

IFB 22868prb ATTACHMENT 7 - INSURANCE REQUIREMENTS

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

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

- Proof of Workers' Compensation and Disability Benefits Insurance shall 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.

Contractors shall be required to procure, at their sole cost and expense, and shall maintain in force, at its sole cost and expense policies of insurance as required by this Attachment. All insurance required by this section 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. OGS may, at 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.

The Bidders and Contractor shall deliver to OGS evidence of the insurance required by this Solicitation and any Contract resulting from this Solicitation in a form acceptable to OGS. 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 OGS does not, and shall not be construed to, relieve Bidders or Contractor of any obligations, responsibilities or liabilities under this Solicitation or any Contract resulting from this Solicitation.

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 the Contract.

General Conditions

- A. ***Conditions Applicable to Insurance.*** All policies of insurance required by this Solicitation or any Contract resulting from this Solicitation 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.
 3. ***Certificate of Insurance/Notices.*** Bidders and Contractors shall provide OGS with a Certificate or Certificates of Insurance, in a form satisfactory to OGS as detailed below, and pursuant to the timelines set forth in Section B below. Certificates shall reference the Solicitation or award number and shall name the New York State Office of General Services, Procurement Services, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 38th Floor, Albany, New York 12242 as the certificate holder.

Certificates of Insurance shall:

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

Only original documents (Certificates 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.

OGS generally requires Bidders and Contractors to submit only certificates of insurance and additional insured endorsements, although OGS reserves the right to request other proof of insurance. Contractors should refrain from submitting entire insurance policies, unless specifically requested by OGS. If an entire insurance policy is submitted but not requested, OGS shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by OGS does not constitute proof of compliance with the insurance requirements and does not discharge prospective awardees and Contractors from submitting the requested insurance documentation.

4. **Primary Coverage.** All 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 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 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 the Contract shall be considered a breach of the terms of 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 the Contract and their officers, agents, and employees to avail themselves of all remedies available under the Contract or 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 OGS. Such approval shall not be unreasonably withheld, conditioned or delayed. Bidders and Contractor 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.
8. **Waiver of Subrogation.** For all liability policies and Workers' Compensation insurance required below, the Bidder and 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 to recovery or 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 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 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 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 of each of the liability policies required below, ISO form CG 20 10 11 85 (or a form or forms that provide equivalent coverage, such as the combination of CG 20 10 04 13 and CG 20 37 04 13) and form CA 20 48 10 13 (or a form or forms that provide equivalent coverage), naming as additional insureds: 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 the Contract and their officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to OGS pursuant to the timelines set forth in Section B 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 OGS 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.
- 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 shall be delivered to OGS. If, at any time during the term of any Contract resulting from this Solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Solicitation or any Contract resulting from this Solicitation, or proof thereof is not provided to OGS, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by OGS.
- 13. *Deadlines for Providing Insurance Documents after Renewal or Upon Request.*** As set forth herein, certain insurance documents must be provided to the OGS Procurement Services 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 OGS as soon as possible but in no event later than the following time periods:
- For certificates of insurance: 5 business days

- For information on self-insurance or self-retention programs: 15 calendar days
- For other requested documentation evidencing coverage: 15 calendar days
- For additional insured and waiver of subrogation endorsements: 30 calendar days

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 OGS, OGS 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, 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, or as required by law, whichever is greater:

Insurance Type		Proof of Coverage is Due
Commercial General Liability	Not less than \$1,000,000 each occurrence	At time of Bid submission 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	
Business Automobile Liability Insurance	Not less than \$2,000,000 each occurrence	
Workers’ Compensation		
Disability Benefits		

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

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- Each Occurrence
- General Aggregate
- Products/Completed Operations

- Personal Advertising Injury

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 the Contract;
- Products/completed operations for a term of no less than three (3) years, commencing upon acceptance of the work, as required by Contract; and
- Cross liability for additional insureds;

2. ***Comprehensive Business Automobile Liability Insurance:*** Such insurance shall cover liability arising out of any automobile used in connection with performance under any 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 Contractor does not need to obtain Comprehensive 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 on a form provided by OGS. 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 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 OGS in accordance with the insurance requirements of any Contract resulting from this Solicitation.

In the event that the Contractor does not own or lease any automobiles used in connection with performance under the Contract, but the Contractor does hire and/or utilize non-owned automobiles in connection with performance under the Contract, the Contractor must: (i) obtain Business Automobile Liability Insurance as required by this Solicitation or any Contract resulting from this Solicitation, except that such insurance may be limited to liability arising out of hired and/or non-owned automobiles, as applicable; and (ii) attest to the fact that the Contractor does not own or lease any automobiles used in connection with performance under the Contract, on a form provided by OGS. If, however, during the term of the Contract, the Contractor acquires or leases any automobiles that will be used in connection with performance under the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this Attachment and provide proof of such coverage to OGS in accordance with the insurance requirements of any Contract resulting from this Solicitation.

C. Workers' Compensation Insurance and Disability Benefits Coverage

Sections 57 and 220 of the New York State Workers' Compensation Law 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 contracts and renewals. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of a bid or any contract renewal. A Bidder will not be awarded a Contract unless proof of workers' compensation and disability insurance is provided to OGS.** Proof of workers' compensation and disability benefits coverage, or proof of exemption must be submitted to OGS at time of Bid submission, policy renewal, contract renewal and upon request. Proof of compliance must be submitted on one of the forms designated by 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.**

Proof of Compliance with the Workers' Compensation Coverage Requirements:

- 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 (www.wcb.ny.gov);
- Form C-105.2 (9/07), *Certificate of Workers' Compensation Insurance*, sent to OGS by the Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to OGS upon request from the Contractor; 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:

- 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 (www.wcb.ny.gov);
- Form DB-120.1, *Certificate of Disability Benefits Insurance*, sent to OGS by the Contractor's insurance carrier upon request; or

- Form DB-155, *Certificate of Disability Benefits Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office.

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>. Once on the site, click on the Employers/Businesses tab and then click on Employers' Handbook.

D. Business Automobile Liability Insurance Attestation

In the event that your firm does not currently possess all Business Automobile Liability Insurance as required by Attachment 7, Section B.2. of the IFB, your firm will be required to complete the attached attestation and this attestation must be signed by an individual who is authorized to bind the organization in a contract.

Please return a signed, electronic copy via email to ruth.quezada@ogs.ny.gov, with an original hard copy of the attestation, signed in black or blue ink, mailed to the following address:

NYS Office of General Services
Solicitation 22868prb
Procurement Services
Corning Tower, 38th Floor
Empire State Plaza
Albany, NY 12242

To comply with the Business Automobile Liability Insurance Requirements outlined in Attachment 7, Section B.2. of IFB #22868prb issued by the New York State Office of General Services, I hereby certify that (*please check one option below*):

The undersigned organization does not currently own, lease, or hire any vehicles which will be used to fulfill the requirements of any contract resulting from the above referenced solicitation;
Based upon the foregoing, the undersigned organization does not currently possess Business Automobile Liability Insurance as required by Attachment 7, Section B.2. of the IFB;

If, during the term of any contract resulting from the above referenced solicitation, the undersigned organization acquires, leases, or hires a vehicle or vehicles that will be used to fulfill the requirements of any contract resulting from the above referenced solicitation, the undersigned organization will obtain Business Automobile Liability Insurance that meets all of the requirements set forth in the above referenced solicitation and provide OGS with evidence of such coverage in the form of a certificate within ten (10) business days following the date the Business Automobile Liability Insurance coverage is bound. Subsequently, the undersigned organization will provide OGS with copies of all applicable endorsements (i.e. an additional insured endorsement) upon receipt. Proof of coverage and applicable endorsements shall be submitted to: The New York State Office of General Services, New York State Procurement, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.

The undersigned organization understands that a failure to provide or maintain any insurance required by above referenced solicitation or any contract resulting from that solicitation after the undersigned organization acquires, leases, or hires a vehicle or vehicles that will be used to fulfill the requirements of any contract resulting from the above referenced solicitation shall be treated as a breach or default under that contract and the undersigned organization shall still be held accountable for any obligations, responsibilities or liabilities under the above referenced solicitation or any contract resulting from that solicitation.

The undersigned organization does not currently own or lease any vehicles which will be used to fulfill the requirements of any contract resulting from the above referenced solicitation, however the organization does hire and/or utilize non-owned vehicles to fulfill the requirements of any contract resulting from the above referenced solicitation;

Based upon the foregoing, the undersigned organization does not currently possess all Business Automobile Liability Insurance as required by Attachment 7, Section B.2. of the IFB;

Based on the selection of this option, the undersigned organization must obtain and maintain in full force and effect, at their own expense, the following insurance with limit not less than \$2,000,000 for each accident, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

Such insurance shall cover liability arising out of hired and/or non-owned automobiles.

If, during the term of any contract resulting from the above referenced solicitation, the undersigned organization acquires or leases a vehicle or vehicles that will be used to fulfill the requirements of any contract resulting from the above referenced solicitation, the undersigned organization will obtain Business Automobile Liability Insurance that meets all of the requirements set forth in the above referenced solicitation and provide OGS with evidence of such coverage in the form of a certificate within ten (10) business days following the date the Business Automobile Liability Insurance coverage is bound. Subsequently, the undersigned organization will provide OGS with copies of all applicable endorsements (i.e. an additional insured endorsement) upon receipt. Proof of coverage and applicable endorsements shall be submitted to: The New York State Office of General Services, New York State Procurement, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.

The undersigned organization understands that a failure to provide or maintain any insurance required by above referenced solicitation or any contract resulting from that solicitation after the undersigned organization acquires or leases a vehicle or vehicles that will be used to fulfill the requirements of any contract resulting from the above referenced solicitation shall be treated as a breach or default under that contract and the undersigned organization shall still be held accountable for any obligations, responsibilities or liabilities under the above referenced solicitation or any contract resulting from that solicitation.

Business Automobile Liability Insurance Attestation Signature Block

Signature of Organization Official:

Print/type Name:

Title:

Organization:

Date Signed:
