APPENDIX F
Insurance Requirements

The Bidder shall be required to procure, at its sole cost and expense, all insurance required by this Appendix.

The Bidder shall be required to provide proof of compliance with the requirements of this Appendix, as follows:

- Proof of Workers' Compensation and Disability Benefits Insurance should be provided at the time of Bid submission;
- Proof of all other insurance shall be provided in accordance with Section B below;
- After award, the Contractor shall be required to provide proof of all insurance after renewal or upon request according to the timelines set forth in Section A.13 below.

The failure to comply with the requirements of this Appendix at any time during the term of any Contract resulting from this Solicitation shall be considered a breach of the terms of any Contract resulting from this Solicitation and shall allow the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation and their officers, agents, and employees to avail themselves of all remedies available under any Contract resulting from this Solicitation, at law or in equity.

Contractors shall be required to procure, at their sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from this Solicitation/this Contract, policies of insurance as required by this Attachment. All insurance required by this Attachment shall be written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this Attachment should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York.

The Department may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII," the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above.

Bidders and Contractors shall deliver to the Department evidence of the insurance required by this Solicitation and any Contract resulting from this Solicitation/Contract in a form satisfactory to the Department. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. While acceptance of insurance documentation shall not be unreasonably withheld, conditioned or delayed, acceptance and/or approval by the Department does not, and shall not be construed to relieve Bidders or Contractors of any obligations, responsibilities or liabilities under this Solicitation and any Contract resulting from this Solicitation/Contract.

The Contractor shall not take any action, or omit to take any action, that would suspend or invalidate any of the required coverages during the term of any Contract resulting from this Solicitation/the Contract.

A. General Conditions Applicable to Insurance. Only original documents (certificates of insurance and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

The Department requires Contractors to submit only certificates of insurance and additional insured endorsements. Contractors should refrain from submitting entire insurance policies. If an entire insurance policy is submitted but not requested, the Department shall not be obligated to review it and shall not be chargeable with knowledge of its contents. In addition, the submission of an entire insurance policy not requested by the Department does not constitute proof of compliance with the insurance requirements and does not discharge Contractors from submitting the requested insurance documentation. The Department reserves the right to request other proof of insurance, including, but not limited to, policies, and Contractors agree to comply with all reasonable requests.

All policies of insurance required by this Solicitation and any Contract resulting from this Solicitation/Contract shall comply with the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from Bidders and Contractors are specified in Paragraph B *Insurance Requirements* below.

2. Policy Forms. Except as otherwise specifically provided herein, or agreed to in the Contract resulting from this Solicitation, all policies of insurance required by this Attachment shall be written on an occurrence basis. In the event that occurrence-based coverage is not commercially available, the Department reserves the right to accept claims-made policy forms, in its sole discretion, provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three (3) years with respect to events that occurred but were not reported during the term of the policy.

3. Certificates of Insurance/Notices. Bidders and Contractors shall provide the Department with a Certificate or Certificates of Insurance, in a form satisfactory to the Department as detailed below, and pursuant to the timelines set forth in Section A.13. below. Certificates shall name The New York State Office of General Services, Bureau of Risk and Insurance Management (BRIM), 32nd Floor, Corning Tower, Empire State Plaza, Albany, New York 12242 as the certificate holder.

Certificates of Insurance shall:

- Be in the form acceptable to DFS and in accordance with the New York State Insurance Law (e.g., an ACORD 25);
- Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this Solicitation and any Contract resulting from this Solicitation/Contract;
- Be signed by an authorized representative of the referenced insurance carriers; and
- Contain the following language in the Description of Operations / Locations / Vehicles section of the Certificate or on a submitted endorsement: Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.

4. Primary Coverage. All Commercial General Liability, Business Automobile Liability, and Umbrella/Excess Liability insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees. Any other insurance maintained by the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents,

and employees shall be excess of and shall not contribute with the Bidder/Contractor's insurance.

5. Breach for Lack of Proof of Coverage. The failure to comply with the requirements of this Attachment at any time during the term of any Contract resulting from this Solicitation/the Contract shall be considered a breach of the terms of any Contract resulting from this Solicitation/the Contract and shall allow the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees to avail themselves of all remedies available under any Contract resulting from this Solicitation/the Contract, at law or in equity.

6. Self-Insured Retention/Deductibles. Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above $100,000.00 are subject to approval from the Department. Such approval shall not be unreasonably withheld, conditioned or delayed. Bidders and Contractors shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Bidder/Contractor is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.

7. Subcontractors. Prior to the commencement of any work by a Subcontractor, the Contractor shall require such Subcontractor to procure policies of insurance as required by this Attachment and maintain the same in force during the term of any work performed by that Subcontractor. An Additional Insured Endorsement CG 20 38 12 19 (or the equivalent) evidencing such coverage shall be provided to the Contractor prior to the commencement of any work by a subcontractor and pursuant to the timelines set forth in Section A.13. below, as applicable, and shall be provided to the Department upon request. For subcontractors that are self-insured, the subcontractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the subcontractor would have been required to pursuant to this section had the subcontractor obtained such insurance policies.

8. Waiver of Subrogation. For all Commercial General Liability, Business Automobile Liability, Umbrella/Excess Liability policies and the workers' compensation insurance required below, the Bidder/Contractor shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if the Contractor waives or has waived before the casualty, the right of recovery against The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees or (ii) any other form of permission for the release of The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees. A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

9. Additional Insured. The Contractor shall cause to be included in each of the Commercial General Liability, Business Automobile Liability, and Umbrella/Excess Liability policies required below coverage for on-going and completed operations naming as additional insureds (via ISO coverage forms CG 20 10 12

19 and CG 20 37 12 19 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage): The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees. An Additional Insured Endorsement, or the equivalent, evidencing such coverage shall be provided to DFS pursuant to the timelines set forth in Section 13 below. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Contractors who are self-insured, the Contractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Contractor would have been required to pursuant to this Attachment had the Contractor obtained such insurance policies.

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

11. Notice of Cancellation or Non-Renewal. Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) business days of receipt of any notice of cancellation or non- renewal of insurance, the Contractor shall provide DFS with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Solicitation and any Contract resulting from this Solicitation/Contract.

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

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

- For certificates of insurance: 5 business days from request or renewal;
- For information on self-insurance or self-retention programs: 15 calendar days from request or renewal;
- For other requested documentation evidencing coverage: 15 calendar days from request or renewal;
- For additional insured and waiver of subrogation endorsements: 30 calendar days from request or renewal; and
- For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: 5 business days from request or renewal.

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

B. Insurance Requirements

Bidders and Contractors shall obtain and maintain in full force and effect, throughout the term of any Contract resulting from this Solicitation/the Contract, at their own expense, the following insurance with limits not less than those described below and as required by the terms of any Contract resulting from this Solicitation/the Contract, or as required by law, whichever is greater:

Insurance Type		**Proof of Coverage is Due**
Commercial General Liability	No less than $1,000,000 each occurrence	Upon notification of tentative award and updated in accordance with Contract
General Aggregate	$2,000,000	
Products-Completed Operations Aggregate	$2,000,000	
Personal and Advertising Injury	$1,000,000	
Medical Expenses Limit	$5,000	
Professional Liability	$5,000,000	
Business Automobile Liability Insurance	No less than $1,000,000 each accident	
Workers' Compensation		
Disability Benefits		
Data Breach and Privacy Liability Insurance (Cyber Insurance)	$10,000,000	
Technology Errors and Omissions Liability Insurance	$2,000,000	
Crime Insurance	$50,000	

1. **Commercial General Liability Insurance:** Such liability shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from premises operations, independent contractors, products - completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) [and explosion, collapse & underground coverage].

   Policy shall include bodily injury, property damage and broad form contractual liability coverage.
   - General Aggregate
   - Products – Completed Operations Aggregate
   - Personal and Advertising Injury
   - Each Occurrence

   Coverage shall include, but not be limited to, the following:
   - Premises liability;

- Independent contractors;
- Blanket contractual liability, including tort liability of another assumed in a contract;
- Defense and/or indemnification obligations, including obligations assumed under any Contract resulting from this Solicitation/the Contract;
- Cross liability for additional insureds; and
- Products/completed operations for a term of no less than three [1-3] years, commencing upon acceptance of the work, as required by the Contract.

2. **Business Automobile Liability Insurance:** Such insurance shall cover liability arising out of automobiles used in connection with performance under any Contract resulting from this Solicitation/the Contract, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates.

   In the event that the Contractor does not own, lease or hire any automobiles used in connection with performance under any Contract resulting from this Solicitation/the Contract, the Contractor does not need to obtain Business Automobile Liability Insurance, but must attest to the fact that the Contractor does not own, lease or hire any automobiles used in connection with performance under any Contract resulting from this Solicitation/the Contract on a form provided by the Department. If, however, during the term of the Contract, the Contractor acquires, leases or hires any automobiles that will be used in connection with performance under any Contract resulting from this Solicitation/the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to the Department in accordance with the insurance requirements of any Contract resulting from this Solicitation/the Contract.

3. **Professional Liability**:
   Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services (i.e. professional services, legal advisement, counseling, cyber risk management, etc.).
   - Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services.
   - If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the start of work; and that continuous coverage will be maintained, or an extended discovery period exercised, throughout the performance of the services and for a period of not less than one (1) year from the time work under any Contract resulting from this Solicitation is completed or must agree to insure for one year following any Contract under award. Written proof of this extended reporting period or agreement must be provided to the Department upon request.
   - The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of any Contract resulting from this Solicitation.

4. **Data Breach and Privacy Liability Insurance (Cyber Insurance):** The Contractor shall maintain, during the term of the Contract, Data Breach and Privacy Liability Insurance (Cyber Insurance) including coverage for failure to protect confidential information and failure of the security of the Contractor's computer systems or the Department's systems due to the actions of the Contractor that results in unauthorized access to the Department or its data. The Contractor shall carry and maintain applicable coverage with a limit of not less than $10,000,000.
   - Said insurance shall provide coverage for damages arising from, but not limited to, the following:
   - Breach of duty to protect the security and confidentiality of nonpublic proprietary corporate

information;
- Personally identifiable nonpublic information (e.g., medical, financial or personal in nature in electronic or non-electronic form);
- Privacy notification costs;
- Regulatory defense and penalties;
- Website media liability; and
- Cyber theft of Department property, including but not limited to data, PII, money and securities.
- If the policy is written on a Claims-Made basis, the Contractor must provide to the Department proof that the policy provides the option to purchase Tail Coverage providing coverage for no less than one (1) year after work is complete in the event that coverage is cancelled or not renewed. This requirement applies to both primary and Excess Liability Policies, as applicable.

5. **Technology Errors and Omissions Liability Insurance:** The Contractor shall maintain, during the term of the Contract, Technology Errors and Omissions Liability Insurance for Claims for damages arising from computer related services including, but not limited to, the following:
   - Consulting;
   - Data Processing;
   - Programming;
   - System Integration;
   - Hardware or Software Development;
   - Installation;
   - Distribution or Maintenance;
   - Systems Analysis or Design;
   - Training;
   - Staffing or Other Support Services; and
   - Any electronic equipment, or computer software developed, manufactured, distributed, licensed, marketed or sold.
   - The Contractor shall carry and maintain applicable coverage with a limit of not less than $2,000,000. The policy shall include coverage for third-party fidelity including cyber theft, if applicable.
   - If the policy is written on a Claims-Made basis, the Contractor must provide to the Department proof that the policy provides the option to purchase Tail Coverage providing coverage for no less than one (1) year after work is complete in the event that coverage is cancelled or not renewed. This requirement applies to both primary and Excess Liability Policies, as applicable.

6. **Crime Insurance:** Crime Insurance, on "loss sustained form: or a "loss discovered form" providing coverage for third-party fidelity in an amount not less than $50,000, including coverage for:
   - Employee Theft;
   - Forgery or Alteration;
   - Inside the Premises – Theft of Money and Securities;
   - Inside the Premises – Robbery or Safe Burglary of Other Property;
   - Outside the Premises;
   - Computer Fraud; and
   - Money Orders and Counterfeit Paper Currency.

Policy must allow for reporting of circumstances or incidents that might give rise to future Claims.

The Department, including its affiliates and subsidiaries, must be included as "Loss Payees" as respects this specific amount as their interests may appear.

Any warranties required by the Insurer must be disclosed and complied with. Said insurance shall extend coverage to include the principals of the Contractor and Subcontractor as a result of any Contract resulting from this solicitation. This policy shall not contain a condition requiring an arrest and conviction.

Workers' Compensation Insurance and Disability Benefits Requirements

New York State Workers' Compensation Law ("WCL") Sections 57, 220 and 230 require the heads of all municipal and state entities to ensure that businesses applying for contracts have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original issuances and renewals, whether the governmental agency is having the work done or is simply issuing the contract. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of the Contract.** Therefore, prior to the Department executing any Contract, the Contractor must submit proof to the Department that it has workers' compensation and disability benefits coverage as required by the WCL, or proof that it is legally exempt from obtaining such coverage in compliance with the WCL. Evidence of coverage must be submitted on one of the forms specified by the Chair of the New York State Workers' Compensation Board. **An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage to satisfy these statutory requirements.**

Proof of Compliance with the Workers' Compensation Coverage Requirements:

In order to provide proof of compliance with the requirements of the New York State Workers' Compensation Law pertaining to Workers' Compensation coverage, a Contractor must:

A. Be legally exempt from obtaining Workers' Compensation coverage; or
B. Obtain such coverage from an Insurance carrier; or
C. Be a New York State Workers' Compensation Board approved self-insured employer or participate in an authorized Self-Insurance plan.

A Contractor seeking to enter into a contract with a municipal or State entity must provide one of the following forms showing proof of coverage or an exemption:

- Form CE-200, Certificate of Attestation for New York Entities with No Employees and Certain Out-of-State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is not Required, which is available on the New York State Workers' Compensation Board's website at www.wcb.ny.gov; or
- Form C-105.2 (9/07), Certificate of Workers' Compensation Insurance; if coverage is provided by the Contractor's Insurance carrier, the Contractor must request that its carrier send this form to the Department; or Form U-26.3 if coverage is provided by the New York State Insurance Fund ("NYSIF"), the Contractor must request that NYSIF send this form to the Department; or
- Form SI-12, Certificate of Workers' Compensation Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office, or Form GSI- 105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance, available from the Contractor's Group Self-Insurance Administrator.

Proof of Compliance with the Disability Benefits Coverage Requirements:

In order to provide proof of compliance with the requirements of the WCL provisions pertaining to Disability Benefits, the Contractor must:

A. Be legally exempt from obtaining Disability Benefits coverage; or
B. Obtain such coverage from an Insurance carrier; or
C. Be a New York State Workers' Compensation Board approved self-insured employer or participate in an authorized Self-Insurance plan.

A Contractor seeking to enter into a contract with the Department must provide one of the following forms showing proof of coverage or an exemption:

- Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the New York State Workers' Compensation Board's website at www.wcb.ny.gov;
- Form DB-120.1, Certificate of Disability Benefits Insurance; the Contractor must request its business insurance carrier send this form to the Department; or
- Form DB-155, Certificate of Disability Benefits Self-Insurance; the Contractor must call the New York State Workers' Compensation Board's Self-Insurance Office at 518-402-0247 to obtain this form.

An instruction manual clarifying the New York State Workers' Compensation Law requirements is available for download at the New York State Workers' Compensation Board's website: http://www.wcb.ny.gov/content/main/Employers/Employers.jsp.