrecy provisions of the New York State Tax Law governing the confidentiality of State tax information, and with all Department rules, policies and procedures implementing such provisions (see e.g., Tax Law Sections 202, 211.8, 295, 314, 437, 487, 514, 528, 697(e), 994, 1023[b], 1146, 1165, 1250, 1312[a], 1332[a], 1342, 1418, 1467, 1518, 1555, 1825, 3038). Thus, except in accordance with proper judicial order or as otherwise provided by law. Contractor shall not divulge or make known in any manner the contents or any particulars set forth or disclosed in any Return or report required under or pursuant to the authority of the Tax Law. Computer files and their contents are covered by the same secrecy provisions as are physical documents.
- (b) The Contractor will comply with the secrecy provisions of the Internal Revenue Code (26 USC Sections 6103, 7213, 7213A and 7431) governing the confidentiality of Federal tax information, and with all IRS rules, policies and procedures implementing such provisions (see Appendix G in this RFP).
- (c) The Contractor shall cause all officers, employees, agents, partners and subcontractors engaged in providing services under this Agreement to sign the "Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code" (DTF-202) and "Acknowledgement of Confidentiality of Internal Revenue Service Tax Return Information" (EN-202) in Appendix F and Appendix G, respectively, of this RFP.

5. Ethics Provisions

The Contractor shall comply with the requirements of Public Officers Law, §§ 73 and 74, Chapter 1 of the Laws of 2005, the Procurement Lobbying Reform Act of 2005, and other State statutes, rules and regulations establishing ethical standards for the conduct of business with New York State. Failure to comply with those provisions may result in termination of the Agreement, and/or other civil or criminal proceedings as required by law.

6. Independent Contractor

It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under this Contract is that of an independent Contractor and, in no manner shall they be deemed employees of the Department, and therefore are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of the Contract awarded under this RFP, to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Department with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA contributions.

7. Contract Approval

The Agreement will not be effective until it is approved by the New York State Attorney General and the Office of the New York State Comptroller.

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8. Term of Agreement

The Agreement shall become effective following approval by the New York State Attorney General and the Office of the New York State Comptroller and shall continue for a four year term thereafter. The Agreement may be extended upon mutual agreement of the parties, for two (2) additional one (1) year terms.

The Agreement may include an extension of up to twelve (12) months at the end of the initial term of the Agreement or the extension period, as applicable, to provide for an orderly transition of services to a subsequent service provider (which may be the incumbent), at the sole discretion of the Department.

9. Termination or Expiration of the Contract and Transition Plan

(a) The Department reserves the right at any time during the term of the Agreement to terminate the Agreement for convenience with six (6) months prior written notice to the Contractor without penalty or other early termination charges due, if determined to be in the best interest of the State.

(b) The Department reserves the right at any time during the term of the Agreement to terminate the Agreement for cause due to material breach of the contract as defined therein, including but not limited to: failure to meet implementation dates or adhere to the secrecy provisions, violation of procurement lobbying act requirements, repeated performance problems, security breach, failure to comply with revised Tax Law Section 5-a or if the Contractor is otherwise deemed non-responsible.

(c) At any time during the term of the Agreement, the Contractor and the Department may mutually agree to terminate the Agreement. At such time as termination is mutually agreed upon, the two parties shall negotiate satisfactory terms of termination.

(d) The Department reserves the right to terminate the Agreement immediately if the Contractor's financial stability is reasonably determined by the Department to be in question. In the event that the Contractor's LACE financial rating falls below a C- during the term of this Agreement, the State reserves the right to terminate this Agreement immediately upon written notice to the Contractor.

(e) Upon termination or expiration of the Agreement, the Contractor and the Department shall cooperate to develop and execute a transition plan that contains reasonable procedures for transition and time schedules for scaling down operations of the Contractor in order to allow program services to continue without interruption.

10. The Contractor must maintain adequate records as prescribed by the Department to substantiate all claims for payment and must make those records available to the Department for examination and copying upon request.

11. The Contractor's processing and operations sites must be in compliance with applicable building codes and the Americans with Disabilities Act.

12. All changes to the services and fees set forth in the RFP must be initiated through the Change Procedure as set forth in Appendix E of this RFP.

13. All proposed fees are guaranteed for the first three (3) years of the base term described in this RFP.

14. A mutually agreed upon Implementation Plan as described in Section VIII of this RFP will be included as part of the Agreement.

15. The Department in its sole discretion may declare a material breach of the contract in the event that Contractor fails to materially meet a certification or implementation date as set forth in the Implementation Plan.

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16. Sections 105 and 106 of the State Finance Law require financial institutions holding deposits of State monies to pledge collateral with the Office of the New York State Comptroller to the extent deemed appropriate by the Comptroller.
17. A financial institution providing depository bank services must be insured by the FDIC through the term of the Agreement.
18. The method of compensation shall be by means of direct payment and/or compensating balances or a combination of the two, at the State's discretion. The State reserves the right to change the compensation method. The State agrees not to change the method of compensation at a frequency greater than once annually, except in extraordinary situations, as determined by the State. The State shall provide the Contractor with at least ninety (90) days advance notice of such change.
19. If the State elects to pay by direct payment, the State may choose to either offset the fee payment with Earnings Credits or request direct reimbursement from the Contractor (as described in Section X of this RFP).
20. Order of Precedence. This Agreement shall consist of the documents listed below. In the event of a conflict between or among the provisions of this Agreement, the following order of precedence shall control:
 - (a) "Appendix A" of the RFP, "Standard Clauses for New York State Contracts", attached hereto as Appendix A.
 - (b) DTF 202.
 - (c) Written amendments and changes to the Agreement by the parties and approved, where necessary, by the New York State Attorney General and the Office of the New York State Comptroller.
 - (d) The main body of the Agreement, and the accompanying appendices and exhibits (except Appendix A, the RFP, the bidder's proposal and pre-bid question and answers).
 - (e) The RFP (excluding Appendix A), including any amendments and clarifications, including those addressed by the question and answers process.
 - (f) The Bidder's proposal, including any amendments and clarifications thereto.
 - (g) The Contractor's banking and/or service agreements, if any.
21. Performance Standards, Liquidated Damages and Reimbursements

Categories of Performance Standards shall be those set forth in Section II of this RFP. The Performance Standards establish minimum levels at which the services are to be performed by the Contractor. Performance audits will be conducted by the Department to determine the Contractor's level of compliance with the Performance Standards. The Contractor's performance will be evaluated by applying a variety of generally accepted audit methodologies. Liquidated damages and/or reimbursements may be imposed by the Department for the Contractor's failure to perform in accordance with a Performance Standard.

22. Disaster Recovery/Fail Safe Operations

- (a) The Contractor shall develop and deliver to the Department for its review and approval, on or before a date as reasonably determined by the Department, and at no additional cost, a Disaster Recovery Plan for the program services provided under the Agreement. The Department's approval of the Disaster Recovery Plan shall not be unreasonably withheld.
- (b) The Contractor agrees to provide the Department with reasonable access to that portion of its Disaster Recovery Plan relevant to the services provided under the Agreement. The Contractor shall provide the

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Department with any reports or findings of any regulatory agency dealing with the Contractor's disaster recovery capabilities, unless it is prohibited from making such disclosure by law or by any such agency. The Contractor shall also make available any reports of its independent auditors relating to such plans. The Contractor shall provide the Department with reasonable access to any results of any tests of the Contractor's disaster recovery facilities conducted by the Contractor or any third party. The Contractor shall provide an annual briefing to the Department related to its disaster recovery strategy.

- (c) Contractor shall no later than twenty-four hours after the occurrence of an event requiring activation of the disaster recovery plan, inform the Department that the plan has been activated. At that time, Contractor shall provide the Department with a description of the nature and extent of the disaster, an assessment of the impact on all services provided pursuant to the Contract and a description of the specific recovery actions with their associated timeframes which have been or will be taken as part of the plan. Contractor will provide appropriate periodic updates of the recovery process as required by the Department.
- (d) Contractor agrees to provide the Department with any updates to the disaster recovery plan with respect to the services provided under the Contract, and/or any plans to implement recommendations resulting from routine testing of the disaster recovery plan. Contractor must maintain, test (at least once annually on a date as reasonably determined by the Department), and update the plan as necessary throughout the duration of the Contract (including any extensions and/or transition periods). In addition, Contractor must inform the Department on an annual basis as to the status of disaster recovery operations.

23. Indemnification

The Contractor shall fully indemnify and defend the State from all claims, suits, actions, judgments, liabilities, damages and costs (including legal fees and expenses) relating to personal injury or property damage to real or personal property caused by the intentional wrongful act, omission, or negligence of the Contractor, its officers, employees, agents or subcontractors, without limitation.

24. Subcontracting

The Contractor shall not enter into any material subcontracts without the Department's prior written approval. Contracts which the Department considers material shall include, but not be limited to, the following: those with a systems developer, software vendors and hardware vendors.

25. Financial Stability

To ensure uninterrupted services, the Contractor's continued financial stability shall be a material condition of the Agreement. The Department reserves the right to terminate the Agreement if the Contractor's financial stability is reasonably determined by the Department to be in question.

26. Procurement Lobbying Act

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

27. Mergers, Acquisitions or Consolidations

In the event of any merger, acquisition or consolidation involving the Contractor, the successor entity agrees to continue to perform all services under the Agreement.

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28. Ownership of Data/Data Security

- a. All data under the Contract shall be and remain the property of the Department, and the Contractor must, during the term of the Contract (including any extensions and/or transition periods), provide the Department with access to any such data maintained by the Contractor.

The Contractor must, in accordance with applicable law and the instructions of the Department, maintain such data for the time period required by applicable law, exercise due care for the protection of data, and maintain appropriate data integrity safeguards against the deletion or alteration of such data.

Promptly after the termination or expiration of the Contract, the Contractor shall provide all such data still within its possession or that of its subcontractors to the Department, or sanitize such data, consistent with applicable law and instructions from the Department.

- b. Upon the Department's reasonable request, Contractor shall correct, to the extent practicable, at Contractor's sole expense, data and/or image output that fail to achieve the Performance Standards.

29. Contractor Certification - Tax Law 5-A Amended April 26, 2006

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain Contractors awarded state Contracts for commodities, services and technology valued at more than \$100,000 to certify, to the Department of Taxation and Finance (DTF), that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and Subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law also imposes upon certain Contractors the obligation to certify whether or not the Contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use taxes and Contractors must certify to DTF that each affiliate and subcontractor exceeding the \$300,000 sales threshold referenced above is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a Contract awarded to a Contractor Meeting the registration requirements but who has not registered in accordance with the law.

30. Vendor Responsibility

Article XI Section 163(4)(d) of the State Finance Law states that "service Contracts shall be awarded on the basis of best value to a responsive and responsible offerer." Upon identification of the Bidder with the highest evaluation score, the Department will evaluate the Bidder to ensure responsibility. In the event a Bidder is found to be non-responsible, the Bidder may be disqualified from award.

During the Contract term, Contractors must agree to evidence vendor responsibility substantially similar to, or superior to, its status as of the execution of the Contract awarded as a result of this RFP. The Contractor must further also agree to notify the Department promptly of any material change in vendor responsibility or if a change in ownership occurs. A review of vendor responsibility shall be undertaken prior to any Contract renewal/extension and the Department reserves the right to undertake such a review annually upon the anniversary date of any awarded Contract.

31. Designation of Prime Contact and Authorized Contract Negotiators

During the bid evaluation and Contract negotiation, the Department requires direct access to Bidder personnel who have full authority to make commitments on behalf of the Bidder. The Bidder must identify and certify a prime contact authorized to respond on behalf of the Bidder. The prime contact is responsible

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for responding to any evaluation clarification and for disseminating information to appropriate Bidder personnel.

Bidders must also identify individual(s) who will serve as authorized Contract negotiators and any restrictions under which their primary negotiators will operate. Any change in designation must be submitted in writing to the Department and include a revised form.

32. Required Financial Statements and Records

- (a) The Contractor shall provide to the Department, as and when it is provided to shareholders of the Contractor, an audited financial statement of the Contractor.
- (b) The Contractor shall provide annually, as it becomes available, the Contractor's Form 10-K, Annual Report pursuant to Section 13 or 15(d) of the Securities and Exchange Act of 1934 and any subsequent Form 8, Amendment to Application or Report filed pursuant to the Form 10-K.
- (c) The Contractor shall provide those portions of its Call Reports and quarterly operating results for each calendar quarter, as they become available, which may by law be disclosed to the public.
- (d) The Contractor shall provide Form 10-Q, Quarterly Report under Section 13 or 15(d) of the Securities Exchange Act of 1934 for each calendar quarter, as it becomes available.

33. Subcontractors

- (a) In addition to the subcontracts described in Invariable Contract Condition section 22 above, the Department reserves the right to review and approve subcontracts directly related to the proposed services and/or products for the performance of contractual obligations. All agreements between the prime Contractor and subcontractor shall be by written contract. All such contracts shall contain provisions specifying that:
 - (1) The work being performed by the subcontractor must be in accordance with the terms of the Agreement between the Contractor and the Department;
 - (2) Nothing contained in such agreement shall impair the rights of the Department; and,
 - (3) Nothing contained under the contract between the Department and the Contractor shall create any contractual relationship between any subcontractor and the Department.
- (b) All subcontracts must contain provisions similar to those in the Agreement between the Department and the Contractor so that the provisions of any subcontract entered into by the Contractor are similar to, and not inconsistent with, the Agreement awarded as a result of this RFP.

C. NEGOTIABLE TOPICS

The following Topics are subject to negotiation, but specific alternative language must be provided with the bidder's proposal (see Section V – Evaluation Process, of this RFP, and requirement A. 1.2, above).

1. Licensed Software, Custom Software, and Documentation by the Department

(a) Licensed Software and Licensed Documentation

- 1 If the Contractor is the licensee or sub-licensee of third-party licensed software that the Department will use in connection with the Services performed under the Agreement, then the Contractor warrants that:
 - (i) such license or sub-license has not expired; and,

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(ii) such license or sub-license allows the Department to use, execute, copy, display and distribute such software and documentation, for at least as long as the Contractor performs the services under the Agreement.

- 2 The Contractor grants the Department (including an agent, Contractor or outsourcer of the Department), without compensation, a perpetual, non-exclusive license to use, execute, copy, display and distribute for the Department's tax administration purposes, object code to pre-existing software created by the Contractor which is deemed necessary for the performance of the services covered by the Agreement.

(b) Custom Software

Upon final payment therefor, the Department shall own and possess all rights, title and interest in and to custom software created by the Contractor specifically for the Department under the Agreement, including, without limitation, all ownership and intellectual property rights.

2. Liquidated Damages

The service levels associated with the Performance Standards and the amount of Liquidated Damages and Reimbursements, as well as the procedure to impose Liquidated Damages shall be addressed in the Agreement. In the event that the Contractor fails to meet any Performance Standard, and as a result thereof the Department's normal business operations are materially interrupted, then, the Department shall be entitled to immediately obtain substitute services from a third party or perform the services in-house on an interim basis until that failure has been cured. The Contractor shall not be paid for the services affected by the failure to meet the Performance Standard if substitute services must be performed by a third party or the Department and shall be liable for any additional costs to the State for substitute services. If Liquidated Damages are assessed for any failure to meet the Performance Standards, the Contractor shall make payment prior to initiating any challenge through the dispute resolution process.

3. Dispute Resolution

The first step of dispute resolution will be through conference between the Department and the Contractor. The party initiating the process shall notify the other party in writing and set forth the issues for resolution and provide all necessary documentation. Unresolved disputes will be considered by the Commissioner of taxation and finance, or his designee, whose decision is final and binding on the Department. During this period all work required hereunder shall be performed. If the Contractor pursues any legal or equitable remedy outside the Department, the Contractor will continue to perform work in accordance with the direction of the Department until such proceedings may be concluded and will continue to be paid, less an amount attributable to the disputed work. Disputes that go to litigation must be pursued in a court of competent jurisdiction of the State of New York. New York law will govern the dispute and venue must be laid in Albany County, New York.

4. Force Majeure

Neither party (the Department or the Contractor) shall be liable for any failure or omission to carry out, perform, or observe any of the terms or conditions of the Agreement to the extent such is due to war, fires, lightning, floods or emergency conditions, acts of God, or any similar or dissimilar causes beyond the reasonable control of the party affected thereby, unless such act is solely due to the negligence of such party. Prompt written notice shall be given by the affected party to the other party of the existence of any such cause.

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5. Program Enhancements

- (a) The Department may request that the Contractor provide enhancement services (through the Change Control process) which are beyond the scope of services identified in the RFP. However, the Department is under no obligation to ask the Contractor to provide enhancement services and reserves the right to develop and implement such program enhancements internally at the Department or to obtain such enhancement services from a third party. The Contractor agrees to work in good faith with the Department and any other involved party to develop such enhancements.
- (b) The Contractor will not be paid for such enhancement services performed internally at the Department or through a third party.

6. Most Favorable Terms

The Contractor agrees that all fees, terms, warranties and benefits provided and offered by the Contractor are substantially similar to the best equivalent terms being offered by the Contractor to any present governmental agency for services of similar size, scope and complexity. If during the term of the Agreement, the Contractor enters into an arrangement with any other similar government customer, including New York State Department of Taxation and Finance, providing greater benefits or more favorable terms for services of similar size, scope and complexity as the services provided the Department pursuant to the Agreement, then the Agreement shall thereupon be deemed amended to provide the same to the Department.

7. Staff Management

The Department shall have the right to request the removal of any Contractor manager or staff person assigned to the provision of services under the Agreement, for work related cause, provided that such cause is not one which is prohibited by law as a basis for terminating an employee.

8. Assignment of Rights and Duties

The Department may assign its rights or duties under the Agreement to another New York State agency without the prior express written consent of Contractor. Except as provided for in Appendix A – Standard Clauses for New York State Contracts (as found in Appendix A of this RFP), the Contractor shall not assign or subcontract to any other person or entity, any of its obligations under the Agreement, without the prior written consent of the Department.

9. Personnel Changes by Contractor

- (a) The Contractor shall notify the Department of any and all planned personnel changes (including but not limited to terminations, reassignments and organizational restructuring) of managers responsible for the provision of services. Such notification must be received by the Department at least fourteen (14) days prior to the effective date of the change when feasible, or else as soon as possible after the change.
- (b) If the personnel change for a manager(s) is in the control of the Contractor, and the Department believes the result of such change will cause degradation of the services performed by Contractor, then the Department may pursue the dispute resolution process (as described in subsection 3 above) regarding such change.

10. Investigation Support

- (a) In the event of a suspected crime, or a breach of confidentiality or security, the Contractor and its subcontractors shall cooperate fully with the Department to the extent permitted by law to investigate and identify the responsible individuals. Consistent with applicable law, the Contractor and its subcontractors shall make their employees and all relevant records, whether historical or current,

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including personnel records, employee photographs and original documents, available to the Department's investigators upon request.

- (b) Investigators may interview Contractor employees without the presence of other Contractor employees, during normal business hours, either before or after any Contractor or subcontractor internal investigation, in support of an investigation being conducted by the Department, at the Department's discretion, to the extent permitted by law.

11. Implementation

The testing and acceptance criteria and performance measurements included in the Implementation Plan will be reasonably determined by the Department.

A mutually agreed upon Implementation Plan setting forth timetables for implementing the services will be included as part of the Contract.

The Department shall, in its sole and reasonable judgment, determine the number of implementation deliverables that it desires to test, the performance measures for an implementation deliverable, or the final implementation deliverable, the length of user acceptance testing and the means of testing such deliverables. Contractor may make recommendations to the Department regarding the performance measures, length of user acceptance testing, and the means of testing an implementation deliverable and/or the final implementation deliverable, but the Department shall have final responsibility for determining such criteria.

User acceptance testing shall begin as set forth in the implementation plan or when Contractor informs the Department, in writing, that an implementation deliverable, or the final implementation deliverable, complies with the relevant performance measures, and is ready for user acceptance testing by the Department. The Department shall have a defined number of days, as set forth in the implementation plan, from receipt of such notice to test such deliverable for compliance with the performance measures. The Department shall provide Contractor, within 15 business days after the expiration of the test period, with a notice of defects, a notice of acceptance or a notice of certification (applicable to the final implementation deliverable), as applicable. Upon receipt of a notice of defects, Contractor shall diligently proceed to correct all defects and thereafter notify the Department that such deliverable is again ready for user acceptance testing. This process shall continue until the Department delivers to Contractor a notice of acceptance for the implementation deliverable, or a notice of Certification for the final implementation deliverable, as applicable.

12. Intellectual Property Rights Indemnity

- (a) The Contractor shall fully indemnify, defend and save harmless the Department, its officers, employees, and agents, from and against any and all losses, liabilities, judgments, damages, awards and costs (including legal fees and expenses), arising out of or related to any claim of, or action for, infringement of a patent, or of any copyright, trademark, trade secret or other third party intellectual property right. In each case to the extent caused by intellectual property provided by or through the Contractor and used to perform the services, without limitation. The foregoing provisions of this paragraph shall not apply to the Department's misuse or modification of such intellectual property, the Department's failure to use corrections or enhancements made available by the Contractor, or the Department's use of the intellectual property in combination with any product or information not provided by the Contractor, where such misuse, modification or combination gives rise to the infringement. The State shall give the Contractor:

- (1) Prompt written notice of any action, claim or threat of infringement suit, or other suit;
- (2) The opportunity to take over, settle or defend such action, claim, or suit at the Contractor's sole expense; and
- (3) Assistance in the defense of any such action at the expense of the Contractor.

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- (b) In the event that an action at law or in equity is commenced against the Department arising out of the performance of the Agreement by the Contractor, its officers, partners, employees, subcontractors, or agents and if the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the indemnification and defense provisions set forth herein, the Contractor, after receiving notice of such action, shall immediately notify the Department, in writing, specifying to what extent the Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Agreement.

13. Limitation on Liability

Except where the Agreement provides that the Contractor's liability is without limitation, limits on Contractor liability shall be addressed in the contract.

- a. Liquidated Damages/Reimbursements do not represent an exclusive remedy and the Contractor shall be liable for actual direct damages of the Department in an amount not to exceed the greater of three times (3X) the annual amount payable by the Department under the Contract in the year giving rise to the liability, or the data recovery and/or development costs and any excess operating costs to cover moving the services in-house or to a subsequent Contractor. The Liquidated Damages/Reimbursements shall be in addition to the amount of direct damages subject to this liability limit.
- b. Damages resulting from Contractor's (i) willful, malicious, intentional misconduct, (ii) intentional tortious conduct, or (iii) gross negligence, shall be without limitation.

14. Information Security Breach and Notification Law

Contractor expressly agrees to comply with the provisions of Chapter 442 of the Laws of 2005, as amended by Chapter 491 of the Laws of 2005, commonly known as the Information Security Breach and Notification Act (the "ISBNA" or "Act"), and any future amendments thereto. Contractor shall comply with all obligations imposed by the notice provisions of the ISBNA with respect to any computerized "private information" (as defined in the Act) received, handled, processed, uploaded, or maintained by Contractor on behalf of the Department under this Agreement (hereinafter, the "DTF Information"). In the event of a "breach of the security of the system" (as defined by the Act), Contractor shall immediately notify the Department upon discovery or notification of such breach. Such notice to the Department shall be made in one of the following ways: by contacting the Contractor's Department liaison for the Agreement by e-mail to bfs_contacts@tax.state.ny.us, or by telephone, 518-457-0954. Contractor shall immediately commence an investigation, in cooperation with the Department, to determine the scope of the breach and to restore the security of the system. To the extent the Department determines that further notifications are required to be sent out pursuant to the Act, Contractor shall be responsible for providing such notifications to all required recipients including, in accordance with New York State policy, non-New York State residents whose private information is reasonably believed to have been exposed as a result of the breach, and all costs associated with providing such notices shall be borne by the Contractor. It is expressly agreed that Contractor shall be obligated to receive authorization from the Department *prior* to making any notifications to any individuals, the State Office of Cyber Security and Critical Infrastructure Coordination, the State Consumer Protection Board, the Attorney General's Office or any consumer reporting agencies of a breach of the security of the system, or concerning making any determination to delay notifications due to law enforcement investigations. Contractor agrees that the Department shall have final approval over the form, content, mode of transmission, and timing of any notice to be provided concerning a breach of the security of the Department Information. Nothing contained herein shall be interpreted as reducing or altering Contractor's obligations under section 899-aa of the General Business Law.

15. Ownership of Data/Data Security

In the event that any data is lost or destroyed because of any act or omission of Contractor or any noncompliance with the obligations of Contractor under the contract, then Contractor shall, at its own

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expense, use its best efforts to reconstruct such data as soon as feasible. In such event, Contractor shall reimburse the Department for any costs incurred by the Department in correcting, recreating, restoring or reprocessing such data or in providing assistance therewith.

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- C Image Index Layout

Exhibit A

VOLUMES

Paper Refund Draft Issuances

Table A-1-a

Graph A-1-b

Total PIT Refund Paper Drafts Paid

Table A-2-a

Graph A-2-b

PIT Refund Direct Deposits

Table A-3-a

Graph A-3-b

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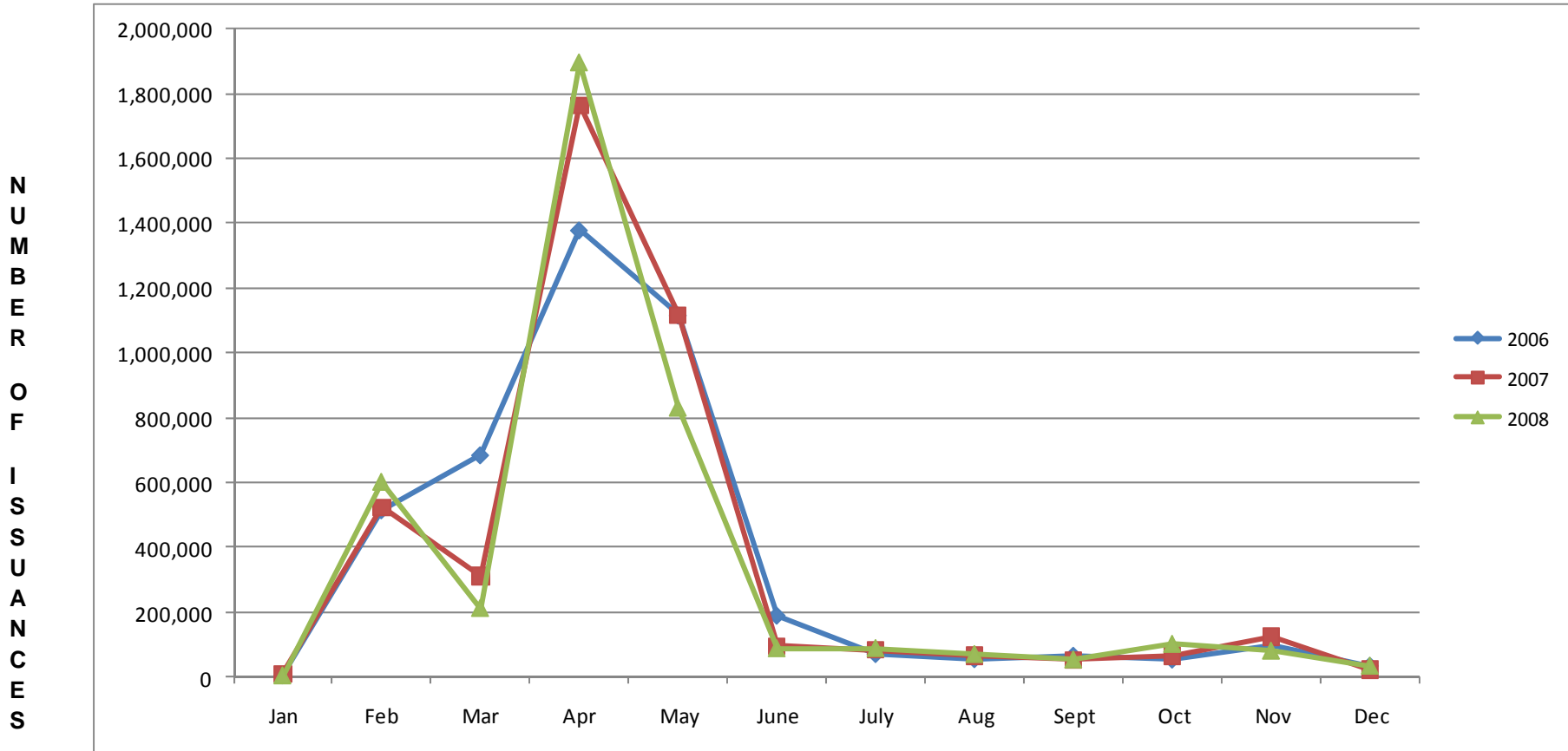
PIT PAPER REFUND ISSUANCES
Table A-1-a

Calendar Year 2006			Calendar Year 2007			Calendar Year 2008		
Month	Number of Issuances	Dollar Value	Month	Number of Issuances	Dollar Value	Month	Number of Issuances	Dollar Value
January	4,450	1,860,126	January	9,740	\$5,724,371	January	3,372	\$1,487,854
February	514,892	348,801,068	February	522,705	\$367,137,407	February	600,332	\$431,200,064
March	684,943	425,596,318	March	311,389	\$327,930,086	March	211,052	\$181,965,198
April	1,379,918	857,362,032	April	1,765,114	\$1,241,422,912	April	1,893,807	\$1,390,772,625
May	1,117,182	859,286,931	May	1,116,904	\$932,905,314	May	828,652	\$786,892,590
June	189,113	192,557,573	June	95,021	\$136,881,144	June	86,962	\$122,368,977
July	70,437	90,608,344	July	82,924	\$102,795,484	July	87,646	\$105,278,907
August	54,718	77,925,648	August	65,751	\$89,397,331	August	69,284	\$105,832,394
September	65,319	105,780,486	September	53,097	\$128,102,815	September	52,489	\$106,766,541
October	53,284	101,965,119	October	64,975	\$116,691,088	October	100,583	\$321,452,589
November	98,177	361,611,720	November	124,516	\$585,200,136	November	79,374	\$507,401,984
December	33,912	209,446,780	December	21,964	\$118,635,056	December	33,127	\$186,743,720
TOTALS	4,266,345	3,632,802,145	TOTALS	4,234,100	\$4,152,823,144	TOTALS	4,046,680	\$4,248,163,443

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PIT PAPER REFUND ISSUANCES

Table A-1-b



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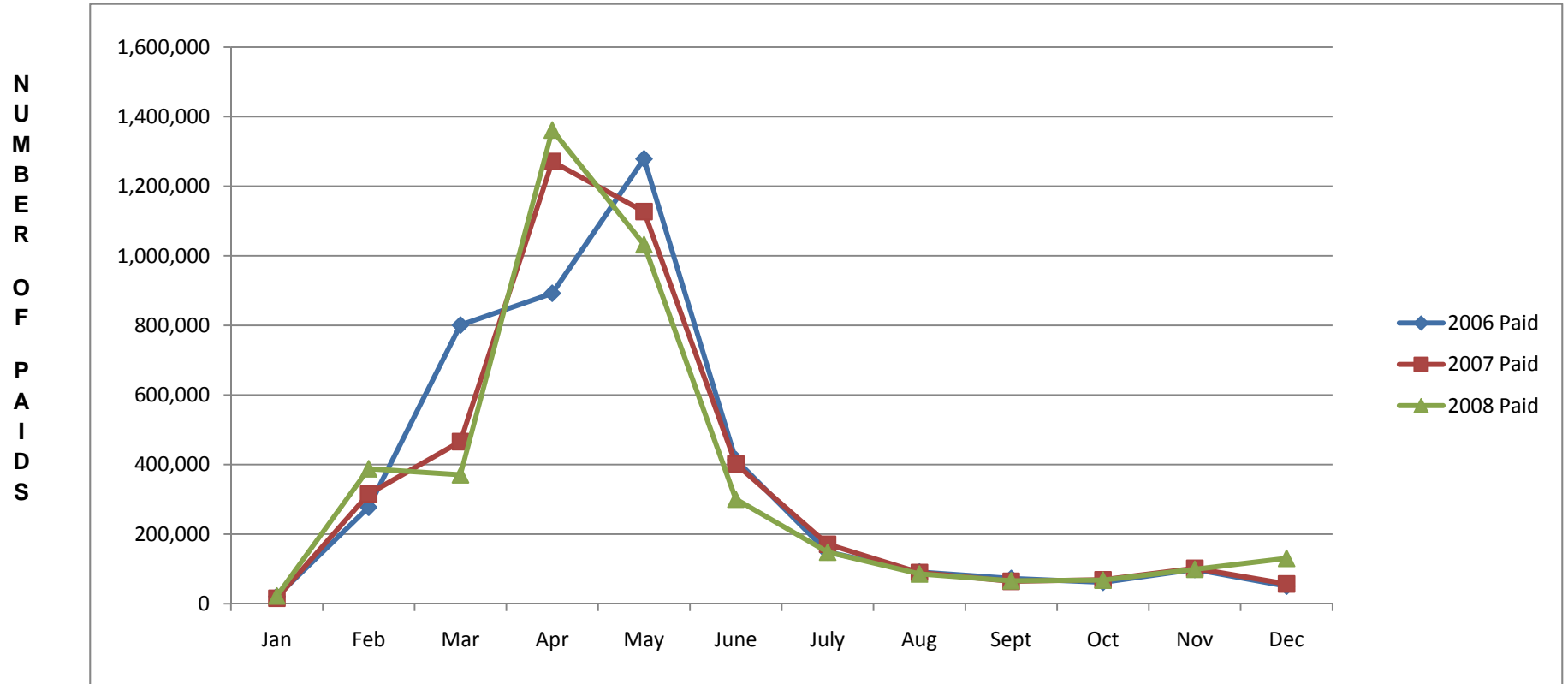
PIT REFUND TOTAL PAPER DRAFTS PAID
Table A-2-a

Calendar Year 2006			Calendar Year 2007			Calendar Year 2008		
Month	Number of Paid	Dollar Value	Month	Number of Paid	Dollar Value	Month	Number of Paid	Dollar Value
January	21,074	\$101,439,577	January	15,813	\$50,848,495	January	22,291	\$66,416,299
February	277,248	\$202,795,559	February	315,531	\$211,648,955	February	388,003	\$295,596,155
March	801,011	\$516,428,419	March	466,076	\$437,596,816	March	370,884	\$285,124,416
April	892,223	\$571,686,630	April	1,271,148	\$928,229,557	April	1,361,854	\$1,039,704,452
May	1,279,012	\$921,721,502	May	1,127,277	\$910,596,589	May	1,032,255	\$904,659,996
June	413,983	\$359,825,510	June	401,854	\$374,301,815	June	300,567	\$282,836,279
July	148,809	\$129,587,049	July	170,926	\$166,273,470	July	148,121	\$166,343,831
August	91,101	\$104,597,561	August	89,775	\$103,969,368	August	85,556	\$102,486,140
September	72,736	\$105,211,036	September	64,429	\$126,010,564	September	66,100	\$114,842,414
October	61,764	\$98,442,889	October	68,987	\$119,678,686	October	67,856	\$194,099,208
November	98,773	\$296,011,581	November	101,854	\$436,017,071	November	99,081	\$465,765,357
December	50,814	\$257,166,960	December	56,834	\$222,132,134	December	130,733	\$44,823,386
TOTALS	4,208,548	\$3,664,914,272	TOTALS	4,150,504	\$4,087,303,519	TOTALS	4,073,301	\$3,962,697,933

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PIT REFUND PAPER DRAFTS PAID

Table A-2-b



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PIT REFUND DIRECT DEPOSITS								
Table A-3-a								
Calendar Year 2006			Calendar Year 2007			Calendar Year 2008		
Month	Number of Issuances	Dollar Value	Month	Number of Issuances	Dollar Value	Month	Number of Items	Dollar Value
January	8,988	\$4,933,655	January	9,969	\$6,719,818	January	5,116	\$2,094,724
February	600,302	\$447,761,844	February	657,330	\$599,020,973	February	935,897	\$931,740,741
March	688,486	\$551,015,115	March	408,844	\$542,070,342	March	310,094	\$362,055,434
April	737,115	\$624,919,922	April	1,230,498	\$1,191,971,995	April	1,513,892	\$1,506,959,676
May	329,129	\$311,748,981	May	432,430	\$433,564,681	May	325,392	\$369,251,827
June	30,875	\$46,962,956	June	18,311	\$36,171,755	June	24,772	\$35,826,792
July	13,940	\$19,757,286	July	21,359	\$34,592,325	July	24,014	\$30,150,527
August	10,835	\$17,311,590	August	13,874	\$29,137,766	August	16,779	\$33,616,354
September	11,819	\$21,495,728	September	10,733	\$22,981,686	September	10,633	\$21,800,780
October	11,566	\$24,539,195	October	12,036	\$28,550,753	October	26,738	\$84,519,452
November	12,075	\$48,840,091	November	18,052	\$74,322,040	November	8,666	\$60,752,310
December	0	\$0	December	0	\$0	December	0	\$0
TOTALS	2,455,130	\$2,119,286,363	TOTALS	2,833,436	\$2,999,104,134	TOTALS	3,201,993	\$3,438,768,617

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PIT REFUND DIRECT DEPOSITS

Table A-3-b

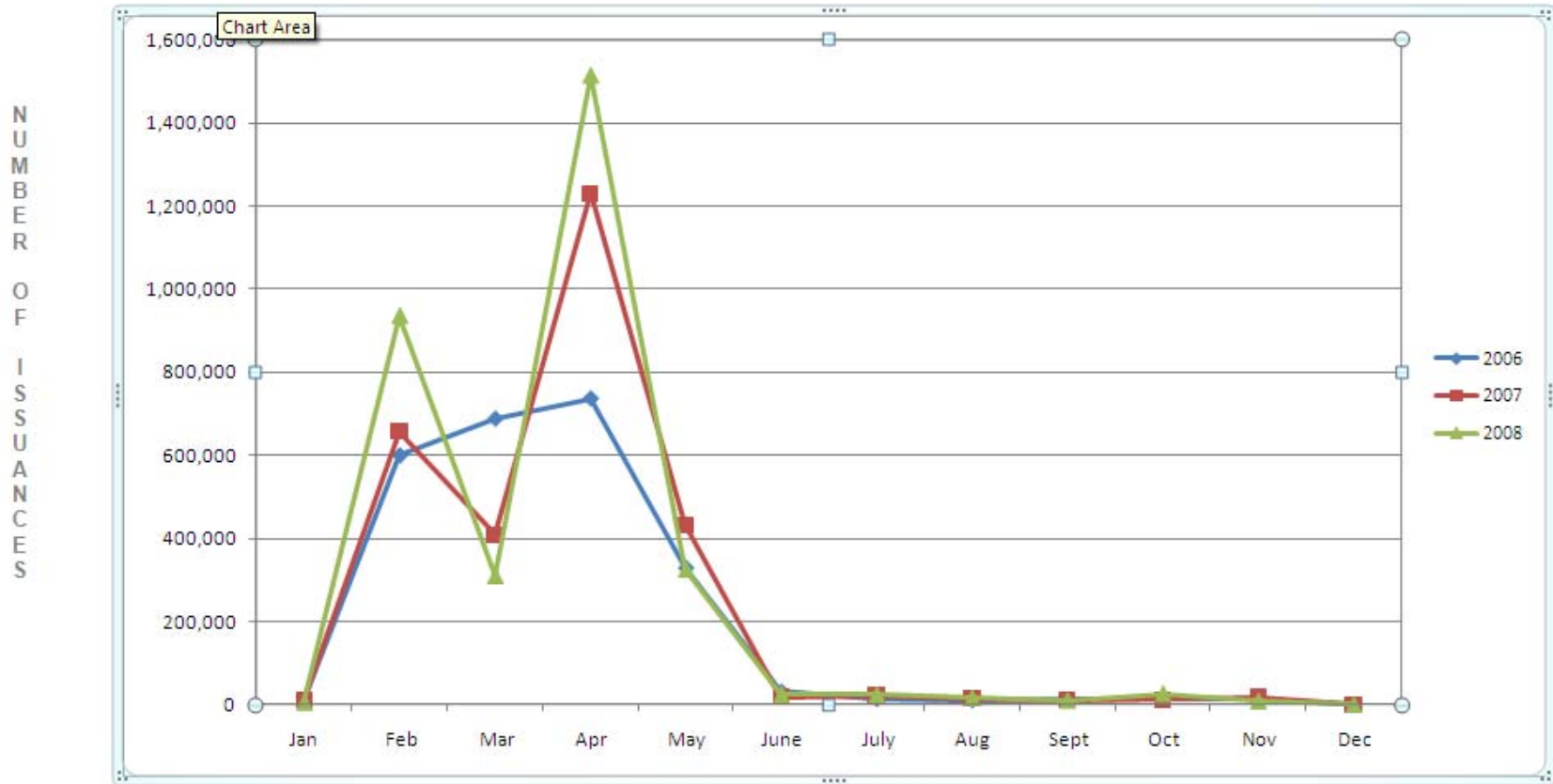


Exhibit B

FILE FORMATS

B-1 PIT Refund Draft Issuance File Layout

B-2 PIT Refund Paid Draft File Layout

B-3 Direct Deposit Initiation File Layout

B-4 Direct Deposit Reject File Layout

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Exhibit B-1

FILE: RM33CM
Created by: RM33
Input to: Contractor

ASCII File
Transmission

Record Size: 93 Character Data Records
Blocking Factor: 250 Records/Block

PIT REFUND DRAFT ISSUANCE FILE

DATA ITEM	CHAR.	PIC.	FIELD COMMENTS
Header Record:			First Record on File
Record ID	1	X(4)	Constant - value is "1HDR"
File ID	5	X(6)	Constant - value is "RM33CM"
Header - Date	11	9(8)	MMDDCCYY
Header-Time	19	9(8)	
Filler	27	X	
Account Number	28	X(9)	
Filler	37	X(54)	
Check Record:			Infinite Number of Check Records per File
Check Number	1	9(8)	
Check Amount	9	9(8)V99	
Files Reference Number	19	X(8)	Sent back to DTF in RM38IN
Processing File Year	27	X(1)	Sent back to DTF in RM38IN
Filler	28	X(3)	Blank for Unisys - Empire will have Data
Filler	31	X(18)	Blank
Check Payee Name	49	X(39)	
Check issue date	88	9(6)	
Summary Record:			
Record ID	1	X(4)	Constant - value is "1EOF"
Total Amount of Checks	5	9(10)V99	
Total Check Count	17	9(9)	
Filler	26	X(68)	Blank

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Exhibit B-2

FILE: RM38IN
Created by: Contractor
Input to: RM38
Record Size: 46 Character Data Records
Blocking Factor: 250 Records/Block

ASCII
File Transmission

PIT REFUND PAID DRAFT FILE

DATA ITEM	CHAR.	PIC.	FIELD COMMENTS
Header Record:			First Record on File
Program Id	1	X(4)	Constant - value is "RM38" or "CUML"
Source ID	5	X(4)	
Header - Date	9	9(8)	MMDDCCYY
Header-Time	17	X(9)	
Filler	26	X(21)	
Data Record:			Infinite Number of Data Records per File
Check Number	1	9(8)	
Date Paid	9	9(8)	Format: MMDDCCYY
Files Reference Number	17	X(8)	Supplied by DTF in RM33CM
Processing File Year	25	X(1)	Supplied by DTF in RM33CM
Filler	26	X(3)	Blank for Unisys - Empire will have Data
Filler	29	X(18)	Blank
HASH Record:			Last Record on File
Record ID	1	X(4)	Constant - value is "HASH"
Filler	5	X(2)	Blank
HASH value	7	9(8)	Number of Data Records in file - do not count HEADER and HASH records
Filler	15	X(32)	Blank

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Direct Deposit Initiation File Layout

Exhibit B-3

DATA ITEM	CHAR.	PIC.	FIELD COMMENTS
File Header Record:			
FILLER	1	X(13)	VALUE '101 021000021'.
ORIGIN	14	X(10)	VALUE '9741270001'.
TransDate	24	9(6)	Format is YYMMDD
Trans Time	30	9(4)	Format is HHMM
ID Modifier	34	X	VALUE 'A'.
FILLER	35	X(6)	VALUE '094101'
Destination	41	X(23)	VALUE to be Contractors name
ORIGIN-Name	64	X(23)	VALUE 'NY STATE'.
Reference	87	X(8)	VALUE SPACES.
Batch Header Record:			
FILLER	1	X(4)	VALUE '5200'.
Company Name	5	X(16)	VALUE 'NY STATE'.
FILLER	21	X(20)	VALUE SPACE.
Company ID	41	X(10)	VALUE '9741270001'.
Entry Code	51	X(3)	VALUE 'PPD'.
Entry Type	54	X(10)	VALUE 'TAX REFUND'.
DESCR-DATE	64	X(6)	VALUE SPACE.
Effective Date	70	9(6)	Format YYMMDD
Settlement	76	X(3)	VALUE SPACE.
Status Code	79	X	VALUE '1'.
DFI ID	80	9(8)	VALUE 0.
Batch Number	88	9(7)	VALUE 1.
Entry DTL Record:			
FILLER	1	X	VALUE '6'.
Transx Code	2	9(2)	VALUE 22 for checking, 32 for savings
ABA No	4	9(9)	Bank routing number
DFI Acct No	13	X(17)	Taxpayer account number
Refund Amount	30	9(8)V99	
FILLER	40	X(15)	VALUE SPACE.
Taxpayer Name	55	X(22)	
FILLER	77	X(2)	VALUE SPACE.

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Record Ind	79	X	VALUE '0'.
Trace Number			
Refno	80	9(8)	Voucher Number
Count	88	9(7)	Consecutive sequence number starting at 1
Batch Control Record:			
FILLER	1	X(4)	VALUE '8200'.
Entry Count	5	9(6)	Record count of all direct deposits on the file
Entry Hash	11	9(10)	Cumulative total of 1st 8 char. of ABA no.
Debit Amount	21	9(10)V99	VALUE 0 - Not used
Credit Amount	33	9(10)V99	Total refund amount on file
Company ID	45	X(10)	VALUE '9741270001'.
FILLER	55	X(25)	VALUE SPACE.
DFI No	80	9(8)	VALUE 0.
Number Code	88	9(7)	VALUE 1.
File Control Record:			
FILLER	1	X	VALUE '9'.
Batch Count	2	9(6)	VALUE 1.
Block Count	8	9(6)	VALUE 1.
Entry Count	14	9(8)	Record count of all direct deposits on the file
Entry Hash	22	9(10)	Cumulative total of 1st 8 char. of ABA no.
Debit Amount	32	9(10)V99	VALUE 0
Credit Amount	44	9(10)V99	Total refund amount on file
FILLER	56	X(39)	VALUE SPACE.

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Direct Deposit Reject File Layout

Exhibit B-4

DATA ITEM	CHA R.	PIC.	FIELD COMMENTS
File Header Record:			
FILLER	1	X(13)	VALUE '101 021000021'.
ORIGIN	14	X(10)	VALUE '9741270001'.
TransDate	24	9(6)	Format is YYMMDD
Trans Time	30	9(4)	Format is HHMM
ID Modifier	34	X	VALUE 'A'.
FILLER	35	X(6)	VALUE '094101'
Destination ORIGIN- Name	41	X(23)	VALUE to be Contractors name
Reference	64	X(23)	VALUE 'NY STATE'.
	87	X(8)	VALUE SPACES.
Batch Header Record:			
FILLER	1	X(4)	VALUE '5200'.
Company Name	5	X(16)	VALUE 'NY STATE'.
FILLER	21	X(20)	VALUE SPACE.
Company ID	41	X(10)	VALUE '9741270001'.
Entry Code	51	X(3)	VALUE 'PPD'.
Entry Type	54	X(10)	VALUE 'TAX REFUND'.
DESCR-DATE	64	X(6)	VALUE SPACE.
Effective Date	70	9(6)	Format YYMMDD
Settlement	76	X(3)	VALUE SPACE.
Status Code	79	X	VALUE '1'.
DFI ID	80	9(8)	VALUE 0.
Batch Number	88	9(7)	VALUE 1.
Entry DTL Record:			
FILLER	1	X	VALUE '6'.
Transx Code	2	9(2)	VALUE 22 for checking, 32 for savings
ABA No	4	9(9)	Bank routing number
DFI Acct No Refund Amount	13	X(17)	Taxpayer account number
	30	9(8)V99	
FILLER	40	X(15)	VALUE SPACE.
Taxpayer Name	55	X(22)	

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FILLER	77	X(2)	VALUE SPACE.
Record Ind	79	X	VALUE '0'.
Trace Number			
Refno	80	9(8)	Voucher Number
Count	88	9(7)	Consecutive sequence number starting at 1
Batch Control Record:			
FILLER	1	X(4)	VALUE '8200'.
Entry Count	5	9(6)	Record count of all direct deposits on the file
Entry Hash	11	9(10)	Cumulative total of 1st 8 char. of ABA no.
Debit Amount	21	9(10)V9 9	VALUE 0 - Not used
Credit Amount	33	9(10)V9 9	Total refund amount on file
Company ID	45	X(10)	VALUE '9741270001'.
FILLER	55	X(25)	VALUE SPACE.
DFI No	80	9(8)	VALUE 0.
Number Code	88	9(7)	VALUE 1.
File Control Record:			
FILLER	1	X	VALUE '9'.
Batch Count	2	9(6)	VALUE 1.
Block Count	8	9(6)	VALUE 1.
Entry Count	14	9(8)	Record count of all direct deposits on the file
Entry Hash	22	9(10)	Cumulative total of 1st 8 char. of ABA no.
Debit Amount	32	9(10)V9 9	VALUE 0.
Credit Amount	44	9(10)V9 9	Total refund amount on file
FILLER	56	X(39)	VALUE SPACE.

Exhibit C

IMAGE INDEXING

C Image Index Layout

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EXHIBIT C
Image Index Layout

Field Name	Picture	Character Position	Comments/Format/Validation
Image File Header Record			
Header Pathname	x(31)	1 - 31	Full pathname – images/dnnn/nn/nnnnnnnnn.nnn” Where: dnnn = the letter “d” plus a three digit sequential number – the directory. nn = two digit sequential number – the subdirectory nnnnnnnn = the image file identifier (tracking number) .nnn = the image file suffix
Tracking Number	x(12)	32 - 43	Alpha-numeric tracking number, left justified
Filler	x(26)	44 - 69	Spaces
Image File bytes	x(9)	70 - 78	Size (in bytes) of the image file
Filler	x(2)	79 - 80	Spaces

Field Name	Picture	Character Position	Comments/Format/Validation
Image File Record			
Record Identifier	x(3)	1 - 3	Value “090”
Tracking Number	x(12)	4 - 15	Alpha-numeric tracking number
Tax Type	9(2)	16 - 17	Alpha initials for tax type (e.g., PT for IT-204 forms and PI for all other forms)
Processing Year	x(4)	18 - 21	Current processing year (e.g., 2006)
Return Type	x(3)	22 - 24	Primary Return Type Code (provided by DTF during implementation)
Form Type	x(8)	25 - 32	Form Code (to be provided by the Department)
New Form Side	x(1)	33	Rotation control character (f, g, or h). f= rotate image 90 degrees before it is displayed; g=rotate image 270 degrees before it is displayed; and h=no rotation is needed before it is displayed.
Filler	x(3)	34 - 36	Spaces
File Location	x(32)	37 - 68	Full pathname – images/dnnn/nn/nnnnnnnnnnn.nnn” Where: dnnn = the letter “d” plus a three digit sequential number – the directory. nn = two digit sequential number – the subdirectory nnnnnnnnnnnn = the image file identifier (tracking number) .nnn = the image file suffix
Filler	x(55)	69 - 123	Spaces
External ID	x(11)	124 - 134	Taxpayer ID, or VOID – left justified
Filler	x(24)	135 - 158	Spaces

Appendix A

TABLE OF CONTENTS

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Appendix A
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, licensor, licensee, lessor, lessee or any other party):

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

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

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

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

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

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

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

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

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

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

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

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

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

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

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

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

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

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

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

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

NYS Department of Economic Development

Division for Small Business

30 South Pearl St -- 7th Floor

Albany, New York 12245

Telephone: 518-292-5220

Fax: 518-292-5884

<http://www.empire.state.ny.us>

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

NYS Department of Economic Development

Division of Minority and Women's Business Development

30 South Pearl St -- 2nd Floor

Albany, New York 12245

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

Telephone: 518-292-5250

Fax: 518-292-5803

<http://www.empire.state.ny.us>

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

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

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

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

APPENDIX B

Bid administration Documents

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- B-3 Non Collusive Bidding Certification
- B-4 MacBride Fair Employment Principles Form
- B-5 Contractor Certification (ST-220)
- B-6 Procurement Lobbying Compliance Form

Appendix B-1

Notification of Intent to Bid

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

Ms. Catherine Golden

NYS Department of Taxation and Finance
Procurement Bureau
W. A. Harriman Campus - Bldg. 9 Room 234
Albany, New York 12227

Phone/fax and email:
(518) 457-0954/(518) 435-8413
bfs_contracts@tax.state.ny.us

REQUEST FOR PROPOSAL TO PROVIDE PIT REFUND
CONTROLLED DISBURSEMENT AND DIRECT DEPOSIT SERVICES

Please indicate your interest in submitting a proposal for this acquisition by completing and returning this form (certified mail, return receipt requested).

Bidder's Name _____ Federal ID #: _____

Bidder's Address: _____

Contact Name: _____ e-mail Address: _____

Telephone Number: _____ Fax: _____

=====

Authorized Signature: _____

Printed Name: _____

Title: _____

Please check the appropriate box (es):

- A. We **are** interested in submitting a proposal.
B. We **are** a certified minority or women owned business.

=====

- C. We **are not** interested in submitting a proposal for this service.

Reason for not participating: _____

Appendix B-2

Bidder's Attestation Form

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

**The bidder's signature below indicates the bidder has read and agrees to the
general contract requirements and conditions, as outlined and defined in this RFP**

Firm Name:

Authorized Representative:

Representative Signature:

Date:

Appendix B-3

Non Collusive Bidding Certification

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

In accordance with Section 139-d of the State Finance Law:

(a) By submission of this bid, bidder and each person signing on behalf of any bidder certifies, and in the case of joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

(b) A bid shall not be considered for award nor shall any award be made where (a), (1), (2), and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (1), (2), and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid was made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder has published price lists, rates, or tariffs covering items or services being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same prices being bid, does not constitute a disclosure within the meaning stated above.

The bidder certifies adherence to all conditions in the Bidding Practices subsection of this RFP.

Bidder's Name: _____

Bidder's Address: _____

Authorized Signature: _____

Name: _____

Title: _____

Appendix B-4

MacBride Fair Employment Principles Form

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

Ms. Catherine Golden
Assistant Director, Procurement Bureau
New York State Department of Taxation and Finance
W. A. Harriman State Office Building Campus
Building 9, Room 234
Albany, New York 12227

Bidder Name: _____

**“NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:
MacBRIDE FAIR EMPLOYMENT PRINCIPLES”**

In accordance with Chapter 807 of the Laws of 1992, the bidder, by submission of this bid, certifies that it, and any individual or legal entity in which the bidder holds a 10% or greater ownership interest, and any individual or legal entity that holds a 10% or greater ownership interest in the bidder, either:

(Answer Yes to one of the following as applicable),

1. Have no business operations in Northern Ireland: _____Yes

or

2. Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity, and shall permit independent monitoring of their compliance with such Principles:

_____Yes

Appendix B-5

Contractor Certification

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services



New York State Department of Taxation and Finance

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

ST-220-CA
(6/06)

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

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

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

(name) (title)

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

(Mark an X in only one box)

- The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.
- The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)
and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public) (title)

Instructions

General information

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

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

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

When to complete this form

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

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

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

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services



New York State Department of Taxation and Finance

Contractor Certification

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

ST-220-TD

(6/06)

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

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

General information

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

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

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

Mail completed form to:

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

Privacy notification

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

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

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

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

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

Need help?

Internet access: www.nystax.gov (for information, forms, and publications)	
Fax-on-demand forms:	1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.	
To order forms and publications:	1 800 462-8100
Sales Tax Information Center:	1 800 698-2909
From areas outside the U.S. and outside Canada:	(518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only):	1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.	

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

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

Make only one entry in each section below.

Section 1 — Contractor registration status

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

Section 2 — Affiliate registration status

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

Section 3 — Subcontractor registration status

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

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

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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. _____

Appendix B-6

Procurement Lobbying Forms

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

New York State Department of Taxation and Finance
Offerer Affirmation of Understanding of, and Compliance with, Procurement Lobbying
Guidelines

New York State Finance Law 139-j(6)(b) requires the DTF seek written affirmation from all Offerers as to the Offerer's understanding of and agreement to comply with the DTF procedures relating to permissible contacts during a Government Procurement pursuant to subdivision three of this section.

Procurement Description, Contract or Bid Number:

Offerer Name: _____

Offerer Address: _____

Telephone Number: _____

e-Mail Address: _____

Offerer affirms it has read, understands and agrees to comply with the Guidelines of the New York State Department of Taxation and Finance relative to permissible contacts as required by the State Finance Law 139-j(3) and 139-j(6)(b).

By (*signature*): _____

Name (*please print*): _____

Title (*please print*): _____

Date: _____

New York State Department of Taxation and Finance
Offerer Disclosure of Prior Non-Responsibility Determinations

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms "Offerer" and "Governmental Entity" are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

Offerer Disclosure of Prior Non-Responsibility Determinations

Procurement Description, Contract or Bid Number:

Offerer Name: _____

Offerer Address: _____

Telephone Number: _____

e-Mail Address: _____

Name and Title of Person Submitting this Form: _____

1. Has any New York State agency or authority made a finding of non-responsibility regarding the Offerer in the last four years? (Please circle):
- No Yes

If yes, please answer the following questions:

2. Was the basis for the finding of the Offerer's non-responsibility due to a violation of State Finance Law 139-j? (Please circle):

No Yes

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

No Yes

4. If you responded yes to Questions 1, 2 or 3 , please provide details regarding the finding of non-responsibility below:

Government Entity: _____

Date of Finding of Non-responsibility: _____

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

Offerer Disclosure of Prior Non-Responsibility Determinations continued

Facts Underlying Finding of Non-Responsibility (Add additional pages as necessary)

5. Has any New York State agency or authority terminated a procurement contract with the Offerer due to the intentional provision of false or incomplete information? (Please circle):

No Yes

If you responded yes to the above question, please provide details regarding the termination below:

Government Entity: _____

Date of Finding of Non-responsibility: _____

Facts Underlying Finding of Non-Responsibility: (Add additional pages as necessary)

Offerer certifies that all information provided to the DTF with respect to State Finance Law 139-k is complete, true and accurate.

By: *(Signature)*: _____

Name: *(Please print)* _____

Date: _____

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

New York State Department of Taxation and Finance
Offerer's Certification of Compliance with State Finance Law 139-k(5)

New York State Finance Law 139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law 139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Government Entity with respect to State Finance Law 139-k is complete, true and accurate.

Offerer Certification

I certify that all information provided to the DTF with respect to State Finance Law 139-k is complete, true and accurate.

By: *(signature)* _____

Date: _____

Procurement Description, Contract or Bid Number: _____

Name *(Please print)*: _____

Title: _____

Offerer Name: _____

Offerer Address: _____

Telephone Number: _____

e-Mail Address: _____

Appendix B-7

Public Officers Law

PUBLIC OFFICERS LAW

§73.4 Business or professional activities by state officers and employees and party officers.

(a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(b) No political party chairman of a county wholly included in a city with a population of more than one million, or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any city agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised directly or indirectly, by a city agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(c) For purposes of this subdivision, the term "services" shall not include employment as an employee.

I have read and agree to comply with the requirements of Public Officer's Law Section 73 (4) a.i. I further acknowledge that failure to comply shall justify contract termination by the Department and may result in the rejection of bids or proposals for future work with the Department.

By _____
(Signature) (Title)

Firm's Legal Name _____
(Date)

APPENDIX C

Bid Protest Policy

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It is the policy of the Department of Taxation and Finance contracting program (hereafter "DTF") to provide all bidders with an opportunity to administratively resolve complaints or inquiries related to bid solicitations or pending contract awards. DTF encourages bidders to seek resolution of complaints concerning the contract award process through consultation with the program. All such matters will be accorded impartial and timely consideration.

Informal Complaints/Protests

It is strongly recommended that staff encourage, be receptive to and resolve issues, inquiries, questions and complaints on an informal basis, whenever possible. Information provided informally by any interested party should be fully reviewed by Program Team Leaders, the contract administrator of the Contract Management Unit and/or the Assistant Director, Procurement of the Office of Budget and Management Analysis. In addition, matters that are perceived to contain, or are potentially confidential or trade secret information should be shared with the Chief Financial Officer of the Office of Budget and Management Analysis for possible direction. Staff should document the subject matter and results of informal inquiries. As appropriate, DTF responses to the inquirer should indicate the existence of a formal protest policy available to them should the informal process fail to resolve the matter.

In addition to informal inquiries, bidders may also file formal written protests according to the procedures specified below. Final agency determinations or recommendations for award generally may only be reconsidered in the context of a formal written protest.

Formal Written Protests

Any potential bidder who believes that there are errors or omissions in the procurement process, or that the bidder has been aggrieved in the drafting or issuance of a bid solicitation or pending contract award, may present to a formal complaint to DTF and request administrative relief concerning such action ("formal protest").

Submission of Bid or Award Protests

Deadline for Submission

- a) Concerning Errors, Omissions or Prejudice in the Bid Specifications or Documents - Formal protests which concern the drafting of bid specifications must be received by DTF at least twenty (20) business days before the date set in the solicitation for receipt of bids. If the date set in the solicitation for receipt of bids is less than twenty (20) business days from the date of issue, formal protests concerning the specifications must be received by DTF at least seventy-two (72) hours before the time designated for receipt of bids.
- b) Concerning Proposed Contract Award - Formal protests concerning a pending contract award must be received within five (5) business days after the protesting party ("protester") knows or should have known of the facts which form the basis of the protest, and, where State Finance Law § 112 approval is required, prior to final approval of the recommendation by the State Comptroller.

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Transmittal

A formal protest must be submitted in writing to DTF, by ground mail, or, where permitted in the solicitation, facsimile or e-mail transmission. The following statement must be clearly and prominently displayed on the envelope or package or header of electronic or facsimile transmittal: "Bid Protest of DTF Solicitation (Reference Number)."

Contents

A formal protest must include:

- (a) a statement of all legal and/or factual grounds for disagreement with a specification or a procurement determination;
- (b) a description of all remedies or relief requested; and
- (c) copies of all applicable supporting documentation.

Protests should be delivered to the Contact named in the RFP.

Review and Final Determination

Copies of all protests will be provided to the Assistant Director, Procurement of the Office of Budget and Management Analysis and appropriate program staff.

Protests shall be resolved through written correspondence, however, either the protester or DTF may request a meeting to discuss a formal protest, at which time the participants may present their concerns. Where further formal resolution is required, the Assistant Director, Procurement of the Office of Budget and Management Analysis may designate an alternate ("designee") to determine and undertake the initial resolution or settlement of any protest.

The Program staff in conjunction with Contract Management Unit staff will conduct a review of the records involved in the protest, consult with the Assistant Director, Procurement of the Office of Budget and Management Analysis, and provide a memorandum to the Chief Financial Officer of the Office of Budget and Management Analysis summarizing the results of the review and recommendation. The Chief Financial Officer of the Office of Budget and Management Analysis will evaluate the recommendation, the material presented by the protester, and, if necessary, consult with appropriate senior level program staff, Counsel, and the Executive Deputy Commissioner, and prepare a written response to the protest.

A copy of the decision, stating the reason(s) upon which it is based shall be sent to the protester or its agent within thirty (30) business days of receipt of the protest, except that upon notice to the protester such period may be extended. The protest determination should be recorded and included in the Procurement Record, or otherwise forwarded to OSC upon issue. The decision of the Chief Financial Officer of the Office of Budget and Management Analysis will be final.

Reservation of Rights and Responsibilities of DTF

DTF reserves the right to waive or extend the time requirements for protest submissions, decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the State and DTF.

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If DTF determines that there are compelling circumstances, including the need to proceed immediately with contract award in the best interest of the State, then these protest procedures may be suspended and such determination shall be documented in the procurement record.

DTF will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action including solicitation of bids or withdraw the recommendation of contract award prior to issuance of a formal protest decision.

If a formal bid protest is received by DTF, a final determination on the protest must be made prior to OSC approval of the award under State Finance Law § 112. However, during the pendency of the protest, bid evaluation by DTF and subsequent OSC review of the recommended award may continue to progress at the discretion of the Chief Financial Officer of the Office of Budget and Management Analysis.

If a formal protest is received prior to a determination by DTF on a recommended award, notice of receipt of the protest must be given in the procurement record forwarded to OSC. If a final protest determination has been reached prior to transmittal to OSC, a copy of the final determination should be included in the Procurement Record and forwarded with the recommendation for award.

If a final protest determination is made after the transmittal of a bid package to OSC but prior to OSC approval under State Finance Law § 112, a copy of the final DTF determination shall be forwarded to OSC when issued, along with a letter either: a) confirming the original DTF recommendation for award and supporting the request for final State Finance Law § 112 approval, b) modifying the proposed award recommendation in part and supporting a request for final State Finance Law § 112 approval as modified; or c) withdrawing the original award recommendation.

All records related to formal bidder protests and appeals shall be retained for at least one (1) year following resolution of the protest. All other records concerning the procurement shall be retained according to the statutory requirements for records retention.

APPENDIX D

Funds Transfer Agreement

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APPENDIX D

Funds Transfer Agreement

As used herein the words “you”, “your” and “yours” refer to the customer named below (“Customer”). The words “we”, “us” and “our” refer to the bank indicated above. We operate a funds transfer service (“Service”) which enables depositors to transfer available funds from deposit accounts maintained with us to other accounts maintained with us or elsewhere. You have requested access to the Service. By signing this agreement (“Agreement”) you agree to all of the terms and conditions contained herein.

1. TRANSFER INSTRUCTIONS

A. Initiating Transfers

Any of your authorized representatives (“Authorized Representative”) may instruct us to transfer funds from any of your designated accounts with us (an “Account”) to any other account with us or to an account at another bank through the Federal Reserve’s wire transfer system know as Fedwire or such other funds transfer system as we may reasonably select (“Funds Transfer System”) in accordance with the terms and conditions of this Agreement. Each Authorized Representative and Account is listed in Exhibit A attached hereto and hereby made a part hereof. Such an instruction (a “payment order” or “order”) may be received from you by telephone, in writing and, if you utilize our Customer Terminal Access Service, by means of a terminal connection with us.

B. Executing Orders

i. General

We will execute a payment order received from you only if it is received at the location designated by us from time to time and during our normal business hours on a day we are open. For purposes of this Agreement, we shall be deemed to have executed a payment order by and at the time of transmitting it to a Funds Transfer System or, in the case of an order to be credited to an account with us, upon crediting such account.

Except as provided in section 1B(iii) below, each payment order must include the following information in addition to any information required by us for Authorized Representative identification and security purposes: (a) the account number of the Account from which funds are to be withdrawn, (b) the amount and type of currency to be transferred, (c) the name of the beneficiary bank, and (d) the name and the account number of the beneficiary of the order and (e) the name and routing information of any intermediary bank through which funds are to be processed or transferred. You acknowledge and agree that, if your payment order describes the payee inconsistently by name and account number, payment of the order transmitted by us to the payee’s bank might be made by that bank on the basis of the account number even if it identifies a person different from the named beneficiary, and that your obligation to pay the amount of the order to us is not excused in such circumstances. We are not responsible for detecting any errors that may be contained in any payment order you send.

We and you will comply with the security procedures referred to in and hereby made a part hereof. In addition to the security procedures, we may also, but shall not be obligated to, call back an Authorized Representative (other than the Authorized Representative from whom we purportedly received a payment order) in order to authenticate any order received. If we exercise that right, we shall have no obligation to execute the payment order received until such time as we are able to secure an authorization from such other Authorized Representatives. You understand and agree and you shall advise each authorized Representative that we may, at our option, record telephone conversations between an Authorized Representative and us.

Except as otherwise provided in the Account Agreement we are not obligated to execute, and shall reject, any payment order (a) which exceeds the amount of available funds on deposit with us in the Account designated in the order to be debited, (b) which is not in accordance with any condition required by you and agreed to in

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writing by us, or (c) which is not in accordance with any other requirement of this Agreement. Notwithstanding the foregoing sentence, we may, in our discretion, execute an order which fails to meet the requirements set forth in clause (a) of the preceding sentence.

ii. Time of Execution

Subject to the terms and conditions contained in this Agreement, unless the payment order specifies a later date, we will use reasonable efforts to execute a payment order received from you on the date the order is received, providing it is received before our wire transfer cut-off hour on a day we are open, and that day is also a day on which both the Federal Reserve Bank to which the order is to be transmitted by us and the payee bank are open for business. Subject to such terms and conditions, we will execute a payment order on a later day than the day of receipt of the order if (a) the payment order specifies such later day, (b) we, the applicable Federal Reserve Bank, and the payee bank are open for business on the specified later day, and (c) the later day selected is no more than five 5 business days after the payment order is received by us. If any of the foregoing requirements set forth in clauses (a) or (b) is not met, we will transmit the order on the next day on which all of those requirements can be met. We may handle payment orders received from you in any order convenient to us regardless of the order in which they are received.

For purposes of determining if receipt is prior to our wire transfer cut-off hour, a payment order shall be deemed received by us when the transmission to us and compliance with any related security procedure is completed.

iii. Repetitive Orders

We will provide you with a repeat code for each repetitive payment order (i.e., a payment order made on a recurring basis to the same payee and to the same account at the same payee bank) to be made to a payee, account and payee's bank identified in the attached hereto and hereby made a part hereof. A repetitive payment order must include the following information in addition to any information required by us for Authorized Representative identification and security purposes: (a) a repeat code and (b) the amount to be transferred. If a payment order does not contain a repeat code, we will treat the order as a non-repetitive transfer, and require the information set forth in section 1B(i) above before executing the order. If you use a wrong repeat code, we are not obligated to execute the payment order, but if we execute such a payment order, you shall be obligated to pay the amount of the order as provided herein.

iv. Cancellation and Amendment

You may request that we attempt to cancel or amend a payment order previously received from you. Any such request shall comply with the security procedures applicable to the related payment order.

We shall use reasonable efforts to act on a request for cancellation or amendment received prior to execution of the related payment order by us. We will transmit to the payee's bank a request for cancellation or amendment of a payment order received after execution of the related payment order by us, but shall have no liability for failure to effect such cancellation or amendment. You agree to indemnify us against any loss, liability or expense (including attorney's fees and expenses) incurred by us as a result of such cancellation or amendment or attempted cancellation or amendment pursuant to your request.

Notwithstanding any provision to the contrary contained herein, cancellation of an order upon your request will relieve us of any further obligation to act with respect to such order.

v. Notice of Rejection or Return

We will notify you promptly of any rejection of a payment order by us and of any return of a payment order transmitted by us under this Agreement. Upon such notification, we shall have no further obligation to act with

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respect to such order provided, in the case of rejection of an order, we have acted in accordance with the terms of this Agreement.

C. Payment; Authorization to Charge Account; No Extension of Credit

You agree to pay us the amount of each payment order on the day we execute that order. We may, without prior notice or demand, debit the Account designated in the order as the Account from which funds are to be withdrawn, or the appropriate Account in the case of repetitive orders. We will credit the Account previously debited in the amount of any final settlement received by us by reason of return, cancellation or amendment of a payment order executed by us. Such credit shall be made as of the day of such receipt by us.

You will at all times use best efforts to maintain a balance of available funds in the Account sufficient to cover your payment obligations under this agreement.

Except as otherwise provided in Account Agreement, nothing in this Agreement nor any course of dealing between you and us constitutes a commitment or obligation on our part to lend money to you or to extend any credit or make a loan to you or to otherwise advance funds to you to pay for any payment order.

D. Confirmation; Account Reconciliation

At your request, we will send you a written confirmation advice of each payment order executed by us to the address indicated on Exhibit A. We will assign a reference number to each executed payment order. This number will appear on the confirmation advice or periodic account statement. If you utilize our Customer Terminal Access Service option, you may elect to print out of your terminal a record of the payment order. Payment orders executed by us will be reflected on your periodic account statement issued by us. You agree to notify us immediately of any discrepancy between your records and any confirmation advice or periodic account statement.

E. Authorization

Access to the Service, including any option feature(s) you determine to utilize, will be permitted after you sign this Agreement and return it to us at the address set forth in Exhibit A, together with the applicable Exhibits.

F. Security Codes

If a Personal Identification Number ("PIN") is a part of the security procedures referred to in Exhibit C, we will assign a unique PIN for each Authorized Representative designated in Exhibit A and advise you of each such PIN assigned.

You shall be responsible for the security of each such PIN and any other code used under this Agreement and for their unauthorized use. You agree to keep each such PIN and code confidential and to disclose them only to such individuals who are required to know them. Each PIN shall be disclosed by you only to the Authorized Representative to whom it is issued. You shall instruct each Authorized Representative that such PINs and codes shall not be disclosed to anyone else, and shall establish and maintain procedures reasonably adapted to assure the confidentiality of such PINs and codes. If at any time you believe that any such PIN or code has become known by some unauthorized person (whether or not employed by you), you shall notify us immediately by telephone and confirm that notification in writing. Upon receipt of such telephone notice we shall issue a new PIN and code in substitution and we shall no longer act on instructions containing the PIN(s) and/or code(s) identified in such notice. We reserve the right to change any PIN or code at any time upon notice to you. You shall notify us immediately by telephone and confirm to us in writing, if you terminate the authority of any Authorized Representative. Upon receipt of your telephone notification, we shall no longer act on instructions received from the person identified in such notice.

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2. COMPENSATION

To the extent provided by law, if you suffer any loss of interest resulting from our error in executing a payment order, or from our failure to execute a payment order, in accordance with the terms of this Agreement, we will reimburse you for such loss to the extent provided herein, provided that you have complied with the terms and conditions of this Agreement, and provided further, that such error or failure was due to causes within our control. Such compensation shall be limited to the interest lost for a period not to exceed ninety (90) days following the receipt by you of the confirmation advice, terminal print-out, or periodic account statement (whichever occurs first), and shall be calculated by using a rate equal to the effective Federal funds rate at the Federal Reserve Bank of New York for the period involved. At our option, compensation will be paid either by credit to an Account or by check. No such compensation shall be paid if the payment order was received from an agent or employee of New York State purporting to be to be an Authorized Representative and we executed the order in good faith and in compliance with our security procedures.

3. CHANGES

From time to time you may change (a) accounts from which payment orders may be made, (b) Authorized Representatives and (c) any other information contained in any exhibit to this Agreement by notice to us signed by an authorized signer on the applicable Account(s). Such changes shall be made promptly after we receive notice of a change from you or such later date as may be stated in your notice to us.

From time to time we may change any of the terms and conditions contained in this Agreement, including without limitation, our business hours or any cut-off hour, provided herein. Non-material changes will become effective on the second business day after the day upon which you receive notice or such later date as may be stated in our notice to you. It is understood that no material change, including but not limited to any change in prospective liability of either party for any action governed by this Agreement or any change that purports to modify in any respect the application of Article 4A of the Uniform Commercial Code to this Agreement or to actions taken pursuant to this Agreement, shall take effect without your prior written consent.

4. LIABILITY; LIMITATIONS ON LIABILITY; INDEMNITY

We shall be responsible only for performing the Service as expressly provided in this Agreement, and shall be liable only for our negligence or lack of good faith in performing the Service. We shall not be responsible for your acts or omissions (including the amount, accuracy, timeliness of transmittal, or due authorization with respect to any payment order received from you), those of any other person, including without limitation, any Federal Reserve Bank or transmission or communications facility, any payee or payee bank (including without limitation the rejection of a payment order by such payee or payee bank), or any other bank, and no such person shall be deemed our agent. Except as otherwise expressly provided herein, we shall not be required to act upon any instruction received from you to any other person, or to provide any notice or advice to you or any other person with respect to any matter.

Without limiting the generality of the foregoing provisions, we shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond our control. In addition, we shall be excused from failing to execute or delay in executing a payment order if such execution would result in our having exceeded any limitation upon our intraday net funds position (sender net debit cap) established pursuant to Federal Reserve guidelines or otherwise in violation of any provision of the Federal Reserve large-dollar risk control program.

We shall be entitled to rely on any notice or other writing reasonably believed by us in good faith to be genuine and correct and to have been signed by the person purporting to have signed such notice or other writing.

If a payment order received by us was sent by an Authorized Representative or an agent or employee of New York State purporting to be an Authorized Representative, it will be deemed effective as your order and you shall be obligated to pay the amount of the order as provided herein whether or not the order was authorized by you if we executed the order in good faith and in compliance with the security procedures you selected. If a payment order received by us was authorized by you, you shall be obligated to pay the amount of the order as provided herein, whether or not we complied with the security

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procedures you selected whether or not that order was erroneous in any respect or that error would have been detected had we complied with such procedures.

5. ADDITIONAL TERMS AND CONDITIONS

A. Fees

Fees for the Service shall be in accordance with the schedules agreed to between the bank and the State.

B. No Waiver

Except for changes made in accordance with this Agreement, no deviation, whether intentional or unintentional, shall constitute a change hereto, and no such deviation shall constitute a waiver of any right or duty of either party hereto.

C. Account Agreements

The terms and conditions of your applicable Account agreement(s) are hereby incorporated by reference into this Agreement. If any inconsistency exists between such agreement(s) and this Agreement, this Agreement shall control to the extent of such inconsistency.

D. Incoming Transfers

If you so request, we will use reasonable efforts to notify you of incoming funds transfers within a reasonable time following receipt thereof. However, we shall have no liability for failure to give such notice.

E. Notices

Unless otherwise stated in this Agreement, all notices and advices sent by you in connection with this Agreement shall be in writing, signed by duly authorized signer(s) on the applicable Account(s) and sent by register or certified U.S. mail, hand delivery, or an express carrier. Notices or advices to you will be sent, by first class mail or any other means, to your address as indicated unless another address is substituted by notice delivered or sent as provided herein. Notices or advices to us will be sent to our address as indicated on.

F. Termination

You may terminate your use of the Service and this Agreement at any time. Such termination shall be effective on the second day on which we are open following the day of our receipt of such notice. We reserve the right to terminate the Service, or any part thereof, of this Agreement immediately upon notice to you. Any termination shall not affect any of our obligation or your obligations arising prior to such termination.

G. Entire Agreement

This Agreement is the complete and exclusive statement of the agreement between us and you with respect to the subject matter hereof and supersedes any prior agreement(s) between us and you with respect to such subject matter. There are no promises, agreements, conditions, undertakings, warranties or representations, either oral or written, express or implied, between us and you other than set forth in this Agreement. In the event any statute, regulation or government policy, to which we are subject, and which governs or affects the transactions contemplated by this Agreement including without limitation the Federal Reserve's large-dollar risk control policy, would invalidate or modify any portion of this Agreement, then the Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and we shall incur no liability to you as a result of our having to comply with such statute or regulation.

H. Severability of Provisions

If any part of this Agreement shall be held to be void or unenforceable, such part shall be treated as severable, leaving valid the remainder of this Agreement, notwithstanding the part found to be void or unenforceable.

I. Non-Assignment

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This Agreement constitutes a contract for personal services between you and us. Neither party may assign this Agreement or any of the rights or duties hereunder to any person without prior written consent from both parties except the Bank may assign any of its rights or delegate any of its duties in whole or in part to any Affiliate.

J. Binding Agreement

This Agreement is and shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.

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K. Governing Law

This Agreement shall be governed by the laws of the State of New York.

L. Miscellaneous

Notwithstanding anything in this Agreement, including any document referred to herein or attached hereto, to the contrary:

- (i) all transactions shall be governed by Article 4-A of the New York Uniform Commercial Code (hereinafter "Article 4-A") and to the extent that there is any inconsistency between Article 4-A and this Agreement, the provisions of Article 4-A shall govern;
- (ii) you accept no liability for negligence or willful misconduct on our part or for the unexplained loss of funds by us, and you will neither indemnify us for losses arising out of our negligence or willful misconduct nor agree not to seek compensation for damages resulting from our negligence or willful misconduct;
- (iii) Except as set forth in Section 1 B (iv) above, you will not indemnify us for any damages above and beyond the extent required of you by law;
- (iv) We may not debit any account maintained by you for any purpose without specific written or electronic authorization from you;
- (v) we and our officers, employees and agents shall act reasonably and in good faith with respect to all transactions; and
- (vi) We acknowledge that you are not in a position to determine whether the security procedures offered by us are "commercially reasonable" within the meaning of Section 4 A 202 of the New York Uniform Commercial Code and any determination regarding the reasonableness of such procedures shall be made pursuant to that section and the effectiveness of any unauthorized payment orders shall be governed by the provisions of Article 4 A..
- (vii) The State agrees that it shall be solely responsible for ensuring that all security procedures are followed and that the Bank shall have no liability for any losses sustained by the State as a result of a breach of security procedures if the Bank has adhered to its security procedures. If such procedures are violated, the State agrees to promptly notify the Bank of any such breach. The State acknowledges that it has reviewed the applicable security procedures and agrees with the security procedures and any security procedures it may select in the future.

FOR US

By: _____

Name: _____

Title: _____

FOR YOU

By: _____

Name: _____

Title: _____

Bank: _____

APPENDIX E

Change Procedure

NYS Department of Taxation and Finance
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Attachment 1

New York State Department of Taxation and Finance Change Analysis

Attachment 2

New York State Department of Taxation and Finance Change Request

NYS Department of Taxation and Finance
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A. Change Category

			Maintenance	Enhancement	
Information Services (1) (components include: computer and end-user hardware, Proprietary Software, Licensed Software, data communications, etc.)	Transaction, Report, etc., (2)	N/A	Changes necessary to achieve existing Performance Standards.	Change impacts captured data elements for program transactions, returns/payment document and file formats or new transaction or report.	
	Standards and Requirements (2)	Existing	Changes necessary to achieve existing Performance Standard.	N/A	
		Modified	Changes necessary to implement modified Performance Standard where modification is initiated by Contractor and approved by the Department.	Changes necessary to implement modified Performance Standard initiated by the Department.	
		New	N/A	Changes necessary to implement new Performance Standard.	
	Program Software (2)		All changes to Program software necessary to achieve existing Performance Standards or modifications initiated by Contractor and approved by the Department. Changes necessitated by modifications to Licensed Software.	All changes to Program software to support the capture of new data fields or new business functionality.	
	Reporting (2)	Existing Reports	Development and implementation of modifications to existing reports when initiated by Contractor with Department approval.	Significant changes to existing reports initiated by the Department.	
		New Reports	N/A	Development and implementation of a new report or inquiry created from either existing or newly captured data elements.	
	Business Functionality (2)	New	N/A	New business functionality.	
	Program Support Plans (includes Program Support Plans and execution of those Plans)	Standards	Existing	Changes necessary to achieve an existing Performance Standard.	N/A
			Modified	Changes necessary to implement a modified Performance Standard where the modification is initiated by the Department, or by Contractor and approved by the Department.	N/A
New			N/A	Changes necessary to implement a new Performance Standard to existing Contractor Program Support Plans used in support of the Program.	
Information Services		Program Support Plan changes driven by Information Services maintenance activities.	N/A		
Business Functionality		Existing	Changes necessary to achieve an existing Performance Standard to existing Contractor Program Support Plans used in support of the Program.	N/A	
		New	N/A	Changes necessary to implement a new Performance Standard.	

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B. Change Control Procedure

	Maintenance	Enhancement
Change Request (CR) (Exhibit D, contains CR form)	<p>Department Change Control Representative (CCR) submits CR (form included in Exhibit D), including the following:</p> <ul style="list-style-type: none"> ▪ Program ▪ Change environment (Information Services, Program Support) ▪ Preliminary determination of change category (Maintenance or Enhancement) and supporting information (i.e. number of data fields) ▪ Priority of change, within outstanding change requests ▪ Description of current process/ system(s) affected ▪ System(s)/plan(s) affected ▪ Description of required change ▪ Condition necessitating change (e.g., legislative mandate, production problem, audit/monitoring results, etc.) ▪ Suggested implementation strategy/ approach ▪ required implementation date ▪ date by which change analysis required (2 weeks from the date CR is sent to contractor, if contractor requires more than 2 weeks to prepare CA, the contractor and the Department will negotiate a mutually agreed upon date) ▪ list of attachments ▪ primary Department contact, if different from CCR <p>Source documents are appended to CR as needed and provided to the Revenue Services Bureau.</p> <p><i>NOTE:</i> Department prepares Change Request for all changes. Where Contractor desired to initiate a change, Contractor contacts appropriate Department CCR for information discussion and, upon agreement, Department CCR prepares and submits CR. If the Department does not agree with a proposed change it will provide in writing the basis for the decision, Contractor shall not proceed with the change. Any preliminary analysis completed as part of these information discussions shall be included in the Change Request documentation.</p>	(same as Maintenance.)
Analysis of Implementation Alternatives	N/A	Upon receipt of CR, Contractor initiates discussion with Department CCR to identify alternatives and determine suggested implementation approach.

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B. Change Control Procedure (cont'd)

	Maintenance	Enhancement
Change Analysis (CA) (Exhibit E, contains CA form)	<p>Contractor completes CA, (form included in Exhibit E) including:</p> <ul style="list-style-type: none"> ▪ Indication of agreement with Department's preliminary determination of change category. If not in agreement, initiate negotiation with Department CCR. ▪ Recommend implementation approach ▪ Development and implementation time frames ▪ Impact on other systems/plans ▪ Department dependencies ▪ Impact on fees, if any (all proposed fees subject to Fee Change Procedure) <p>Change analysis sent to Department CCR on or before the CA required date.</p>	<p>Contractor completes CA, (form included in Exhibit E) including:</p> <ul style="list-style-type: none"> ▪ Program ▪ Change environment (Information Services, Program Support) ▪ Indication of agreement with Department's preliminary determination of change category <ul style="list-style-type: none"> ○ If not in agreement, initiate negotiation with Department CCR ▪ Recommended implementation approach ▪ Development and implementation time frames ▪ Impacts on other systems/plans ▪ Resource requirements (staff, by staff category, equipment, facilities) (required for enhancement but not required for maintenance) ▪ Additional required enhancement information ▪ Department dependencies ▪ Proposed fees (development and operations, if any) (all proposed fees subject to Fee Change Procedure) <p>Change Analysis sent to: Revenue Services Bureau on or before the CA required date.</p>
Technical Terms Negotiation	<p>Department and Contractor CCR's (3) negotiate and document technical details;</p> <p>CCR's sign off</p>	<p>Department and Contractor CCR's (3) negotiate and document technical details;</p> <ul style="list-style-type: none"> ▪ All CCR's sign off; ▪ Copy of approved CA to Revenue Services Bureau; and ▪ Department and Contractor sign off on CA
Approvals	<p>The Department has final approval for all changes to the Program, regardless of the party initiating the change. The Department has final approval for all changes to the Program defined herein.</p>	<p>(Same as Maintenance.)</p>
Fee Negotiation	<p>N/A</p>	<p>Revenue Services Bureau negotiates final development and/or operations fees per Fee Change Procedure (see Section C below).</p>
Development/ Implementation	<p>Upon sign off of Change Analysis, development and implementation commences in accordance with an accepted system development methodology.</p> <p>PRIOR TO IMPLEMENTATION, Contractor updates all related documentation in accordance with the Performance Standards.</p> <p>Department may require that development/ implementation of legislatively mandated enhancements proceed prior to agreement of fee change or agreement to any other Agreement element subject to renegotiation.</p>	<p>(Same as Maintenance.)</p>
Update Administrative Documentation	<p>CCR's maintain files of Change Plans (CR, CA and all related documents).</p> <p>CR, CA and any attachments and other related documents become official documentation.</p>	<p>Revenue Services Bureau and CCR's maintain files of Change Plans (CR, CA and all related documents).</p> <p>CR, CA and any attachments and other related documents become official documentation.</p>

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C. Fee Change Procedure

	Maintenance	Enhancement
Contractor Submits Fee Request Package to Director, Revenue Services Bureau	Change request package must include: <ul style="list-style-type: none"> ▪ Identification of factor(s) necessitating fee change, including, as applicable, Change Control number, and/or statement of change in cost of providing Services or extraordinary circumstances. ▪ For development fees (for Enhancement, as applicable): <ul style="list-style-type: none"> ○ Development/Implementation functions/tasks, including systems development, testing, etc. ○ For each function/task, estimated resource requirements (staff, equipment, facilities, etc). (Resources will correspond with resource requirements in Change Analysis.) ○ Cost of required resources by function/task and total cost. ▪ For changes to existing operations fees, as applicable: <ul style="list-style-type: none"> ○ Current transaction fee for relevant Transaction or Report ○ Proposed change to current fee, by function(s) and total ○ How proposed fee is justified ▪ The analysis must indicate the current and new level of resources and the current and new workload volumes supported by those resources. ▪ CPI-U Index for relevant period. ▪ Requested effective date, guaranteed duration of proposed fee, and guarantee of CPI-U cap percentage increases. 	(Same as Maintenance.)
	For new operations fees the change request package must also include: <ul style="list-style-type: none"> ▪ Proposed transaction fee; both total and by function ▪ All documentation and cost analysis as stated above ▪ Requested effective date, guaranteed duration of proposed fee schedule, and guarantee of CPI-U cap <p>For proposed changes to operations fees to be accepted for review by the Department, the analysis must indicate a material change in the cost of providing Services. The Department reserves the right to require from Contractor information needed to validate any changed costs subsequent to fee approval.</p>	(Same as Maintenance.)

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C. Fee Change Procedure (cont'd)

	Maintenance	Enhancement
Department Reviews Request	<p>Department (Revenue Services Bureau) reviews fee request, distributes internally as needed, makes recommendation to approval/disapprove.</p> <p>Department may request additional information from Contractor and negotiate modifications, as needed.</p> <p>Revenue Services Bureau obtains approval from Director of the Procurement Bureau.</p>	(Same as Maintenance.)
Control Agency Approval	N/A	Department obtains approval from OSC, and DOB is necessary.
Notify Contractor	Department notifies Contractor in writing of final fee approval.	(Same as Maintenance.)
Department Initiates Agreement Amendment (see Section D below)	N/A	Agreement Amendment required when fee exceeds 10% of annual operating costs.
Implement New Fee Structure	OSC implements new fee structure. (4)	Department obtains approval from OSC.

D. Agreement Amendment

	Maintenance	Enhancement
Amend Agreement	N/A	<p>Agreement amendment required to amend Program requirements <u>and</u> fee changes associated with Program Enhancements. (4)</p> <p>Revenue Services Bureau shall review Enhancement process and documentation and initiate Agreement amendments, if required.</p>
Control Agency Approval	N/A	OSC Contract Unit and Attorney General approval contract amendment, if required.

NOTES:

- (1) Maintenance and Enhancements for Information Services will be defined in the subsequent contract.
- (2) Changes to Standards, Program Software, Program Management and business functionality may impact any component of Information Services.
- (3) Communications Matrix will be defined in the subsequent contract and will identify the CCR for the Department. Appropriate CCR(s) involved in process, including sign-off, as dictated by nature of enhancement. For an Enhancement, all CCR's must sign off on final technical details.
- (4) If fee change implemented after approved effective date, compensation shall be retroactive to approved effective date.

NYS Department of Taxation and Finance
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New York State Department of Taxation and Finance

Change Analyses

<p>CHANGE ENVIRONMENT:</p> <p><input type="checkbox"/> Information Systems; <input type="checkbox"/> Operations; or, <input type="checkbox"/> Other</p>	<p>CHANGE CATEGORY:</p> <p><input type="checkbox"/> Maintenance <input type="checkbox"/> Enhancement; or <input type="checkbox"/> Fee</p>	<p>CONTRACT:</p> <p>Number: Tax Type: Fiscal Year: Lifetime Sequence Number:</p>	<p>PRIORITY:</p> <p><input type="checkbox"/> High <input type="checkbox"/> Medium <input type="checkbox"/> Low</p>
---	---	---	--

- I. RECOMMENDED IMPLEMENTATION APPROACH:
- II. DEVELOPMENT/IMPLEMENTATION TIMEFRAMES:
- III. IMPACTS ON OTHER SYSTEMS/PLANS:
- IV. RESOURCE REQUIREMENTS (NOT REQUIRED for Maintenance Change)
- V. ADDITIONAL INFORMATION REQUIRED FOR ENHANCEMENT , attach following required information:

For Information Services Change: <input type="checkbox"/> Design Specifications <input type="checkbox"/> Schedule of Deliverables	For Operations Change: <input type="checkbox"/> Workflow
--	---

VI. DEPARTMENT DEPENDENCIES:

VII. APPLICABLE CONTRACT REFERENCE:

VIII. PROPOSED FEES (Attach additional documentation, if necessary):

One-Time Development:

Task Breakdown

- Project Management/Analysis/Design 0 hours
- Development 0 hours
- Testing 0 hours
- Total Hours 0 hours

Operational/On Going Cost:

IX. APPROVALS/CONTACTS:			
A. <u>Selected Bidder</u> CHANGE CONTROL REPRESENTATIVE (CCR) NAME:			
SIGNATURE:		DATE:	
OFFICE:	PHONE:	FAX:	
B. DTF APPROVAL OF ANALYSIS: -			
CHANGE CONTROL REPRESENTATIVE (CCR) NAME:			
SIGNATURE:		DATE:	
OFFICE:	PHONE:	FAX:	
PROGRAM AREA APPROVAL - NAME:			
SIGNATURE:		DATE:	

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Change Request

New York State Department of Taxation and Finance
Change Request

Change Environment: <input type="radio"/> Information Services; <input type="radio"/> Program Support; or, <input type="radio"/> Other	Change Category: <input type="radio"/> Maintenance; <input type="checkbox"/> Minor <input type="checkbox"/> Major <input type="radio"/> Enhancement; or, <input type="radio"/> Fee	Contract #: <input style="width: 50px;" type="text"/> Tax Type: <input style="width: 50px;" type="text"/> Fiscal Year: <input style="width: 50px;" type="text"/> Change Control #: <input style="width: 50px;" type="text"/>	Priority: <input type="radio"/> High <input type="radio"/> Medium <input type="radio"/> Low
For Information Services Change	<input type="radio"/> Existing Return <input type="radio"/> New Return or Form <input type="radio"/> New Report or Report Change <input type="radio"/> New Method of Filing Option <input type="radio"/> New Method of Data Delivery <input type="radio"/> Other		
I. Description of Current Process: <div style="border: 1px solid black; height: 30px; width: 100%;"></div>			
System(s)/Plan(s) Affected: <input style="width: 50%; border: 1px solid black;" type="text"/>			
II. Description of Change Requested: <div style="border: 1px solid black; height: 60px; width: 100%;"></div>			
III. Why Needed: <div style="border: 1px solid black; height: 30px; width: 100%;"></div>			
IV. Suggested Implementation Approach: <div style="border: 1px solid black; height: 30px; width: 100%;"></div>			
V. Required Implementation Date: <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/>		VI. Date Change Analysis Due: <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/>	
VII. Attachments <input style="width: 50%; border: 1px solid black;" type="text"/>			
VIII. Approvals/Contacts			
A. Change Control Manager: _____			
Signature: _____		Signature Date: <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/>	
Office: <input style="width: 80%; border: 1px solid black;" type="text"/>			
Revenue Services Bureau		Phone: () <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/> Fax: () <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/>	
Contact Person: <input style="width: 80%; border: 1px solid black;" type="text"/>			
		Phone: () <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/> Fax: () <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/>	
B. Program Area Manager: _____			
Signature: _____		Signature Date: <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/>	
Office: <input style="width: 80%; border: 1px solid black;" type="text"/>			
		Phone: () <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/> Fax: () <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/>	
Program Area Contact Person: <input style="width: 80%; border: 1px solid black;" type="text"/>			
		Phone: () <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/> Fax: () <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/>	

APPENDIX F

Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue code (DTF-202)

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

DTF-202 (3/00)

**New York State Department of Taxation and Finance
Agreement to Adhere to the Secrecy Provisions of the Tax Law
and the Internal Revenue Code**

The New York State Tax Law and the Department of Taxation and Finance impose secrecy restrictions on:

- all officers, employees, and agents of the Department of Taxation and Finance;
- any person engaged or retained by this department on an independent contract basis;
- any depository, its officers and employees, to which a return may be delivered;
- any person who is permitted to inspect any report or return;
- contractors and workmen hired by the department to work on its equipment, buildings, or premises, or to process returns or other papers; and
- visitors to the department's buildings or premises.

Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for anyone to divulge or make known in any manner the contents or any particulars set forth or disclosed in any report or return required under the Tax Law. Computer files and their contents are covered by the same standards and secrecy provisions of the Tax Law and Internal Revenue Code that apply to physical documents.

Any unlawful disclosure of information is punishable by a fine not exceeding \$10,000, imprisonment not exceeding one year, or both. State officers and employees making unlawful disclosures are subject to dismissal from public office for a period of five years.

Unauthorized disclosure of automated tax systems information developed by the department is strictly prohibited. Examples of confidential systems information include: functional, technical, and detailed systems design; systems architecture; automated analysis techniques; systems analysis and development methodology; audit selection methodologies; and proprietary vendor products such as software packages.

The Internal Revenue Code contains secrecy provisions which apply to federal tax reports and returns. Pursuant to sections 6103 and 7213 of the Internal Revenue Code, penalties similar to those in the New York State law are imposed on any person making an unauthorized disclosure of federal tax information. In addition, section 7213A of the Internal Revenue Code was enacted to prohibit the unauthorized inspection of returns or return information (also known as "browsing"). The unauthorized inspection of returns or return information by state employees is punishable by a fine not exceeding \$1000 for each access, or by imprisonment of not more than one (1) year, or both, together with the cost of prosecution.

I certify that I have read the above document and that I have been advised of the statutory and Department of Taxation and Finance secrecy requirements; I certify that I will adhere thereto, even after my relationship with the department is terminated.

Organization: _____

Signature _____ Date _____

Name: _____ Social security number: _____

Address Street: _____

City: _____ State _____ ZIP code _____

APPENDIX G

Acknowledgement of Confidentiality of Internal Revenue Service Tax Return Information

CONTRACTOR NAME: _____

CONTRACT: **To Provide a Personal Income Tax (PIT) Refund Controlled
Disbursement/Account Reconciliation Services**

**ACKNOWLEDGMENT OF CONFIDENTIALITY OF INTERNAL
REVENUE SERVICE TAX RETURN INFORMATION**

I _____, hereby acknowledge that I have read the quoted provisions of sections 6103, 7213, 7213A and 7431 of the Internal Revenue Code (IRC) which are attached to this acknowledgment and I understand that IRC section 6103 imposes strict confidentiality requirements on current and former officers and employees of the Contractor who have or have had access to Federal tax returns or return information. I understand that sections 7213, 7213A and 7431 of the IRC impose civil and criminal penalties for unauthorized inspection or disclosure of any tax return or return information. I further understand that:

1. All Federal tax returns and return information disclosed to the Contractor are confidential pursuant to IRC section 6103(a), and may not be disclosed by any current or former officer or employee of The Contractor except as authorized by the IRC;
2. All tax returns or return information disclosed to the Contractor may be used only for permissible purposes as outlined in IRC section 6103(n);
3. Willful unauthorized inspection or disclosure of tax returns or return information by a current or former officer or employee of the Contractor is prohibited under the terms of IRC sections 7213(a)(1) and 7213(A)(a)(1). Willful unauthorized disclosure of a tax return or return information is punishable as a felony by a fine in any amount not exceeding \$5,000, imprisonment of not more than five years, or both, together with the costs of prosecution. Willful unauthorized inspection of a tax return or return information is punishable by a fine of up to \$1,000 and/or imprisonment of up to one year, together with the costs of prosecution;
4. Under the terms of IRC section 7431(a)(2), a taxpayer may bring a civil lawsuit to recover damages from an officer or employee of the Contractor who has disclosed, knowingly or by reason of negligence, such taxpayer's tax return or return information in violation of any provision of IRC section 6103; and
5. The civil and criminal penalty provisions apply even if the unauthorized disclosures were made after employment has ceased with the Contractor

Additionally, I acknowledge and understand that violation of these requirements of confidentiality could result in disciplinary action, including termination of employment.

SIGNED: _____

DATE: _____

INTERNAL REVENUE CODE
SELECTED CONFIDENTIALITY PROVISIONS
PERTAINING TO CONTRACTORS

Internal Revenue Code (IRC) Section 6103 imposes strict confidentiality requirements on contractors and their employees who have access to Federal tax returns or return information.

Section 6103, CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION, provides *in part*:

- (a) GENERAL RULE - Returns and return information shall be confidential, and except as authorized by this title –
- (1) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (n), shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.
 - (2) CERTAIN OTHER PERSONS – Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and the providing of other services, for purposes of tax administration.

IRC Sections 7213, 7213A, and 7431 impose criminal and civil penalties for unauthorized disclosure or inspection of any tax return or return information.

Section 7213, UNAUTHORIZED DISCLOSURE OF INFORMATION, provides *in part*:

- (a) RETURNS AND RETURN INFORMATION -

(1) FEDERAL EMPLOYEES AND OTHER PERSONS. - It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution...

(2) STATE AND OTHER EMPLOYEES - It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103 (b)) acquired by him or another person under subsection (d), (i)(3)(B)(i) or (7)(A)(ii), (l)(6), (7), (8), (9), (10), (12), (15), or (16) or (m)(2), (4), (5), (6), or (7) of section 6103. Any

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violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

Section 7213(A), UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION, provides *in part*:

(a) PROHIBITIONS -

(1) FEDERAL EMPLOYEES AND OTHER PERSONS - It shall be unlawful for

(B) any person described in section 6103(n) or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

(b) PENALTY -

(1) IN GENERAL - Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding \$1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

Section 7431, CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION, provides *in part*:

(a) IN GENERAL -

(2) INSPECTION OR DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF THE UNITED STATES - If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) EXCEPTIONS - No liability shall arise under this section with respect to any inspection or disclosure -

(1) which results from a good faith, but erroneous, interpretation of section 6103, or

(2) which is requested by the taxpayer.

(c) DAMAGES - In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of -

(1) the greater of -

(A) \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

(B) the sum of -

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- (i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus
 - (ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus
- (2) the costs of the action.
- (d) **PERIOD FOR BRINGING ACTION** - Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.
- (e) **NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE** - If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of -
 - (1) paragraph (1) or (2) of section 7213(a),
 - (2) section 7213(A), or
 - (3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.
- (f) **DEFINITIONS** - For purposes of this section, the terms "inspect", "inspection", "return", and "return information" have the respective meanings given such terms by section 6103(b).

APPENDIX H

Undertaking For Bank Deposits and Assignment of Securities

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

Ms. Catherine Golden
NYS Department of Taxation and Finance
Procurement Bureau
W.A. Harriman Campus – Bldg. 9, Room 234
Albany, New York 12227

Phone/fax and email:
(518) 457-0954 / (518) 435-8413
bfs_contracts@tax.state.ny.us

Request for Proposal For Personal Income Tax (PIT) Refund
Controlled Disbursement/Account Reconciliation Services

WHEREAS, THE _____ of _____, New York (hereinafter “Bank”) has been duly designated in accordance with the provisions of law to receive and keep on deposit: such moneys received by the Commissioner of Taxation and Finance that are required by Section 106 of the State Finance Law to be deposited by the Commissioner to the credit of the State Comptroller; any other moneys received by the Commissioner of Taxation and Finance, except as provided in Section 105 of State Finance Law, and deposited in the Bank by the Commissioner to the credit of the State Comptroller; all moneys received by any other State officer or other person receiving moneys belonging to the State of New York or for which such officer or other person may be responsible in an official capacity and which moneys are deposited in the Bank to the credit of such officer or other person; all moneys received by any State institution and deposited in its name in the Bank; all moneys received from the State by any charitable or benevolent institution supported in whole or in part by the State which moneys are deposited in the Bank to the credit of such charitable or benevolent institution; and all moneys including but not limited to moneys of any municipality, commission, authority or public corporation deposited by the State Comptroller in the Bank in the name of the State Comptroller or as an agent of the State Comptroller, and

WHEREAS, the Bank is required by statute to execute and file in the Office of the State Comptroller its undertaking for the safekeeping and prompt payment of any moneys on deposit, with interest, if any.

WHEREAS, the Bank hereby executes and delivers such an undertaking to the people of the State of New York in the penal sum of an amount equal to the total of all moneys hereinabove described which are now or shall hereafter be on deposit in or held by the Bank to the credit of such public entities, which undertaking is secured, pursuant to the provisions of the Uniform Commercial Code, and any other applicable State law or federal law, by the deposit of the outstanding securities with the State Comptroller or any party designated by the State Comptroller.

NOW THEREFORE, the Bank in consideration of such deposits made or to be made therein, and for value received, does hereby undertake, covenant and agree to and with the People of the State of New York, to safely keep and well and faithfully account for all moneys, which are now or shall hereafter be on deposit in or held by the Bank, and will pay the same promptly at any and all times on legal demand therefore with interest on agreed balances at an agreed rate per annum, to be credited as applicable.

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PIT Refund Controlled Disbursement and Direct Deposit Services

To secure its performance of this Undertaking, the Bank, pursuant to the Uniform Commercial Code and other applicable State law or federal law, does hereby pledge, transfer and assign securities to the State Comptroller for the purpose of granting a security interest in such securities to save harmless and indemnify the People of the State of New York and the depositor from and against all loss, both principal and interest, costs, damages, or expense of any kind or nature, that may be incurred for or on account of said funds and moneys heretofore or hereafter deposited in or held by the bank and for which security is required by or pursuant to the provisions of law or for which the Bank shall in any way become liable to the State or the depositor;

The securities pledged, transferred and assigned pursuant to this undertaking and assignment shall be transferred to the State Comptroller or a party designated by him for this purpose, and the State Comptroller or such party shall confirm the receipt of such securities in writing to the Bank.

In the event that the Bank shall either (1) fail to pay to the State or other depositor any funds which the State or depositor has on deposit with the Bank in accordance with the terms of such deposit; or (2) suspend active operations or be determined insolvent by Federal or State officials having authority over the Bank, the Bank shall be in default and the State Comptroller may, in addition to any other remedies provided by law, sell any or all of the securities pledged pursuant to this undertaking and assignment.

And the Bank does hereby irrevocably constitute and appoint the Comptroller of the State of New York its lawful attorney to transfer said securities on the records of the transfer officer, at the transfer office, with full power of substitution in the premises.

On the withdrawal of all moneys so secured and closing and settlement of the account thereof, the State Comptroller will return said securities to the Bank.

WITNESS the seal of the said bank and the signature of the _____ thereof, this _____ day of _____, 20_____.

For the State Comptroller

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-01
PIT Refund Controlled Disbursement and Direct Deposit Services

STATE OF NEW YORK)

) ss.:

County of _____)

On the _____ day of _____, in the year _____
before me personally came _____ to
me known, who, being by me duly sworn, did depose and say that (s)he resides in

(include the street and street number, if any, thereof); that (s)he is the _____ of
the _____, the corporation described in and which
executed the above instrument; that (s)he knows the seal of said corporation; that the seal affixed to said
instrument in such corporate seal; that is was affixed by order of the board of directors of said
corporation, and that (s)he signed the above instrument by like order.

Notary Public