

New York State Board of Law Examiners

CORPORATE PLAZA-BUILDING 3
254 WASHINGTON AVENUE EXTENSION
ALBANY, N.Y. 12203-5195
(518) 453-5990
FAX 518-452-5729
<http://www.nybarexam.org>

Diane F. Bosse, Chair
Bryan R. Williams
Robert S. McMillen
E. Leo Milonas
Michael Colodner

John J. McAlary
Executive Director

Request for Bids

Bid Number: SBLE 2016-01
Bid Title: Meeting Space – New York City– February 2016 NYS Bar Examination
Opening Date: September 11, 2015, 4:00 PM
Contact: Mark D. Kaplowitz

BID RESPONSE FORM

OFFICE OF GENERAL SERVICES “GENERAL SPECIFICATIONS” ARE FULLY INCORPORATED HEREIN.

Notice to Bidders:

Pursuant to the Rules and Regulations of the Chief Administrator for the Courts, sealed responses for furnishing the item(s) in this Solicitation will be received at the above address. When submitting a response, you must:

1. Complete this form in its entirety using blue ink or typewriter and return with all other documents.
2. Explain any deviations or qualifications if your response deviates from the specifications. If necessary, attach a separate sheet setting forth such explanations.
3. Sign the solicitation forms. The Bid response must be completed in the name of the respondent (corporate or other) and must be fully and properly executed by an authorized person.
4. INDICATE THE BID NUMBER, THE OPENING DATE AND TIME, AND THE PHRASE “SEALED BID – DO NOT OPEN” ON THE ENVELOPE CONTAINING THE SEALED RESPONSE.
5. Mail the bid response to the above address in sufficient time for it to be received before the bid opening. **LATE RESPONSES WILL BE REJECTED.**

BIDDER HEREBY CERTIFIES THAT THE QUOTED PRICES ARE APPLICABLE TO ALL CUSTOMERS FOR COMPARABLE QUANTITIES, QUALITY, STYLES OR SERVICES.

Bidder's Firm Name

Employer's Federal Identification Number

Street

City

State

Zip

Bidder's Signature

Official Title

Printed or Typed Copy of Signature

Phone Number

Email Address

DOCUMENTS ENCLOSURE CHECKLIST

The following documents must be executed (signed) and included in the bidder's proposal. Failure to do so may disqualify the bidder's response:

- _____ Bid Response Form
- _____ Bid Sheet
- _____ Floor Plans
- _____ List of three references (name, address, phone number, email)
- _____ Documents Enclosure Checklist (*this page*)

To be complete, a bidder's bid response must include ALL of the above documents. Please include the original and ONE copy of each form submitted. All documents requiring an original signature must bear the BLUE INK signature of the same authorized individual. Signatory notarization must be that of the person whose signature is affixed to all required documents.

Bidder's Name: _____

Authorized Officer's Name and Title:

Signature: _____ Date: _____

General Specifications

I. The RFB Documents

A. Bid Response Form

Bidders must complete the Bid Response Form.

B. Bid Sheet

Bidders must complete the Bid Sheet. Bidders are strongly encouraged to read the General and Detailed Specifications prior to completing the Bid Sheet and submitting a bid. An Excel version of the Bid Sheet is available by downloading it from the Contract Reporter website at www.nyscr.org, or by requesting it from Mark D. Kaplowitz at (518) 453-5990. If you are using the Excel spreadsheet provided by the Board, you need only enter the values requested in the white cells; the grey cells will be calculated for you. If you do not use the Excel spreadsheet, you must do the calculations yourself.

C. Floor Plans

Bidders must provide floor plans of their meeting room space which include the actual size and dimensions of the rooms and identify the rooms being offered for the bar examination. If other events are taking place in the facility and the events are in adjacent areas and/or will cause noise or other administrative difficulties for the bar exam, the rooms being used and the purpose of the use must be indicated on the floor plans. Floor plans must include seating charts which show how each room will be configured on the days of the exam including precise table and chair layout for each candidate, each proctor, and the headquarters area. The Personal Belongings Room, where candidates will leave coats, backpacks, etc. during the exam, must also be identified.

D. References

All bidders must include with their response the names of at least three (3) clients, private or governmental entities, including contact persons and phone numbers, for whom similar meeting space has been provided **within the prior five (5)-year period**.

II. Additional Requirements

Before going to contract, the awarded contractor must provide the following additional information and documentation. Please note that this information is not required as part of your bid, but will be required prior to going to contract.

A. Insurance

1. *Commercial General Liability Insurance*

The awarded contractor must provide certificates documenting that it has commercial general liability insurance coverage for, at minimum, the coverage limits listed below or greater, if required by applicable law, from an insurance company licensed to do business in New York State. The awarded

contractor will be required to maintain such insurance in force throughout the term of the contract. The awarded contractor's commercial general liability insurance policy must name the Board of Law Examiners, the Unified Court System, the Office of Court Administration, and the State of New York as additional insureds and be primary insurance with respect to the Board.

Commercial General Liability Insurance (bodily injury and property damage on an occurrence basis), including automobile insurance, contractual and products/completed operations liability coverage, with minimum limits as follows:

Bodily injury to any one person	\$ 1,000,000
Bodily injury aggregate per occurrence	\$ 1,000,000
Property damage in any one accident	\$ 500,000
Property damages aggregate per occurrence	\$ 1,000,000

2. *Workers' Compensation Insurance*

The awarded contractor must provide proof that it has in place Workers' Compensation coverage as required under New York State Law. If the contractor is exempt from such coverage, proof of exemption must be provided. Only the following forms will be accepted (note that the Acord CANNOT be accepted for proof of Workers' Compensation coverage):

- Form C-105.2 - Certificate of Workers' Compensation Insurance issued by private insurance carriers; or
- Form U-26.3 issued by the State Insurance Fund; or
- Form SI-12 - Certificate of Workers' Compensation Self-Insurance; or
- Form GSI-105.2 - Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- Form CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

3. *Disability Benefit Insurance*

The awarded contractor must provide proof that it has in place disability benefit insurance coverage as required under New York State Law. If the contractor is exempt from such coverage, proof of exemption must be provided. Only the following forms will be accepted (note that the Acord CANNOT be accepted for proof of Workers' Compensation coverage):

- Form DB-120.1 - Certificate of Disability Benefits Insurance, or
- Form DB-155 - Certificate of Disability Benefits Self-Insurance; or
- Form CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

B. Appendix A – Standard Clauses for New York State Contracts

The awarded contractor must agree to be bound to, among other things, the terms of Appendix A - Standard Clauses for New York State Contracts a copy of which is attached to this Request for Bids.

C. Attachment III - Vendor Responsibility Forms

Prior to contracting, if the total value of the bid is greater than \$50,000, the awarded contractor will be asked to complete and submit a paper Vendor Responsibility Form (the Board does not participate in the Office of the State Comptroller's online VendRep program). Copies of the form are available online at www.osc.state.ny.us/vendrep.

D. Attachment IV- Procurement Lobbying Law

Prior to contracting, the awarded contractor must complete the following Procurement Lobbying Law forms: Disclosure of Prior Non-Responsibility Determination (UCS 420), and Affirmation of Understanding and Agreement (USC 421).

E. Required Contract Provision

The contract must contain a provision requiring a certificate of insurance with the required insurance coverages (above), naming the Board of Law Examiners, the Unified Court System, the Office of Court Administration, and the State of New York as additional insureds and providing that the insurance is primary insurance with respect to the Board.

III. Packaging, Identifying and Delivering of Bids/Proposals

Bidders shall complete and submit all items identified on the Documents Enclosure Checklist. Bidders must submit the documents by the bid opening date and time. Failure to timely provide all required documents may result in disqualification of a bidder's response. Bids/Proposals must be **clearly addressed and submitted** to:

Mark D. Kaplowitz
NYS Board of Law Examiners
Corporate Plaza – Building 3
254 Washington Avenue Ext
Albany, NY 12203

All envelopes must also be labeled with the following information on two sides:

“Deliver immediately to Mark D. Kaplowitz”
“Sealed Bid - Do Not Open”

Failure to seal and mark the bid as prescribed may result in non-delivery and/or rejection of the bid. Please note that bids must be *received* by the above-named Board-designated person by the bid opening date and time or the bid will be declared a “late bid” and may be disqualified.

IV. Binding Nature of Bid/Proposal on Bidders

All bids shall remain binding on bidders until such time as the Board provides written notification of its intent to award the contract to a specific bidder or until the bidder withdraws its bid/proposal in writing, whichever occurs first.

V. Estimated Quantities

All references to quantities stated herein, including references to the number of candidates the Board expects to test, are estimated based upon past and current activity. No guarantees of any specific amounts are implied and none will be given. The contract will be for the actual quantity needed as determined by the Board.

VI. Rejected and Unacceptable Bids/Proposals

The Board reserves the right to reject any and all bids submitted in response to this solicitation. In addition, the Board may reject any bids from any bidders who are in arrears to the State of New York upon any debt or contract; or who have previously defaulted on any contractual obligations (as surety or otherwise), or on any obligation to the State of New York; or who have been declared not responsible or disqualified by any agency of the State of New York; or who have any proceeding pending against them relating to the responsibility or qualification of the bidders to receive public contracts. The Board also reserves the right to reject any bidder: whose facilities and/or resources are, in the opinion of Board, inadequate, too small or too remote from the Board examination locations to render services in a timely manner in accordance with all requirements of this solicitation; who does not provide references for comparable work; whose references report significant failure to comply with specifications; and/or who otherwise in the opinion of the Board is unable to meet the general and detailed bid specifications.

VII. Questions

Any and all questions any bidder may have in connection with this solicitation are to be directed **in writing** to Mark D. Kaplowitz. The deadline to submit questions is August 27, 2015. No questions will be entertained after this deadline. Questions will receive a written response and will be provided to all bidders requesting this RFB.

IMPORTANT: All questions regarding this solicitation must be directed solely to the attention of the above-designated person. Contact by any prospective bidder, or any representative thereof, with any other personnel of the Board in connection with this RFB may violate the Procurement Lobbying Act of 2005, will jeopardize the respective bidder's standing and may cause rejection of its proposal.

VIII. Compliance with Laws

The awarded contractor(s) shall be compliant with all applicable federal, state and local laws, rules and regulations prior to and during the provision of all services under the contract resulting from this RFB.

IX. Implied Requirements

Products and services that are not specifically requested in this solicitation, but which are necessary to provide the functional capabilities proposed by the bidder, shall be included in the bid price except as specified herein.

X. Silence of Specifications

The apparent silence of the specifications as to any detail or to the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

XI. Independent Contractor Status

It is expressly understood and agreed that the awarded contractor's status shall be that of an independent provider of services and that no officer, employee, servant or subcontractor of the contractor is an employee of the Unified Court System (UCS), Office of Court Administration (OCA), Board or State of New York. The awarded contractor shall be solely responsible for the work, assignment, compensation, benefits and personal conduct and standards of all such persons assigned to the provision of services. Nothing herein shall be construed to impose any liability or duty on the UCS, OCA, Board or State of New York to persons, firms, consultants or corporations employed or engaged by the awarded contractor either directly or indirectly in any capacity whatsoever, nor shall the UCS, OCA, Board or State of New York be liable for any acts, omissions, liabilities, obligations or taxes of any nature including, but not limited to, unemployment and Workers' Compensation insurance of the awarded contractor or any of its employees or subcontractors.

XII. Subcontracting

The awarded contractor shall not subcontract any portion of their work without the knowledge and prior written approval of the Board. Subcontracting of any services described herein shall be subject to the following:

1. Bidder must identify each proposed subcontractor, type of service(s) to be performed, length and nature of bidder's relationship with proposed subcontractor and must provide any and all additional information regarding the proposed subcontractor as the Board considers reasonable and necessary.
2. All proposed subcontractors must be identified in bidder's proposal and any additions and/or changes shall be subject to the approval of the Board prior to engagement by contractor and any such approved subcontractor shall be held to the same performance standards as awarded contractor.
3. The Board will communicate only with awarded contractor and the awarded contractor shall remain wholly liable for the performance of any such subcontractor, its employees, agents, consultants or representatives. The names must be submitted in ample time to permit acceptance or rejection of each proposed subcontractor by Board without causing delay in the services required by this contract.

Detailed Specifications

I. Purpose and Scope

The Board intends to contract with a vendor or vendors for the provision of meeting room space in New York City for the New York State bar examinations held in February 2016.

The Board has established the need for one large testing facility given the logistics of offering a two-day exam to thousands of candidates. For example, the Board must: make sure each test location has flexible space that can meet the actual demand for candidates, including laptop accessible seats; make arrangements to have thousands of tables and chairs set up in a classroom style in each location; coordinate delivery and pickup of truckloads of secure, paper examination materials; distribute examination materials on the days of the examination to each test location; and have materials distributed to each candidate and seat candidates for a 9:00AM or 9:30AM start time. These logistics demand that testing is done in as few locations as possible. The more the exam is spread out, the more difficult it becomes to communicate when problems arise, maintain secure and comparable testing environments, and timely distribute examination materials. More facilities usually results in an increase in costs.

The dates of the examination are as follows:

Move-in: Monday, February 22, 2016
Testing: Tuesday, February 23 – Wednesday, February 24, 2016

The bar examination is a two-day test and is held on Tuesday and Wednesday with a move in day on Monday. The first day of testing includes essay questions which candidates either handwrite or type on their laptop computers. The second day consists entirely of multiple choice questions. The Board requires meeting space which is suitable for testing candidates in a classroom style setup. Table tops must be smooth (no wood) and suitable for handwriting. The meeting space must be quiet, clean and free from noise generated by other activities in the facility. Most candidates complete the essay portion of the examination on their personal laptops. This portion of the exam is six hours in length and candidates must have access to a power source during the entire exam.

The selected bidder must be able to meet all of the following requirements:

- (1) Testing must occur in one large facility.
- (2) The facility must be located on public transit and within easy commuting distance of candidates living in New York City.
- (3) The Board needs seating for 2,000 candidates for the exam. Any vendor submitting a bid must be able to provide at least 500 seats. Preference will be given to any vendor able to meet the Board's full need of 2,000 seats.
- (4) Each room must hold at least 100 candidates. Preference will be given to vendors using the fewest number of rooms.
- (5) Candidates must be seated at 6-foot tables with two candidates per table.
- (6) Room must be available for a proctor chair and table for every 24 candidates.

- (7) Room must be available for a headquarters area for storage of examination materials, etc. during the examination.
- (8) Room must be available for a Personal Belongings Room where candidates will leave coats, backpacks, etc. during the examination.
- (9) Tables must be smooth top (no wood) and at least 18 inches in width.
- (10) The facility must be able to provide electrical wiring (i.e. power strips, power cords, outlets) to EVERY candidate seat.
- (11) Audio systems (microphones, speakers, etc.) must be available for each room so that oral instructions can be heard by all candidates.

The Board and its representatives will arrive at the location on the Monday before the examination to set up/inspect the meeting space. The Board must have exclusive access to the meeting space from 8:00AM on Monday through 6:00PM on Wednesday. The meeting space must be undisturbed until the end of the examination on Wednesday. The facility must: (1) be handicapped accessible; (2) have adequate lighting for testing; (3) have adequate HVAC; (4) have adequate restrooms; and (5) have a loading dock or area for receiving the Board's examination materials. The loading dock/area must be available by 6:00AM each morning and up until 6:00PM each night. The facility must be located on public transportation and/or have access to sufficient parking for candidates and staff.

II. Term of Award

The awarded contract(s) shall begin on February 1, 2016 and end on March 1, 2016. The contract(s) shall be subject to the approval of the New York State Attorney General's Office and/or the New York State Comptroller.

III. Pricing

All pricing submitted pursuant to this Request for Bid shall be net and include all costs for the performance of the services described herein. Pricing shall be submitted only on the Bid Sheet, and in the format prescribed. Bidders must either enter the total price for each item, or "\$0" for any item for which a bidder does not intend to assess any costs. Bidders must be capable of providing all the requested items either directly or through a subcontract. The submission of an inaccurate or incomplete Bid Sheet may result in rejection of the bid. Bidders are cautioned to be thorough and accurate in all calculations. All discrepancies shall be interpreted in favor of the Board. The Board reserves the right to negotiate pricing it deems unreasonable.

IV. Method of Award

Awards shall be made to the lowest responsible bidder who demonstrates the ability to meet the Board's general and detailed specifications. A bidder shall be defined as "responsible" in accordance with, but not limited to, references, past performance history, financial stability, the criteria set forth in Attachment III-Vendor Responsibility Questionnaire, and the criteria set forth in the paragraph headed "Rejected and Unacceptable Bids/Proposals" as well as any other criteria necessary and reasonable to establish the bidder's responsibility. A bidder shall be defined as "lowest" based on its Cost Per Candidate.

V. Contractor Personnel (Contact)

The awarded contractor shall designate a staff member to act as the key contact for the Board for the term of the contract and shall provide the Board with this designated person's name, phone and fax numbers, an email address, and a cell phone number for contact on the days of the examination.

VI. Contractor Invoicing

Within 30 days of provision of the required services, the awarded contractor shall prepare an invoice which accurately reflects all services provided. Invoicing/billing shall be in a format agreed upon between the Board and the contractor, but in no instance shall it be contrary to any federal, state and/or local government regulations. Payments to the awarded contractor will be processed in a timely manner upon receipt of invoice.

VII. Bid Sheets

A. Generally

All bidders must complete the Bid Sheet which must include ALL costs associated with use of the facility for the examination.

B. Adjustments

The Board reserves the right to reject a bidder's estimate of the number of candidates that can be seated in each facility/room and substitute its own number based on the requirements in these specifications. It is imperative that an accurate assessment be made of the total number of candidates that can be seated in a facility/meeting room. If the Board determines that the bidder has over or under estimated the number of candidates that can be seated, the Board may substitute its own number, thereby affecting the facility's Cost Per Candidate which is the primary factor in determining the lowest responsible bidder(s), or reject the bid outright.

C. Awards

Awards will be made in the following manner:

1. The Board shall select the lowest responsible bidder after taking into account adjustments made, if any, to the number of candidates that can be seated in each room.
2. The Board shall provide an anticipated notice of award to the lowest responsible bidder for an amount UP TO the Total Cost. The actual number of candidates seated for the examination and the actual number of seats that need to be wired for laptop use will be determined by the Board within two (2) weeks of the examination and the total amount due will be based on the Board's actual usage.

D. Instructions for Bid Sheets:

Please Note: An Excel version of the Bid Sheet is available by downloading it from the Contract Reporter website at www.nyscr.org, or by requesting it from Mark D. Kaplowitz at (518) 453-5990. If you are using the Excel spreadsheet provided by the Board, you need only enter the values requested in the white cells; the grey cells will be calculated for you. If you do not use the Excel spreadsheet, you must do the calculations yourself.

1. *Vendor/Venue Name.* Enter the name of the vendor submitting the bid and the venue name (if different).

2. *Rooms.* List the names of the meeting rooms that you are making available for the bar examinations. Provide a floor plan of your facility which includes the dimensions of each room and identifies which rooms are being offered for the bar examination. See also “Floor Plans,” discussed on page 3.

3. *Other Events.* If there are other events taking place at your facility at the same time as the bar examination which could cause noise and/or disruption to the bar examination, list them in line 3. State what the event is and when it will be happening, and indicate on the floor plans where the event will be held.

4. *Name of Room/Number of Candidates.* Enter the names of the rooms which will be used for the bar exam. Enter the total number of candidates that can be seated in each room then calculate the total number of candidate that can be seated for the exam. Each room offered must seat at least 100 candidates, and the facility must seat at least 500 candidates. Use the following specifications when estimating the total number of candidates:

- a. Candidates must be seated classroom style in rows facing the front of the room.
- b. Candidates must be seated at six (6) foot tables which are at least 18 inches in width, with no more than two (2) candidates per table. Tables must be smooth top (no wood) suitable for handwriting.
- c. **ALL** candidate seats must be capable of being wired for laptop use. Candidates will bring their own personal laptop computers and must have a power source (i.e. outlet, power strip, power cord, etc.) to plug into for the first day of the exam (Tuesday).
- d. Up to two six foot tables (four candidates) can be pushed together for ease of wiring.
- e. Space must be left for aisles between rows of candidates which aisles must be in accordance with any applicable fire and/or safety codes.
- f. Space must be left for proctor tables (card table size) and chairs, with one (1) proctor for every 24 candidates.
- g. Space must be left for a headquarters area at the front of every room.
- h. If you have not provided meeting room space for a NYS bar examination within the last year, you must provide a detailed seating chart/floor plan

which shows the layout of each room as it will be set up for the examination including all candidate tables and chairs, proctor tables and chairs, and a headquarters area.

5. *Rental Fee.* Enter the total rental fee associated with renting the rooms you are making available for the bar examination.

6. *Equipment Rental.* Enter the total cost for equipment rental for the bar examination including the following equipment and labor costs:

- a. Tables. One six (6) foot table for every two (2) candidates tested. One eight (8) foot table for use by headquarters for each 200 candidates. **NOTE:** All tables must be smooth top, laminate or equivalent (no wood), suitable for handwriting, with a width of at least 18 inches. The Board reserves the right to inspect all tables intended for use and to reject any tables which are unsatisfactory.
- b. Chairs. One folding chair for every candidate tested **PLUS** one folding chair for every 15 candidates tested (for use by proctors, etc.).
- c. Card Tables. One card table for every 20 candidates tested (for use by proctors, etc.).
- d. Easels. One easels for every 200 candidates OR one easel per meeting room (whichever is largest).
- e. Labor Costs. Any charge for labor services for equipment staging/manual set-up of equipment in accordance with Board provided blueprints and taking down of equipment at end of the examination.
- f. Trucking/Shipping Costs. Any charge for trucking or shipping costs imposed by a third party vendor.

If there is no extra charge for equipment, enter “\$0” in line 6 and provide an explanation in line 12. (i.e. facility will use its own equipment). If the contractor intends to use a third-party vendor for equipment rental in part or whole, provide the name of the vendor(s) and an explanation in line 12.

7. *Electrical Wiring Costs.* Enter the total cost of wiring **ALL** candidate seats for laptop use for each bar examination. Candidates will bring their own laptop computers which must be plugged in during the Tuesday exam. This cost should include all equipment, labor and other charges associated with giving each candidate access to a power source (i.e. power cords, outlets, power strips, etc.) **for Tuesday only.** Bidders must provide licensed electrician(s) for power service. If there is no extra charge for electrical wiring, enter “\$0” in line 7. If an outside vendor will be used for wiring, please indicate the name of the vendor in line 13.

8. *Other.* Enter the total cost for ANY other costs associated with the use of your meeting space for the bar examination which are not addressed in the bid specifications, such as audio systems, cleaning, medical staffing, police, etc., and provide a detailed explanation in line 14. Please note that the Board will contract separately for private Security Services for the examination.

Please Note: If you are using the Excel spreadsheet provided by the Board, the remaining values on the Bid Sheet will be calculated for you. If you are NOT using the Excel spreadsheet provided by the Board, you must hand calculate the following information:

9. *Total Cost.* Enter the total of lines 5 through 8. This is the total (maximum) cost of using your facility for the bar examination.

10. *Cost per Candidate.* Enter the total cost per candidate for each bar examination by dividing line 9 (Total Cost) by line 4 (Total Candidates).

11. *Electrical Wiring – Cost per Candidate.* Enter the total cost per candidate for electrical wiring for each bar examination by dividing line 7 (Electrical Wiring) by line 4 (Total Candidates). The total amount due to the awarded contractor under the contract for electrical wiring will be calculated by multiplying this amount by the total number of candidate seats wired for laptop use as determined by the Board two weeks prior to the examination.

March, 2015

New York State Unified Court System
Appendix A
Standard Clauses for all 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 State's previous written consent and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000.00, 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. However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.
4. **WORKER'S 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 (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim 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. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. **NON-COLLUSIVE BIDDING REQUIREMENT.** 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 \$5,000.00, the Contractor agrees, as 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 or appeal (2 NYCRR 105.4).
9. **SET OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
10. **RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.
11. **IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

(a) IDENTIFICATION NUMBER(S).

Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION.

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

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. **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.
13. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
14. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article XI-A of the State Finance Law to the extent required by law.
15. **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.
16. **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.
17. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

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

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