

EQUIPMENT MAINTENANCE PROGRAM

CONTRACT NO. 16195

PROPOSAL NO: 21988

OPENED: April 1, 2010

THIS AGREEMENT, entered into by and between the State of South Dakota through its Office of Procurement Management, Pierre, South Dakota, hereinafter "State", and The REMI Group, LLC of 11325 N. Community House Rd, Ste 300, Charlotte, NC 28277, hereinafter "Contractor".

WITNESSETH, Whereas the Contractor has heretofore been awarded the contract to furnish and deliver to the State certain services, all of which are more specifically itemized, described and enumerated in the schedules and specifications of request for proposals number 21988, and contract number PS65207, issued by the State of New York, and made a part thereof by reference. Exceptions to the State of New York contract are listed below:

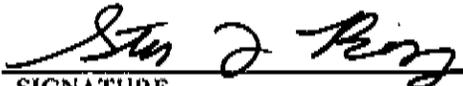
1. The parties agree that this contract shall be governed by and construed in accordance with the laws of the State of South Dakota. Venue for any action, claim, dispute or litigation pertaining to or affecting this contract shall be in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
2. The Contractor agrees to convey, assign and transfer to the State of South Dakota all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States, 15 U.S.C.A. §1, et seq. (1973), and under the antitrust laws of the State of South Dakota, SDCL 37-1, and amendments thereto, relating to the particular goods, services and materials purchased by the State of South Dakota in connection with this contract.
3. This contract is valid as long as the referenced contract of the State of New York is active, or unless otherwise terminated by either party in accordance with the terms of that contract. If at any time the State of New York contract expires or is terminated by the State of New York, or the party of the second part, this agreement is automatically terminated.
4. The Contractor shall provide reports to the State in the same manner specified in the "Administrative Reporting Requirements" section of State of New York contract number PS65207, except that the reports required in item "C." of that section shall be submitted to: **Steven L. Berg, Director, Office of Procurement Management, PMB 01231, 523 E. Capitol Avenue, Pierre, SD 57501.**

THEREFORE, in consideration of the covenants on the part of the State which are fully set and enumerated in the said State of New York request for proposals and resulting contract, the Contractor agrees to furnish and deliver to the State all of the said awarded services as enumerated in the said request for proposals and contract, at the price and according to the terms and conditions, and of the kind, quality, and amounts and at the times specified in said request for proposals and contract. The Contractor may extend the services authorized by this contract to political subdivisions of the State of South Dakota under the same terms and conditions.

In Witness whereof the parties hereto have caused their Agreement to be executed as of the date of execution by both parties below.

STATE OF SOUTH DAKOTA  
OFFICE OF PROCUREMENT MANAGEMENT

THE REMI GROUP, LLC

  
SIGNATURE

  
SIGNATURE

STEVEN L. BERG, DIRECTOR

Brent Howison, President

8/15/2011  
DATE

8/12/2011  
DATE

**State of New York Executive Department**  
**Office Of General Services**  
**Procurement Services Group**  
**Corning Tower Building - 38th Floor**  
**Empire State Plaza**  
**Albany, New York 12242**  
<http://www.ogs.state.ny.us>

## CONTRACT AWARD NOTIFICATION

<b>Title</b>	<b>: Group 79000 Equipment Maintenance Program (EMP) (Statewide)</b> <b>Classification Code(s): 77, 80, 84</b>
<b>Award Number</b>	<b>: <a href="#">21988</a></b>
<b>Contract Period</b>	<b>: January 26, 2011 through January 23, 2016</b>
<b>Bid Opening Date</b>	<b>: April 1, 2010</b>
<b>Date of Issue</b>	<b>: February 24, 2011</b>
<b>Specification Reference</b>	<b>: As Incorporated In The RFP</b>
<b>Contractor Information</b>	<b>: Appears on Page 2 of this Award</b>

### Address Inquiries Related To Contract Administration To:

State Agencies & Vendors	Political Subdivisions & Others
<b>Name</b> : Anthony Montes <b>Title</b> : Purchasing Officer <b>Phone</b> : 518-474-1688 <b>E-Mail</b> : anthony.montes@ogs.state.ny.us	Procurement Services Group Customer Services <b>Phone</b> : 518-474-6717 <b>Fax</b> : 518-474-2437 <b>E-mail</b> : customer.services@ogs.state.ny.us

### Address Inquiries Related To Program Administration To:

<b>Name</b> : Leeann Nopper <b>Title</b> : Sr. Administrative Analyst <b>Phone</b> : 518-473-7346 <b>Fax</b> : 518-474-7867 <b>E-mail</b> : Leeann.Nopper@ogs.state.ny.us
<b>The Procurement Services Group values your input.</b> <b>Complete and return "Contract Performance Report" at end of document.</b>

### Description

The primary intent of this contract is to provide State Agencies and other Authorized Users with an Equipment Maintenance Program. The Program Provider shall be responsible for oversight, administration and coordination of equipment maintenance and service on selected types of equipment ranging from simple office equipment to complex fire alarm systems. The EMP covers the full cost of maintenance and repair, and shall replace more expensive individual service contracts.

**PR # 21988** \_\_\_\_\_

EQUIPMENT MAINTENANCE PROGRAM (EMP) (STATEWIDE)

AWARD # 21988

<u>CONTRACT #</u>	<u>CONTRACTOR &amp; ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT.#</u>
PS65207	THE REMI GROUP, LLC 11325 N. Community House Rd, Ste 300 Charlotte, NC 28277	Office 704/602-0832 Cell 704/661-8731 Laura Barclift, Director Fax No.: 704/887-2916 E-mail: lbarclift@theremigroup.com Website: www.theremigroup.com	550808152

Alternate Contact: New York State Account Manager: Jack Dring at jdring@theremigroup.com

**INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.  
(See "Contract Payments" and "Electronic Payments" in this document.)**

AGENCIES SHOULD NOTIFY THE PROCUREMENT SERVICES GROUP PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES GROUP.

**SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:**

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

**RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:**

The Procurement Services Group supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

EQUIPMENT MAINTENANCE PGROGRAM (EMP) (STATEWIDE)

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**NOTE TO AUTHORIZED USERS:**

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

**SCOPE:**

The issuing agency is the New York State Office of General Services (OGS). The service will be primarily for, but not limited to, New York State agencies. Additionally, services may be utilized by political subdivisions, school districts and others authorized by law. Accordingly, references to the State and its agencies as users under this bid and specification and the ensuing contract encompass and include other users such as these entities.

**OBJECTIVE:**

The equipment maintenance program provides maintenance coverage on various types of agency equipment, ranging from simple office equipment to complex fire alarm systems. Typically this coverage is provided through various maintenance agreements and service contracts often entered into independently by authorized users. The equipment maintenance program provider shall be responsible for oversight, administration and coordination of the equipment maintenance and service. An example of the types of equipment covered under this contract includes, but is not limited to:

<b>Office</b>	<b>Financial</b>	<b>Mail</b>
Collating Machines	After Hour Depository	Bag Tagging Equipment
Copiers	Automated Teller Machines	Bar-coding Equipment
Dictation Equipment	Cash Dispensers	Binding Machines
Endorsers	Check Encoders	Bursters / Cutters
Fax Machines	Check Imprinters	Collators / Decollators
Mail Machines	Currency Counters	Conveyors
Microfiche/Microfilmers	Coin Counters	Sorters
Plotters	Financial Calculators	Folders / Inserters
Rotary Filing Systems	Reader Sorters	Ink Jet Addressing
Material Shredders	Safe Deposit Boxes	Ink Jet Drying
Time Clocks	Teller Networks	Insertor System
Typewriters	Visual Auto Tellers	Labeling System
Word Processors		

**Examples (Continued):****Security**

Alarm Systems  
 Card Access Systems  
 Video Surveillance  
 Equipment  
 Vaults & Safes  
 Mechanisms  
 Keypads

**Information Technology**

Controller Cards  
 Devices for Physically Challenged  
 Interactive White Boards (Smart Board)  
 Laptops  
 PC's & Peripherals  
 PDAs and Smart Phones  
 Printers  
 Scanners  
 Surge Protectors  
 Webcams

**Communications**

Audio Visual Systems  
 Paging Systems  
 Intercoms  
 Pager Devices  
 Radios  
 Voice Mail Systems

The EMP covers the full cost of maintenance and repair, and shall replace more expensive individual service contracts. Equipment is added to the program on an ongoing basis as existing contracts and arrangements expire, are amended or as new equipment are acquired.

**EXCLUDED EQUIPMENT:** The following items are excluded from coverage under this EMP contract: refrigeration systems, HVAC, elevators, escalators, lift equipment, machinery, vehicles, motorized equipment and manufacturing equipment.

**DEFINITIONS:**

**“Authorized User”** include but are not limited to New York State agencies, political subdivisions, public authorities, public benefit corporations, school districts and others authorized by law.

**“Centralized Contract”** means any contract for the purchase of commodities or services, established or approved by the Commissioner of General Services as meeting the State's requirements

**“Claim”** shall mean a demand by a person or entity to recover loss(es) that may be covered by the terms and conditions of an EMP service agreement.

**“EMP”** shall mean the New York State Equipment Maintenance Program.

**“RI&FM”** shall mean the NYS OGS Bureau of Risk, Insurance and Fleet Management.

**HOW TO USE THIS CONTRACT:**

The EMP is designed to replace Original Equipment Manufacturer and Third Party equipment maintenance service agreements. The EMP administrators will work with Authorized Users to eliminate unnecessary maintenance expenditures in order to gain the greatest possible return for each dollar invested in equipment maintenance. The program is designed to help improve equipment performance and minimize equipment downtime by changing the economics behind the maintenance relationship between the Authorized User and their chosen maintenance service providers. The EMP is designed to provide financial incentives to maintain equipment effectively as well as oversight to ensure equipment is maintained efficiently.

There are two approaches that Authorized Users may utilize to access vendor services for failed equipment or for maintenance.

**Option 1: Direct:** If the contract user desires to maintain a direct relationship with their preferred service vendor, they may call them directly when equipment is in need of maintenance/repair and coordinate the service. The procedure would be as follows:

- Equipment failure occurs.
- Authorized User calls the selected service vendor.
- Equipment is repaired.
- Authorized User makes a copy of work order and invoice and sends it to Remi via mail, email or fax.
- Remi processes invoice and pays vendor within 30 days

**Option 2: Service Management System:** The Remi Group's Service Management System allows end users to outsource tasks of contacting, scheduling, tracking and following up with their preferred vendors for service calls. This option is provided at no additional charge.

This system provides a central hub for all equipment service calls. Authorized Users are given a toll-free number to request service on all covered equipment. If preferred, they also have the option to request service via *Remi Online*. Remi's dispatchers then contact the Authorized User's preferred vendor, requesting service. It is then the responsibility of Remi to manage each stage of the service event and ensure that the level of service received meets or exceeds the State's expectations. Real-time, online tracking allows end users an around the clock ability to view their service call status, maintenance history reports, preventative maintenance schedules, covered equipment schedules etc. The procedure for utilizing the Service Management System would be as follows:

- Equipment repair or maintenance required.
- Authorized User calls toll free number or requests service online.
- Remi's Dispatcher contacts the selected service vendor.
- Remi issues Purchase Order directly to vendor.
- Vendor performs service.
- Remi handles all call administration and pays vendor directly within 30 days.
- Service information is available real-time on Remi Online.

**START UP OF NEW ACCOUNTS:**

When setting up a new account, please call the following toll free number: 877 878-2305, or Email: NYEMP@theremigroup.com. Identify yourself as an authorized entity eligible to use the New York State contract. The Remi Group may ask you to verify your eligibility. The Remi Group contract administrator will be available to help establish an account.

**Start up of new accounts shall be made in accordance with the following instructions:**

1. Provide Remi with copies of your current vendor equipment maintenance contracts, including pricing, and the terms and conditions. If you do not have current vendor contracts, you can send a list of the equipment you would like quoted, listing the manufacturer, model number, serial number, and location. This allows Remi to match your existing coverage levels and provide you with an accurate quote.  
Copies of the vendor equipment maintenance service agreement documentation should be mailed to:  
The Remi Group  
11325 N Community House Road  
Charlotte, NC 28277  
Or  
scanned and sent to: NYEMP@theremigroup.com
2. Remi will analyze your current contracts, determine eligibility and create a proposal/quote for your review.
3. Remi will present the proposal specifying the cost savings and coverage level details.
4. Review the proposal and decide whether to move forward with an EMP service agreement with Remi.

Once a proposal is accepted, The Remi Group will create a final Equipment Schedule reflecting this agreement. The Remi Group will consult with each Authorized User to educate all parties involved in how to place a service call. Each Authorized User will then select their preferred method of requesting service (i.e. dispatch model or call vendor direct model). The Remi Group will provide additional training on the selected service method as requested. Each Authorized User will be assigned a unique EMP service agreement number. A pre-established vendor letter will be sent to each service vendor, advising them of their contract non-renewal. As necessary, meetings are held with key vendors explaining the program. Training sessions on the use of Remi Online will be provided to designated personnel to prepare them for routine program operations, reporting and overall program management. Training will be provided via web-casts.

When equipment failure occurs the Authorized User then calls either their vendor of choice or the Remi Group's vendor dispatch center. The equipment maintenance vendor completes the repair action and provides a service report to the Authorized User and the Authorized User then forwards a copy of the service report to the Remi Group. The equipment maintenance vendor submits an invoice directly to the Remi Group who is responsible for remitting payment directly to the equipment maintenance vendor.

When making the initial contact with Remi for new accounts, it is imperative that the authorized user advise Remi that the account is set up under all of the terms and conditions of this New York State contract and a request be made that Remi provide their contract number on all invoices.

**THE FOLLOWING SERVICES ARE INCLUDED UNDER THIS CONTRACT:****REMI ONLINE REPORTING TOOLS:**

Through *Remi Online*, Authorized Users have the ability to track the performance of individual pieces of equipment, identify poorly performing equipment, ensure scheduled preventative maintenance completion, delve into individual maintenance events, or review overall program results. The Remi Group may be able to create certain customized reports to accommodate unique reporting requirements. Authorized User's with special reporting needs are directed to contact the Remi Group account director to request assistance with the development of special reports. The online reporting system gives Authorized Users the option of either logging onto the Remi website to view results or the Authorized User may elect to receive desired reports automatically via email. Data from Remi Online may also be downloaded in a variety of formats.

**DATA CAPTURE:**

The Remi Group, LLC is required under this contract to capture and store data according to the specifications of the RFP. The Remi Group will offer Authorized Users an interface to this data via Remi Online. The Authorized User will retain ownership of all data entered into the database and reporting system. This interface shall be provided for the life of the contract and at no additional charge.

**CUSTOMIZED COVERAGE:** Under the EMP the Authorized User controls the level of coverage desired for each piece of scheduled equipment and retains the flexibility to purchase the exact level of protection desired on a case-by-case basis. For example, it is possible to choose around-the-clock labor coverage, including unlimited overtime, for a mission critical system while limiting coverage to 9 to 5 on other less critical systems. The Authorized User may include scheduled preventative maintenance inspections at the OEM's recommended frequency (i.e. four per year) or more frequently if deemed necessary. Authorized Users have the ability to customize the program to meet their evolving needs.

**MAINTENANCE CONTRACT EVALUATION:** The Remi Group will assist the Authorized User in the evaluation of currently in-force vendor service agreements to ensure that equipment service levels, hours of coverage, coverage limitations, and total cost is consistent with industry best practices. The Remi Group will recommend service options for each piece of equipment ranging from renegotiation of the current contract, placement under a maintenance coverage plan, or management on a "time and material" billing basis. The goal of this process will be to ensure service quality and equipment uptime, while achieving the best return for each dollar invested in the maintenance of the State's equipment.

**VENDOR MAINTENANCE OVERSIGHT:** The Remi Group will be responsible for providing strict oversight of each covered maintenance event to ensure that the service work performed by the Authorized User's chosen vendor is effective and appropriately invoiced. The Remi Group will also be responsible for guaranteeing that the service work is performed in compliance with industry standards and meets the manufacturer's specifications for the device. The Remi Group will review the service report and associated vendor invoice to ensure the charges are appropriate to the activity completed and that the Authorized User receives credit for all warranty work, and that there are no unnecessary charges designed to increase the chosen vendor's profit margins.

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**TOTAL LIFECYCLE MANAGEMENT:** The Remi Group will assist Authorized Users in monitoring all aspects of their equipment performance. This includes equipment breakdowns, scheduling maintenance, negotiating with vendors, managing the Authorized User's equipment assets and tracking equipment through its entire lifecycle. The goal of such management will be to extend the useful life of the Authorized User's equipment, ultimately reducing the overall equipment acquisition budget. The Remi Group will also be available for consultation with Authorized Users prior to the purchase of new equipment and will be required to use data gathered from their monitoring practices to offer advice on the projected lifecycle cost in comparison to the initial acquisition cost of the equipment being considered.

**LOSS CONTROL SERVICES:** The Remi Group Engineering Team is required to provide 24 hour service for consultation, guidance and support on all maintenance/program questions. The Remi Group will monitor covered equipment maintenance cost trends, failure rates and specific vendor performance to identify cost saving opportunities. When necessary, the Remi Group will locate alternative service vendors and alternative sources for manufacturer approved parts. The Remi Group will consult with Authorized Users to advice on those steps that may be implemented to reduce unnecessary maintenance expenditures.

**PROGRAM TRAINING:** The Remi Group offers training programs that can be scheduled as needed for all end users. The Remi Group's training program includes: program operation, Remi Online training, management reporting and loss control.

**METHOD OF PAYMENT:**

Invoices for payment of service agreements shall be submitted to the using entity, electronically or via company invoice, at the beginning of each specific agreement's quarter for services to be completed during that quarter. Separate quarterly invoices must be generated for each authorized user's service agreement with an original invoice submitted to the designated authorized user.

Invoices must charge one quarter of the authorized user's base yearly service agreement fee amount, which shall remain constant during the span of the one-year service agreement. Any endorsements (additions, deletions, or changes) to the service agreement shall be prorated for the partial yearly amount and charged at the full, prorated amount during the quarter in which the endorsement occurs. The total of all endorsements shall be incorporated into the base service agreement fee amount upon renewal of the service agreement.

This invoice will contain the Contract ID number (*i.e.*, PS21988), Federal Identification Number, the name of the Authorized User, its service agreement number, the invoice date and the date range of the quarter being billed, the quarterly service agreement fee amount, and all endorsements with dates and descriptions; and will contain either in its body or as an attachment, a copy of the report itemizing work completed during that quarter. The quarterly service agreement fee amount must be listed separately from the endorsements being billed for the quarter.

Submitted invoices will be processed in accordance with established procedures of the authorized user and the Office of the State Comptroller (OSC). A complete report of all contract usage will be sent to the Procurement Services Group quarterly.

Or

The Remi Group may opt to participate in The New York State Procurement Card program and accept payment via Corporate Purchasing Card.

Payment of purchases made by authorized entities other than State Agencies under this agreement shall be the sole responsibility of such entities and the Contractor shall bill such entities directly. Sales reports submitted by the Remi Group must reflect all such direct billings made under the contract.

In the event a participating non-State Agency fails to make payment to the Contractor for services rendered and accepted within 60 days of such delivery and acceptance, the Contractor may, upon 10 days advance written notice to both the Office of General Services and the non-State Agency representative, suspend additional delivery of service to the particular non-

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State Agency whose payment is late, until such time as reasonable arrangements have been made and assurances given by the said non-State Agency for current and future contract payments.

**CONTRACT PERIOD**

Contract award shall commence after approval by the New York State Comptroller, effective upon mailing by OGS (see Appendix B, Clause 38) and shall be in effect for five (5) years, with an option to renew the contract for an additional five (5) year term. The State may further extend the contract for up to one (1) additional year, or until a new contract is entered into, upon mutual written consent of the State and the contractor. To be effective and binding, all renewals and extensions must be approved by the Office of the State Comptroller (OSC).

**SHORT TERM EXTENSION:**

In the event the replacement contract has not been issued, any contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one month upon notice to the contractor with the same terms and conditions as the original contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the contractor, the extension may be for a period of up to three months in lieu of one month. However, this extension terminates should the replacement contract be issued in the interim.

**CONTRACT PRICING**

The Contractor's **discount percentages shall remain the same for the entire Contract term**, including any extensions or renewal terms. Contract pricing (rates) shall be considered firm for the life of the Contract. The equipment maintenance service program pricing offers a **27% discount from current equipment vendor's maintenance contract costs**.

**CANCELLATION FOR CONVENIENCE**

The State of New York retains the right to cancel this contract, in whole or in part without reason, provided that the Contractor is given at least sixty (60) days notice of its intent to cancel. This provision should not be understood as waiving the State's right to terminate the contract for cause or stop work immediately for unsatisfactory work, but is supplementary to that provision. Any such cancellation shall have no effect on existing Agency agreements, which are subject to the same 60 day discretionary cancellation or cancellation for cause by the respective Authorized Users.

**CONTRACT MIGRATION**

Authorized Users holding previously established and independently awarded contracts with the Remi Group are able to migrate to this contract award.

**CONTRACTORS INSURANCE REQUIREMENTS:**

Prior to the commencement of the work to be performed by the Contractor hereunder, the Contractor shall file with The People of the State of New York, Office of General Services (hereinafter referred to as "OGS"), **written proof of insurance coverage and additional insured documentation, as specified herein. "Written proof" consists of certificates of insurance and/or endorsements to policies issued by an officer of an insurance company licensed or authorized to do business in New York, government self-retention funds or other self-insurance companies evidencing that the Contractor has the requisite insurance coverages. All non-standard exclusions or limitations applicable to the contract must be disclosed on the Certificate of Insurance, and must be approved by OGS. Acceptance and/or approval by OGS of the written proof of insurance** does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the contract.

All insurance required by the contract shall be obtained at the sole cost and expense of the Contractor; shall be primary and non-contributing to any insurance or self insurance maintained by OGS; and shall be endorsed to provide written notice be given to OGS, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail; shall be sent to Team 2: Non-Technology Services, NYS Office of General Services, Procurement Services Group, Corning Tower, 37<sup>th</sup> Floor, Empire State Plaza, Albany, New York 12242. In the event that the cancellation is due to non-payment of premium, ten (10) days prior written notice shall be provided.

**Policies providing commercial general liability, excess or umbrella liability and pollution legal liability insurance shall be specifically endorsed to name The People of the State of New York, its officers, agents, and employees as additional insureds there under (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 10 11 85).**

The contractor shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by OGS. Such approval shall not be unreasonably withheld.

**The requisite insurance may be provided through a policy or policies of insurance, which may be primary and/or excess, including umbrella policies, but must be placed with an Insurer rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to OGS and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.**

Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply to OGS updated replacement Certificates of Insurance, and amendatory endorsements.

**Contractor shall secure and keep in force during the term of the contract, and Contractor shall require all Subcontractors, prior to commencement of an agreement between Contractor and the Subcontractor, to secure and keep in force during the term of this contract the following insurance with the same limits and provisions provided herein.**

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 period of time such coverages are required to be in effect.

- a) Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence. Such liability shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages 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. If such insurance contains an aggregate limit, it shall apply separately on a per job or per project basis.
- b) Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.

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- c) If the work involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any petroleum, petroleum product, hazardous material or substance, the contractor shall maintain in full force and effect throughout the term hereof, pollution legal liability insurance with limits of not less than \$5,000,000, providing coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against OGS arising from Contractor's work.
1. If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the effective date of this contract; and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this contract is completed.
  2. If the contract includes disposal of materials from the job site, the contractor must furnish to OGS, evidence of pollution legal liability insurance in the amount of \$2,000,000 maintained by the disposal site operator for losses arising from the disposal site accepting waste under this contract.
    - i) If autos are used for transporting hazardous materials, the contractor shall provide pollution liability broadened coverage for covered autos (endorsement CA 99 48) as well as proof of MCS 90.
- d) If providing professional services, the Contractor shall maintain, or if subcontracting professional services, shall certify that Subcontractor maintain, errors and omissions liability insurance with a limit of not less than \$1,000,000 per loss.
1. Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services covered by this contract and, if the project involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any hazardous material or substance, it may not exclude bodily injury, property damage, pollution or asbestos related claims, testing, monitoring, measuring, or laboratory analyses.
  2. If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the effective date of this contract; and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this contract is completed.
- e) Waiver of Subrogation. Contractor shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against OGS, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Contractor waives or has waived before the casualty, the right of recovery against OGS or (ii) any other form of permission for the release of OGS.

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Contractor acknowledges that failure to obtain and/or keep in effect any or all required insurance on behalf of OGS constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to OGS. Contractor's failure to obtain and/or keep in effect any or all required insurance shall also provide the basis for OGS' immediate termination of any contract resulting from this RFP, subject only to a five (5) business day cure period. Any termination by OGS under this section shall in no event constitute or be deemed a breach of any contract resulting from this solicitation and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

## f) WORKERS' COMPENSATION / DISABILITY INSURANCE:

Workers' Compensation, Employer's Liability, and Disability Benefits meeting all New York State statutory requirements are required. If coverage is obtained from an insurance company through an insurance policy, the policy shall provide coverage for all states of operation that apply to the performance of the contract. In addition, if employees will be working on, near or over navigable waters, coverage provided under the US Longshore and Harbor Workers' Compensation Act must be included. Also, if the contract is for temporary services, or involves renting equipment with operators, the Alternate Employer Endorsement, WC 00 03 01A, must be included on the policy naming the People of the State of New York as the alternate employer.

PROOF of COMPLIANCE WITH WORKERS' COMPENSATION COVERAGE REQUIREMENTS: **ACORD forms** are **NOT** acceptable proof of workers' compensation coverage.

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, contractors shall:

- A) Be legally exempt from obtaining workers' compensation insurance coverage;
- or
- B) Obtain such coverage from insurance carriers;
- or
- C) Be a Board-approved self-insured employer or participate in an authorized self-insurance plan.

Contractors seeking to enter into contracts with the State of New York shall provide **one of the following forms** to the Office of General Services at the time of bid submission or shortly after the opening of bids:

- A) **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 Workers' Compensation Board's website ([www.wcb.state.ny.us](http://www.wcb.state.ny.us));

or

- B) *Certificate of Workers' Compensation Insurance:*

- 1) **Form C-105.2 (9/07)** if coverage is provided by the contractor's insurance carrier, **contractor must request its carrier** to send this form to the New York State Office of General Services;

or

- 2) **Form U-26.3** if coverage is provided by the State Insurance Fund, contractor must request that the State Insurance Fund send this form to the New York State Office of General Services;

or

- C) *Certificate of Workers' Compensation Self-Insurance - Form SI-12*, available from the New York State Workers' Compensation Board's Self-Insurance Office;

Or

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D) *Certificate of Participation in Workers' Compensation Group Self-Insurance Form GSI-105.2*, available from the contractor's Group Self-Insurance Administrator.

**PROOF of COMPLIANCE WITH DISABILITY BENEFITS COVERAGE REQUIREMENTS:**

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, contractors shall:

- A) Be legally exempt from obtaining disability benefits coverage;
- or
- B) Obtain such coverage from insurance carriers;
- or
- C) Be a Board-approved self-insured employer.

Contractors seeking to enter into contracts with the State of New York **shall provide one of the following forms to the Office of General Services** at the time of bid submission or shortly after the opening of bids:

- A) **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 Workers' Compensation Board's website ([www.wcb.state.ny.us](http://www.wcb.state.ny.us));
- or
- B) **Form DB-120.1**, *Certificate of Disability Benefits Insurance*. Contractor must request its business insurance carrier to send this form to the New York State Office of General Services;
- or
- C) **Form DB-155**, *Certificate of Disability Benefits Self-Insurance*. The contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

**All forms must name the Office of General Services – State of NY Executive Department, Office of General Services, Mayor Erastus Corning 2<sup>nd</sup> Tower, The Governor Nelson A Rockefeller, Empire State Plaza, 37<sup>th</sup> Floor, Albany NY 12242, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).**

**ADMINISTRATIVE AND REPORTING REQUIREMENTS**

A. Contract Meetings:

The Contractor shall be responsible for the completion of a variety of administrative and reporting requirements at no additional cost.

B. Reporting Requirements – Authorized Users:

The Contractor is obligated to meet with the Authorized User for an initial meeting, and also obligated to meet with the Authorized User on a monthly basis to discuss the following (as well as provide a written monthly report itemizing services performed during that month):

- 1) Review job progress; quality of work; and approval and delivery of contract service.
- 2) Identify and resolve problems, which impede planned progress.
- 3) Coordinate the efforts of all concerned to ensure compliance with all terms and conditions of the contract.
- 4) Maintain a sound working relationship between the Contractor and the other state agencies, and a mutual understanding of the contract.
- 5) Review the service performance so the contract progresses on schedule to on-time completion.

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**Remi Online Reporting Tools:**

Through *Remi Online*, Authorized Users have the ability to track the performance of individual pieces of equipment, identify poorly performing equipment, ensure scheduled preventative maintenance completion, delve into individual maintenance events, or review overall program results. The Remi Group may be able to create certain customized reports to accommodate unique reporting requirements. Authorized User's with special reporting needs are directed to contact the Remi Group account director to request assistance with the development of special reports. The online reporting system gives Authorized Users the option of either logging onto the Remi website to view results or the Authorized User may elect to receive desired reports automatically via email. Data from Remi Online may also be downloaded in a variety of formats.

The contractor shall maintain accurate data and produce reports, in a timely manner, with the following types of information and in a format easily sortable by levels, such as:

- Department
  - Group
  - City
  - Location
  - Cost Center
  - State vs. Non-State Entity
- The following data elements must be included in the database:
    - Authorized user name, address, and service agreement number and effective dates
    - Equipment tag or item number
    - Equipment manufacturer, model, serial number, and description
    - Vendor name and contact information
    - Date equipment was added to or deleted from EMP
    - Vendor contract dollar amount per item
    - Annual and prorated EMP dollar amount per item
    - Specific included and excluded coverage (including preventive maintenance, supplies (toners), etc)
    - Transaction details, such as:
      - Invoice number, date, and amount
      - Reason for service call and repair description
      - Invoice status, amount paid, and check number
      - Detailed explanation of denial or partial pay
      - Quarter (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup>) and covered period (ex: April 1st – June 30th)

- Reports must include the following:
  - **Schedule of Covered Equipment:** This report will itemize every piece of equipment covered under the EMP.
    - Report must include start and end dates; annual and prorated amount; included and excluded coverages (e.g., consumables).
    - Must be able to be sortable by model or manufacturer.
    - Report must be downloadable for saving in PDF or Excel format, as well as viewable and printable in the browser.
    - Report must include subtotals by location and report totals.
  - **Repair History Report:** This report will itemize every piece of equipment that has had an invoice submitted for reimbursement within a specified period of time.
    - Report must include invoice detail, status, and the amount paid, where applicable.
    - Must be able to be sortable by location, vendor, or equipment item.
    - Report must be downloadable for saving in PDF or Excel format, as well as viewable and printable in the browser.
  - **Quote Schedule:** This report will itemize each piece of equipment that has been quoted, but not yet added to the EMP.
  - **Equipment Location Summary:** This report will display the total number of equipment items with annual amounts by location.
  - **Preventive Maintenance Summary:** This report will itemize every piece of equipment on the program with the number of Preventive Maintenance (PM) services allowed, used, and remaining.
  - **Toner Usage Summary:** This report will itemize every piece of equipment on the program with the number of toners allowed, used, and remaining.
  - **Poor Performing Equipment:** This report will list equipment with a high frequency of breakdown or high total repair charges for corrective maintenance.
    - Sortable by equipment items, types, or models.
  - **Modality Performance:** This report displays the total number of repairs and total repair amount for each type of equipment, manufacturer and model.
  - **Equipment Reimbursement Summary:** This report is a summary of the Repair History report.
    - Shows equipment item that has had a submitted invoice, the total number of corrective or preventive repairs, and the average repair amount.
  - **Vendor Usage:** This report is a maintenance summary showing the number of invoices received and the total repair expenditures by vendor.
    - Must include a database of New York State certified MWBEs and be able to review their participation.

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- **Reimbursement Summary:** This report lists the total number of invoices that have been processed and total amounts paid in full, partial payments, denied payment and voided invoices.
- **Invoice Processing:** This report will display paid invoices, outstanding invoices and invoices denied for payment.
- **Invoice Lookup:** This tool will allow the contract user to get detailed information on a particular invoice or group of invoices within a specific date range, at a specific location, or from a specific vendor.
- **Quick Search:** This tool will allow the contract user to get detailed information about one specific equipment item.
- **Custom Reports:** This tool will give individual contract users the capability of designing reports specific to a user's particular requirements on as needed and case by case basis.

C. Reporting Requirements - OGS:

Contractor shall electronically provide the State with verified quarterly reports in the format required by the State showing the dollar volume of any and all services provided from the Contract following the end of each quarterly period, no later than the 30<sup>th</sup> of the month following the close of each quarter. Said report shall include a break out of participation by individual Authorized Users, including State and non-State governmental entities and others authorized by law. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported separately.

The report is to be submitted to the Office of General Services, Procurement Services Group, Tower Bldg., 37<sup>th</sup> Floor, Empire State Plaza, Albany, NY 12242, to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Contract Number, sales period, levels of service provided and Contractor's name.

- 1) Additional related sales information and/or details of Authorized User purchases may be required and shall be supplied upon request.
- 2) Contractor shall list the associated dollar values actually ordered during each quarterly Contract period.
- 3) Provide quarterly a summary report showing utilization by:
  - a) Agency/entity name, address
  - b) Property count (Total sum of equipment by Authorized User)
  - c) Location count (Total sum of locations of equipment by Authorized User)
  - d) Total dollar expenditure by individual New York State agency, political subdivisions, public authorities, public benefit corporations, school districts and others authorized by law; and
  - e) Overall percentage (%) of discount for sum of all equipment covered (by Authorized User)
- 4) Failure to submit the required report may be cause for disqualification of Contractor on the service Contract and for future Contracts.

**The first reporting period for the contract shall end on March 31, 2011 and shall be quarterly thereafter.**

**STANDARD CLAUSES FOR ALL NYS CONTRACTS**

During the performance of the Contract, the Contractor agrees to the terms outlined in this Contract and Appendix A & B attached hereto and hereby incorporated by reference and made part hereto as fully as if it were set forth at length herein.

**PERFORMANCE SURVEYS**

The Contractor may be required to distribute performance surveys to Authorized User as requested by the Office of General Services. The Contract Performance Report form is attached herein. Authorized Users shall complete the survey and return the completed form to the Office of General Services. The performance survey shall be used to assess and evaluate the Contractor's performance in accordance with the terms and conditions of the Contractor's award of this IFB. Performance concerns, if any, shall be addressed by the Authorized User and/or the Office of General Services and survey results may be considered in determining Contractor responsibility and continuation of Contractor's award.

**NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS**

New York State political subdivisions and others authorized by New York State law may participate in Contracts in this award. These include, but are not limited to local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See "Participation in Centralized Contracts" in Appendix B, OGS General Specifications. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have delivery locations adjacent to New York State), services to be provided may include locations adjacent to New York State.

Upon request, all eligible Non-State agencies shall furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. A list of categories of eligible entities is available on the OGS web site ([www.ogs.state.ny.us](http://www.ogs.state.ny.us)). Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS Procurement Services Group's Customer Services at 518-474-6717.

Contractors are encouraged to voluntarily extend service Contracts to those additional entities authorized to utilize commodity Contracts under Section 163(3) (iv) of the State Finance Law, as per section 39c of Appendix B.

**NEW YORK STATE PROCUREMENT CARD**

See "Procurement Card" in Appendix B, OGS General Specifications.

**EMERGENCY PURCHASING:**

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products or services from any source, including but not limited to this Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

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**PSG's DISPUTE RESOLUTION POLICY:**

It is the policy of the Office of General Services' Procurement Services Group (PSG) to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to PSG bid solicitations or contract awards. PSG encourages vendors to seek resolution of disputes through consultation with PSG staff. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of PSG's Dispute Resolution Procedures for Vendors may be obtained by contacting the person shown on the front of this document or through the OGS website ([www.ogs.state.ny.us](http://www.ogs.state.ny.us)).

**PROCUREMENT LOBBYING TERMINATION:**

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

**EXTENSION OF USE:**

This Contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in this Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

**DIESEL EMISSION REDUCTION ACT OF 2006 (NEW REQUIREMENT OF LAW):**

On February 12, 2007 the Diesel Emissions Reduction Act took effect as law (the "Law"). Pursuant to new §19-0323 of the N.Y. Environmental Conservation Law ("NYECL") it is now a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology ("BART") and ultra low sulfur diesel fuel ("ULSD"). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. They need to be operated exclusively on ULSD by February 12, 2007. It also requires that such vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

As a contract vendor the Law may be applicable to vehicles used by contract vendors "on behalf of" State agencies and public authorities. Thirty-three percent (33%) of affected vehicles must have BART by December 31, 2008, sixty-six percent (66%) by December 31, 2009 and one-hundred percent (100%) by December 31, 2010. The Law provides a list of exempted vehicles. Regulations currently being drafted will provide further guidance as to the effects of the Law on contract vendors using heavy duty diesel vehicles on behalf of the State. The Law also permits waivers of ULSD and BART under limited circumstances at the discretion of the Commissioner of Environmental Conservation. The Law will also require reporting from State agencies and from contract vendors in affected contracts.

Therefore, the bidder hereby certifies and warrants that all heavy duty vehicles, as defined in NYECL §19-0323, to be used under this contract, will comply with the specifications and provisions of NYECL §19-0323, and any regulations promulgated pursuant thereto, which requires the use of BART and ULSD, unless specifically waived by NYSDEC. Qualification and application for a waiver under this Law will be the responsibility of the bidder.

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<p>State of New York Office of General Services <b>PROCUREMENT SERVICES GROUP</b> Contract Performance Report</p>
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Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: \_\_\_\_\_ Contractor: \_\_\_\_\_

Describe Product\* Provided (Include Item No., if available): \_\_\_\_\_

\*Note: "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
Product meets your needs				
Product meets contract specifications				
Pricing				

**CONTRACTOR**

	Excellent	Good	Acceptable	Unacceptable
Timeliness of delivery				
Completeness of order (fill rate)				
Responsiveness to inquiries				
Employee courtesy				
Problem resolution				

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ (over)

Agency: \_\_\_\_\_ Prepared by: \_\_\_\_\_  
 Address: \_\_\_\_\_ Title: \_\_\_\_\_  
 \_\_\_\_\_ Date: \_\_\_\_\_  
 \_\_\_\_\_ Phone: \_\_\_\_\_  
 \_\_\_\_\_ E-mail: \_\_\_\_\_

**Please detach or photocopy this form & return by FAX to 518/474-2437 or mail to:**

OGS PROCUREMENT SERVICES GROUP  
 Customer Services, 37th Floor  
 Corning 2<sup>nd</sup> Tower - Empire State Plaza  
 Albany, New York 12242