



Release Date: January 23, 2015

Invitation for Bid

**BANKING SERVICES
IN SUPPORT OF CENTRALIZED SUPPORT
COLLECTION AND ENFORCEMENT**

Submission Deadline: April 3, 2015

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Section 1 INTRODUCTION

1.1 Issuing Office and Purpose

1.1.1 This Invitation for Bid (IFB) is being issued by the New York State Office of Temporary and Disability Assistance (OTDA) for the State of New York.

1.1.2 The purpose of this IFB is to obtain banking services for each of the fifty-eight (58) local district Support Collection Units (SCUs) for whom the OTDA is contracting for Centralized Support Collection and Enforcement functions on their behalf, and to obtain banking services for the OTDA in support of Centralized Support Collection and Disbursement functions performed for Non-IV-D Services cases. A "Non-IV-D Services" case is a case in which a court has determined that income withholding for support is required and neither the employee/obligor nor the custodial party/obligee has applied for, or is receiving, Title IV-D child support services through their local SCU.

1.1.3 **History of the New York State Child Support Program** – In New York State, the OTDA is the single State agency, which, through its Division of Child Support Enforcement (DCSE) and Center for Child Well-Being (CCWB), has administered the State's Child Support Program since its inception in 1975. DCSE is responsible for supervising and monitoring the Child Support Program in the fifty-eight (58) local social services districts. Each such district has a Child Support Enforcement Unit (CSEU) responsible for locating absent parents, establishing paternity, and obtaining support orders. The SCU, a unit within the CSEU, is responsible for the collection, accounting, enforcement, and disbursement of child support payments. Title IV-D (herein referred to as IV-D) and its implementing regulation, Sections 111-a through 111-z of the New York State Social Services Law, and the OTDA regulations 18 NYCRR 346 and 347, govern operation of the entire Child Support Program.

1.1.3.1 With the enactment of amendments to Section 111-h of the New York State Social Services Law in 1990, the OTDA was directed to perform centralized collection and disbursement functions on behalf of each social services district, and was authorized to provide those services through a contractor.

1.1.3.2 Beginning January 1, 1993, New York State created a central collection and disbursement operations facility known as the New York State Child Support Processing Center (NYSCSPC) and that facility is currently being operated by Xerox State and Local Solutions Inc., the Centralized Support Collections and Enforcement Contractor, under contract with the OTDA.

1.1.3.3 The vast majority of support payments for the fifty-eight (58) local social services districts and Non-IV-D Services Unit are processed by the Centralized Support Collection and Enforcement contractor. However, Federal and State Income Tax Refund Offsets, Unemployment Insurance Benefits, Lottery Intercepts, and a few selected employer payments continue to be received and processed directly by the OTDA in an automated fashion as developed before contracted centralized operations began.

1.1.3.4 The OTDA currently has a separate contract with Bank of America, N.A. to provide the banking services in support of Centralized Support Collection and Enforcement operations. Each of the fifty-eight (58) local district SCUs, the Non-IV-D Services Unit, and the NYSCSPC currently have a checking account with Bank of America, N.A. as a depository for payments processed by the Centralized Support Collection and Enforcement contractor.

1.2 Office of Temporary and Disability Assistance Contact

- 1.2.1 From the issue date of this IFB until the Contractor is selected, all contacts with OTDA personnel, except as otherwise specified herein, concerning this IFB must be made through the OTDA's Primary Point of Contact (see Section 1.16 of this IFB for additional information). Prospective Bidders may not approach State personnel with offers of employment during the procurement period, unless the employment offered has been prior approved by the Commissioner of the OTDA. Any Bidder who is aware of an OTDA employee who is considering employment with the Bidder should advise the OTDA forthwith:

The Primary Point of Contact for this procurement is:

Ms. April Smith
Child Support Specialist
NYS Office of Temporary and Disability Assistance
Division of Child Support Enforcement
40 North Pearl Street, 13th Floor, Section C
Albany, NY 12243-0001
Phone#: (518) 473-0574
Fax#: (518) 473-9234
Email Address: nybankingifb@otda.ny.gov

Other Permissible Point of Contact (to the Bidder):

Ms. Cheryl Caza
Contract Management Specialist 2
NYS Office of Temporary and Disability Assistance
Bureau of Contract Management
40 North Pearl Street, 12th Floor, Section D
Albany, NY 12243
Phone#: 518-486-5180
Fax#: 518-474-3555
Email Address: nybankingifb@otda.ny.gov

1.3 **Submission of Bid Proposals**

- 1.3.1 Bid Proposals must be signed by an official authorized to bind the Bidder to its provisions as set forth in Section 4.4.1.2 of this IFB.
- 1.3.2 Six (6) paper copies and six (6) electronic copies in MS Word/Excel/Project, DVD format, of the Bid Proposal must be received by the OTDA on or before the close of business (3:00 PM, Eastern Standard Time [EST]) on the closing date for receipt of Bid Proposals as noted in Section 1.3.9.5 of this IFB. The OTDA may reject any Bid Proposal received after the aforementioned date and time.
- 1.3.3 **Required Forms** – Each Bidder is required to complete all forms as listed in Appendix J of this IFB with the exception of J.7, Contractor Certification to Covered Agency ST-220-CA, and J.8, Contractor Certification ST-220-TD. Section 1.24 of this IFB provides direction for the completion of J.7, Contractor Certification to Covered Agency ST-220-CA, and J.8, Contractor Certification ST-220-TD.
- 1.3.4 Bidders mailing their Bid Proposals must allow sufficient mail delivery time to ensure receipt of their Bid Proposal by the date and time specified in Section 1.3.9.5 of this IFB.
- 1.3.5 The Bid Proposal must be sealed and show the following information on the outside:

Bidder's name and address
NYS Office of Temporary and Disability Assistance

Banking Services in Support of Centralized Support Collection
and Enforcement
List the "Bid Proposal Due Date"

1.3.6 The Bid Proposal package must be hand-delivered or sent by certified mail to:

Ms. Cheryl Caza
Contract Management Specialist 2
New York State Office of Temporary and Disability Assistance
Bureau of Contract Management
40 North Pearl Street, 12th Floor, Section D
Albany, NY 12243

1.3.7 All Bid Proposals received on or before the closing date for receipt of Bid Proposals shall become the property of the OTDA and will not be returned to the Bidder, unless the OTDA determines otherwise.

1.3.8 Upon receipt of the Bid Proposal, a date and time stamped receipt will be issued by the OTDA.

1.3.9 **Timetable**

1.3.9.1	Release of IFB	January 23, 2015
1.3.9.2	Final Date for Receipt of Questions	February 13, 2015 (by 3:00 PM, EST)
1.3.9.3	Letter of Intent (Optional)	February 24, 2015 (by 3:00 PM, EST)
1.3.9.4	OTDA Responses to Questions	March 10, 2015
1.3.9.5	Closing Date for Receipt of Bid Proposals	April 3, 2015 (by 3:00 PM, EST)
1.3.9.6	Contractor Selection	June 9, 2015
1.3.9.7	Contract Award	September 28, 2015

1.4 **Questions Regarding this IFB** - All questions regarding this IFB, supporting documentation, or other matters related to this procurement may be submitted by emailing nybankingifb@otda.ny.gov.

1.4.1 All questions must be received no later than 3:00 PM, EST, February 13, 2015. Any questions received after this date and time will not be answered unless the OTDA determines otherwise.

1.4.2 Each question must cite the specific IFB section, and paragraph number to which it refers. During the questions and answers phase of the procurement, Bidders must:

- request any necessary clarifications of the terms and conditions and scope of work; and
- raise any potential assumptions, exceptions, caveats, etc., to the terms and conditions, and scope of work.

1.4.3 The OTDA will provide an official written response to the questions submitted on the OTDA's website <http://otda.ny.gov/contracts/procurement-bid.asp> by March 10, 2015. The OTDA will not entertain questions via telephone.

1.5 **Minimum Qualifications of Bidders** - The Contract described in this IFB may only be awarded to a financial institution that is licensed to conduct business in New York State.

1.5.1 The financial institution must have at least one (1) branch office within New York State boundaries and it must maintain a depository office within a thirty-five (35) mile radius of Albany, NY that has the ability to accept daily deposit of \$1 to \$19 million representing large volumes of deposit transactions both paper and electronic (upwards of

approximately 36,000 individual remittance devices) and process those deposits in accordance with State and Federal Banking laws, regulations, policies and guidelines applicable to the services provided under this agreement. As of September 30, 2014 the financial institution must have total assets of not less than \$3.3 billion and total deposits of not less than \$3.1 billion. The financial institution must provide an array of banking services as noted in Section 3 of this IFB.

- 1.5.2 The financial Institution must have at least three (3) years experience in providing banking services to clients with similar transaction types and volumes.
- 1.5.3 The Bidder must maintain a Kroll Bond Rating Agency (KBRA) financial rating of at least "B-."
- 1.5.4 The financial institution must provide a summary of all contingent liabilities for the Bidder and any Subcontractor(s) in excess of \$100,000 per year; see **Form BR-1 Contract Disputes and Terminations** and **Form BR-13 Technical Response Matrix** in Appendix B of this IFB.
- 1.6 **OTDA Rights** - The OTDA reserves the right to use any and all ideas presented in any response to the IFB. Selection or rejection of any Bid Proposal does not affect this right. The OTDA shall also have unlimited rights to disclose or duplicate, for any purpose whatsoever, all information or other work products developed, derived, documented, or furnished by the Bidder under any Agreement resulting from this IFB.
 - 1.6.1 In the event of Contract award, all documentation produced as part of the Contract will become the exclusive property of the OTDA. The OTDA reserves a royalty free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use such documentation and to authorize others to do so.
 - 1.6.2 The OTDA reserves the right to:
 - 1.6.2.1 Cancel the IFB at its sole discretion.
 - 1.6.2.2 Reject any and all Bid Proposals received in response to this IFB.
 - 1.6.2.3 Reissue a modified version of this IFB.
 - Note: With regard to all modifications, clarifications, or amendments or other changes regarding this IFB which the OTDA reserves the right to issue, any such modification issued on or before the due date for the Bid Proposal shall be published at <http://otda.ny.gov/contracts/procurement-bid.asp> after that date (or an amended date as the case may be), notification will be only to Bidders who have submitted a Bid Proposal. Please note that the OTDA's right to issue modifications, etc. permits any addition or deletion of requirements as the OTDA may deem appropriate subject only to the bounds set forth in the Contract Reporter issuance.
 - 1.6.2.4 Amend any part of this IFB, at any time, upon written notification to all Bidders.
 - 1.6.2.5 Utilize any and all ideas submitted in the Bid Proposal received, unless those ideas are covered by proprietary rights and the Bidder has notified the OTDA in writing of such proprietary rights.
 - 1.6.2.6 Disqualify any Bidder whose conduct or Bid Proposal fails to conform to the requirements of this IFB.
 - 1.6.2.7 Direct any Bidder or number of Bidders to submit Bid Proposal modifications addressing subsequent IFB amendments.
 - 1.6.2.8 Accept all or part of a selected Bidder's Proposal.

- 1.6.2.9 Eliminate any requirements that are unmet by all Bidders upon notice to all parties submitting Bid Proposals.
- 1.6.2.10 Make typographical or computational corrections to Bid Proposals, with the concurrence of the Bidder.
- 1.6.2.11 Waive procedural technicalities in Bid Proposals received, upon notification to all Bidders.
- 1.6.2.12 Change any of the scheduled dates, including start dates, stated herein upon notice to all Bidders.
- 1.6.2.13 Request best and final financial proposals from Bidders.
- 1.6.2.14 Conduct Contract negotiations with any other responsible Bidder to this IFB should the OTDA be unsuccessful in negotiating an agreement with the selected Bidder within the timeframe acceptable to the OTDA.
- 1.6.2.15 Select and award Contracts to more than one Bidder.
- 1.6.2.16 Negotiate additional terms and conditions in the agreement resulting from this IFB which are to the OTDA's best interest and which do not substantially alter the requirements of the IFB.
- 1.6.2.17 Require any Bidder to demonstrate, to the satisfaction of the OTDA, their ability to perform the services required by this IFB.
- 1.6.2.18 Request Bidders to clarify or revise their Bid Proposal and/or submit additional information pertaining to their Proposal.
- 1.6.2.19 Require that any or each Bidder provide an oral presentation of its Bid Proposal.
- 1.6.2.20 Terminate review of Bid Proposals found technically or financially inappropriate.
- 1.6.2.21 Re-solicit offers from Bidders by republishing and advertising this IFB at any point in time.

1.7 Incurred Costs

- 1.7.1 The State of New York shall not be liable for any costs incurred by Bidders in the preparation or production for, or prior to the approval of, an executed Contract by the New York State Office of the State Comptroller (OSC). Additionally, no cost will be incurred by the State of New York for the Bidders' presentations or execution of any activities including, but not limited to, any oral presentation, demonstration, simulation, or laboratory session occurring prior to the approval of an executed Contract as required by the OTDA.

1.8 Reference Material

- 1.8.1 A copy of the current Banking Services Manual is published at <http://otda.ny.gov/contracts/procurement-bid.asp>.

1.9 Content of Bid Proposals

- 1.9.1 To be considered responsive, a Bidder must submit a complete Bid Proposal that satisfies all the requirements stated in this IFB.

1.9.2 Bid Proposals must conform to the format and sequence rules specified in Section 4 of this IFB. A Bid Proposal that fails to conform may be considered non-responsive and may be rejected as nonconforming.

1.10 **Period of Validity**

1.10.1 The Bidder's Bid Proposal must include a statement as to the period during which the provisions of the Bid Proposal will remain valid. A minimum of one (1) year from the "Closing Date for Receipt of Bid Proposals" as specified in Section 4.4.1.3 of this IFB is required.

1.11 **Public Information Requirements**

1.11.1 All the Bid Proposals upon submission will become the property of the OTDA. The OTDA will have the right to disclose all or any part of a Bid Proposal to public inspection based on its determination of what disclosure will serve the public interest or the interest of the Child Support Program.

1.11.2 Proposals upon submission will become the property of the OTDA. Prospective Bidders are further advised that, all Bid Proposals are subject to disclosure under the New York State Freedom of Information Law (NYS Public Officers Law, Article 6). In the event a Bidder desires that the OTDA consider specific information in the Bid Proposal subject to an exception from public disclosure, then the Bidder must specifically identify the information, cite the specific exemption to disclosure under the Freedom of Information Law, and explain in detail why public access to the information would be harmful to the Bidder. Use of generic trade secret legends encompassing substantial portions of the Bid Proposal or simple assertions of trade secret interest without substantive explanation of the basis therefore will be regarded as inadequate requests for exception from public disclosure and will not be considered by the OTDA in the event that a Freedom of Information request for Bid Proposal information is received.

1.12 **Notification of Award and Debriefing**

1.12.1 Subsequent to the evaluation of all Bid Proposals received pursuant to this IFB, all Bidders will be notified of the acceptance or rejection of their Bid Proposal. News releases or any other disclosure relating to this Contract award shall not be made by the successful Bidder or its agent without the explicit approval of the OTDA.

1.12.2 The OTDA will notify all unsuccessful Bidders, at or about the time of the Bid Proposal award, of the fact that their Bid Proposals were not selected. Each unsuccessful Bidder may at that time request a debriefing by the OTDA as to why its Bid Proposal was not selected. The scope of such debriefings will ordinarily be limited to the strengths and weaknesses of the individual Bidder's Bid Proposal, unless the Contract resulting from this procurement has been approved by the OSC.

1.13 **Prime Contractor's Responsibility**

1.13.1 In the event the selected Bidder's Bid Proposal includes goods and services provided by another firm or manufacturer, it shall be mandatory for the selected Bidder to assume full responsibility for the delivery, installation, maintenance, and support services for such items offered in the Bid Proposal. Should the selected Bidder seek external financing, the State reserves the right to approve the assignment of the Contract for financing purposes. In any event, the OTDA will contract only with a Bidder, not the Bidder's financing institution or subcontractors. The OTDA shall consider the selected Bidder to be the sole responsible entity with regard to all provisions of the Contract resulting from this IFB.

- 1.13.2 Prior written approval of the OTDA is required for all subcontracts. Any subcontract related to performance of the Contract resulting from this IFB shall be subject to the provisions of the law set forth in Sections 220, 220-d, and 220-e of the Labor Law of the State of New York, Article 15 and 15-A of the Executive Law of the State of New York.
- 1.14 **Contract** - It is the intent of the OTDA to enter into a Contract with a selected Contractor. The terms and conditions for such Contract include those found in Section 5 and Appendix A, Standard Clauses for New York State Contracts, of this IFB. Additionally, the contents of the selected Bidder's Proposal, together with the IFB and any formal questions and answers exchanged during the Bidding process, will be made a part of the final Agreement.
- 1.15 **Procurement Lobbying Act (PLA)** - Pursuant to State Finance Law §§139-j and 139-k, this procurement imposes certain restrictions on communications between the State and a vendor during the procurement process. Vendors are restricted from making oral, written, or electronic contacts with New York State employees other than to the point of contact as identified above until OSC Contract approval. Statutory exceptions to vendor contact with other than the designated Point of Contact are listed below:
- Submission of a written Proposal in response to this procurement
 - Submission of written questions prior to the Proposal due date (note: the PLA does not allow the hiring manager to schedule interviews)
 - Oral Presentations
 - Complaints filed by a vendor stating that the designated point of contact has failed to respond in a timely manner
 - Negotiations following task order award
 - Debriefings to vendors that were not award recipients
 - Filing of an appeal or protest
 - Contacts initiated by the OTDA
- 1.15.1 New York State employees, other than the designated Point of Contact, who are contacted by a vendor, are required to obtain and record certain information when contacted that could result in a finding of non-responsibility against the vendor. Such a finding can result in a rejection of an award, and in the event of two (2) findings within a four (4) year period, the vendor would become debarred from obtaining New York State contracts. Further information about these requirements can be found at <http://www.ogs.ny.gov/aboutogs/regulations/defaultAdvisoryCouncil.html>.
- 1.15.2 The PLA also requires that every procurement over \$15,000 include a certification by the vendor that all information provided to the agency is complete, true, and accurate with regard to prior non-responsibility determinations within the past four (4) years based on (i) impermissible contacts or other violations of State Finance Law Section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity. The PLA Bidder's Certification and Affirmation of Understanding of and Agreement pursuant to State Finance Law Sections 139-j and 139-k and the Bidder's Disclosure of Prior Non-Responsibility Determinations can be found in Appendix J of this IFB.
- 1.15.3 The State reserves the right to terminate the award resulting from this procurement in the event it is found that the certification filed by the Bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the State may exercise its termination right by providing written notification to the award recipient.
- 1.16 **Public Officer's Law** - All Bidders and their employees must be aware of and comply with the requirements of the New York State Public Officers Law, and all other appropriate provisions of New York State Law and all resultant codes, rules, and

regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations, and corporations in business with the State, and with applicable Federal laws and regulations of similar intent. In signing the Proposal, each Bidder guarantees knowledge and full compliance with those provisions for any dealings, transactions, sales, contracts, services, offers, relationships, etc., involving the State and/or State employees. Failure to comply with those provisions may result in disqualification from the Bidding process and in other civil or criminal proceedings as may be required or permitted by law.

1.17

Minority and Women-Owned Business Enterprise and Equal Employment Opportunity Participation

New York State Executive Law §§ 310–318, (Article 15-A: Participation By Minority Group Members and Women With Respect To State Contracts -- hereinafter “the Statute”), was enacted to promote equality of employment and economic opportunities for minority group members and women in State contracting activities. The OTDA fully supports the efforts of the State of New York to promote Equal Employment Opportunity (EEO) for all persons, and to promote equality of economic opportunity for minority group members and women who own business enterprises.

The OTDA has developed compliance requirements, forms, and procedures to ensure that (i) all contractors as defined under § 310 (3) (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom the OTDA enters into State Contracts, as defined in § 310 (13) [hereinafter “Contractors”], as well as proposed or actual “Subcontractors”, as defined in § 310 (14) shall comply with requirements to ensure equal employment opportunities for Minority Group Members and Women, and, (ii) there are meaningful participation opportunities for certified minority or women-owned business enterprises (MWBES) in the OTDA procurement process. Contractors participating in and/or selected for procurement opportunities with OTDA shall fulfill their obligations to comply with applicable Federal, State, and local requirements concerning EEO and opportunities for MWBEs, including but not limited to the Statute and its implementing regulations as promulgated by the New York State Division of Minority and Women’s Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-144). Refer to Appendix Z, attached and incorporated by reference herein, for the specific EEO/MWBE requirements and associated forms required by this procurement. These forms are to be submitted without change to goals specified in the IFB or Contract, unless otherwise authorized by the OTDA. Copies of the required OTDA Forms are identified in Appendix Z and available on OTDA’s Internet site at <http://otda.ny.gov/contracts/mwbe/forms.asp>.

It is important to note that in addition to direct subcontracting on State contracts, Contractors can also utilize a number of other vendors in support of their overall operations. Using NYS Certified MWBEs (link to Directory of NYS Certified MWBEs, <http://www.esd.ny.gov/MWBE.html>) as providers of these second tier services can be counted in satisfaction of the goals. The following are examples of indirect services that you may want to consider for compliance with MWBE subcontracting participation requirements: Accounting Services, Advertising, Building Maintenance, Car Rental, Cleaning Supplies, Copying, Electrical Services, Furniture, Heating and Cooling, Janitorial Services, Office Supplies, Pest Control, Printing Services, Publishing, Rubbish Removal, Removal, Security, Shredding Services, Tax Preparation, Technical Writing, Training, Travel Services, etc.

- 1.18 **Federally Required Statutory References for State Contracts Funded Under Title IV-D of the Social Security Act** - All Contractors will be required to comport with the requirements of: EEO; Copeland “Anti-Kickback” Act; Davis-Bacon Act; Contract Work Hours and Safety Standards Act; Rights to Inventions Made Under a Contract or Agreement; Clean Air Act; Byrd Anti-Lobbying Amendment; and Debarment and Suspension, contained in Appendix N of this IFB. Contractors shall submit documentation as the OTDA may require to ensure compliance with such statutes.
- 1.19 **Anti-Kickback Act** - The Bidder will be required to comply with federal Executive Order 11246, the Copeland “Anti-Kickback Act” (18 USC 874), the Davis Bacon Act (40 USC 3141 to 3148), the Clean Air Act (42 USC 7401), the Clean Water Act (33 USC 1368), the Energy Policy and Conservation Act (89 Stat. 871), and it must certify that neither it nor its principals are debarred or suspended from federal financial assistance programs and activities, and in pursuit of such certification, it must complete and return any appropriate form required by the OTDA (see federal Executive Order 12549 and 45 CFR Part 76).
- 1.20 **Drug Free Workplace** - The Offeror agrees to make a good faith effort, on a continuing basis, to maintain a drug-free workplace pursuant to applicable laws, rules, and guidelines, and identify all workplace locations where work under the Federal award will be performed. Since Federal entities will no longer collect a paper certificate, this may include the following:
- 1.20.1 Notifying all Subcontractors of the Drug Free Workplace rules.
- 1.20.2 Making conforming changes to internal procedures, directives, training materials, etc.
- 1.20.3 Incorporating the new rules into Subcontractor monitoring practices.
- 1.21 **Vendor Responsibility** – Section 163 of the State Finance Law requires that contracts be awarded on the basis of lowest price or best value to a responsive and responsible Bidder. The State and courts have determined that responsibility includes integrity, previous performance, legal authority to do business in New York State, and financial and organizational ability to perform the Contract. As part of the procurement process, Bidder, affiliates and any business entity of which the Bidder is a subsidiary and Subcontractors (where the Subcontractor is known at the time of the Contract award, its qualifications are a material factor in the award, and its subcontract will equal or exceed \$100,000 over the life of the Contract) are required to complete the NYS Vendor Responsibility Non-Construction For-Profit Questionnaire and submit it with its Proposal. The OTDA shall conduct reviews of each Bidder for purposes of making a “responsibility” determination. The OTDA may request additional information, including meeting with the Bidder. If the Bidder is determined by the OTDA to be non-responsible, the OTDA shall inform the Bidder of such ruling. The Bidder shall have thirty (30) days to request a meeting with the OTDA to explain the ruling and to demonstrate the finding to be incorrect or to correct/resolve any issues impacting the Bidder’s responsibility. If the OTDA’s finding remains unchanged after meeting with the Bidder, the Bidder shall be removed from consideration for this Contract. The Bidder that is awarded this Contract shall update its NYS Vendor Responsibility Non-Construction For-Profit Questionnaire whenever such information changes and prior to any Contract extensions and/or amendments. If the Bidder is determined, on the basis of new or previously undisclosed information, to be non-responsible, the Contract may be terminated, at the OTDA’s sole discretion.

- 1.21.1 The OTDA recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System; however, vendors may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at http://www.osc.ny.gov/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.
- 1.21.2 For direct VendRep System user assistance, the OSC's Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.ny.gov. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website <https://portal.osc.state.ny.us> or may contact the OTDA or the OSC's Help Desk for a copy of the paper form.
- 1.21.3 The NYS Vendor Responsibility Non-Construction For-Profit Questionnaire can also be found in Appendix J of this IFB.
- 1.21.4 The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of the OTDA or his or her designee, to present evidence of its continuing legal authority to do business in New York State, and demonstrate its integrity, experience, ability, prior performance, and organizational and financial capacity.
- 1.21.5 The Commissioner of the OTDA or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of the OTDA or his or her designee issues a written notice authorizing a resumption of performance under the Contract.
- 1.21.6 Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Agency officials or staff, the Contract may be terminated by the Commissioner of the OTDA or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of the OTDA or his or her designee to be non-responsible. In such event, the Commissioner of the OTDA or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.
- 1.22 **Encouraging Use of New York State Businesses in Contract Performance** - New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders for this Contract for commodities, services, or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as Subcontractors, suppliers, protégés, or other supporting roles.
- 1.22.1 Bidders need to be aware that all authorized users of this Contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Bidders are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.
- 1.22.2 Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the

mutual benefit of the Contractor and its New York State business partners. New York State businesses will promote the Contractor's optimal performance under the Contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

1.22.3 Public Procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its Contractors. The State therefore expects Bidders to provide maximum assistance to New York businesses in their use of the Contract. The Potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

1.22.4 To demonstrate their commitment to the use of New York State Businesses, Bidders are required to submit the Subcontractor and Supplier Identification Form located in Appendix J of this IFB and submit it with their Bid Proposal.

1.23 **New York State Contractor Insurance Requirements**

1.23.1 Prior to the start of work the Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, policies of insurance as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York ("admitted" carriers) with an A.M. Best Company rating of "A-" Class "VII" or better or as acceptable to the OTDA. The OTDA may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require the OTDA to accept insurance placed with a non-authorized carrier under any circumstances. The Contractor shall deliver to the OTDA evidence of such policies in a form acceptable to the OTDA.

1.23.2 An Offeror must commit to obtaining all necessary proof of insurance with its Bid Proposal. Upon notice of award, Offeror shall be required to procure all required insurance. The Contractor must provide proof of current insurance throughout the Contract term. The Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, policies of insurance as set forth in Section 5 of this IFB, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York ("admitted" carriers) with an A.M. Best Company rating of "A-" Class "VII" or better or as acceptable to the OTDA. 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 the OTDA and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. The OTDA may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require OTDA to accept insurance placed with a non-authorized carrier under any circumstances. The Contractor shall deliver to the OTDA evidence of such policies in a form acceptable to the OTDA, in accordance with the requirements set forth in Section 5 of this IFB, as applicable.

1.23.3 The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of the OTDA or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

- 1.23.4 The Commissioner of the OTDA or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of the OTDA or his or her designee issues a written notice authorizing a resumption of performance under the Contract.
- 1.23.5 Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Agency officials or staff, the Contract may be terminated by the Commissioner of the OTDA or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of the OTDA or his or her designee to be non-responsible. In such event, the Commissioner of the OTDA or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.
- 1.24 **New York State Sales and Compensating Use Taxes** - Tax Law Section 5-a, which was added to the Tax Law under Part N of Chapter 60 of the Laws of 2004, imposes upon certain Contractors the obligation to certify whether or not the Contractor and its affiliates are required to register to collect State sales and compensating use tax. Where required to register, the Contractor must also certify that it is, in fact, registered with the New York State Department of Taxation and Finance (DTF). The law prohibits the OSC, or other approving agency, from approving a Contract awarded to a Bidder meeting the registration requirements but who is not so registered in accordance with the law. Pursuant to Tax Law Section 5-a, Contractors must complete, sign, and file a properly completed Form ST-220-CA (with the OTDA) and Form ST-220-TD (with the Tax Department). Contractors must also submit a copy of the Certificate of Authority, if available, for itself and any affiliates required to register to collect State sales and compensating use tax. If Certificates of Authority are unavailable, the Contractor, affiliate, Subcontractor, or affiliate of Subcontractor must represent that it is registered and that it has confirmed such status with DTF.
- 1.25 **Iran Divestment Act** - By entering into this Contract, the Contractor certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any Subcontractor that is identified on the Prohibited Entities List. The Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. The Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before the OTDA or the Office of Information Technology Services (OITS) may approve a request for Assignment of Contract.
- 1.25.1 During the term of the Contract, should the OTDA/OITS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the OTDA/OITS will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within ninety (90) days after the determination of such violation, then the OTDA/OITS shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default. The OTDA/OITS reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Contract, and to pursue a responsibility review with the Contractor should it appear on the Prohibited Entities List hereafter.

- 1.26 **Procedure for Handling of Protests/Appeals of Bid Specification and Proposed Awards** - It is the policy of the OTDA contracting program to provide all Bidders with an opportunity to resolve complaints or inquiries related to Bid solicitations or pending contract awards administratively. The OTDA encourages Bidders to seek resolution of complaints concerning the contract award process through consultation with the OTDA. All such matters will be accorded impartial and timely consideration. Detailed procedures are outlined in Sections 1.26.1 through 1.26.8 of this IFB.
- 1.26.1 **Informal Complaints/Protest** - It is the intent of the OTDA to be receptive to and resolve issues, inquiries, questions, and complaints on an informal basis, whenever possible. Information provided informally by any interested party will be fully reviewed by the Project Procurement Team. In addition, matters that are perceived to contain, or are potentially confidential or trade secret information will be shared with the Office of Legal Affairs (OLA) for possible direction. Both Bidder and staff should document the subject matter and results of informal inquiries. The OTDA responses to the inquirer will indicate the existence of a formal protest policy available to the Bidder should the informal process fail to resolve the matter. Final agency determinations or recommendations for award generally may be reconsidered only in the context of a formal written protest as described below.
- 1.26.2 **Formal Written Protests** – Final agency decisions or recommendations for award generally may be reconsidered only in the context of a formal written protest as described below. Any Bidder or prospective Bidder who believes that there are errors or omissions in the procurement process or who otherwise has been aggrieved in the drafting or issuance of a Bid solicitation, Proposal evaluation, Bid award, or Contract award phases of the procurement, may present a formal complaint to the OTDA and request administrative relief concerning such action ("formal protest"). A formal protest must be submitted in writing to the OTDA, by ground mail, except where alternate arrangements have been made, to the Director of the OTDA Bureau of Contract Management, 40 North Pearl Street, 12th Floor, Section D, Albany, NY 12243. A formal protest must include a statement of all legal and/or factual grounds for disagreement with an OTDA specification or purchasing decision; a description of all remedies or relief requested; and copies of all applicable supporting documentation.
- 1.26.3 **Deadline for Submission of Formal Protests** – The OTDA must receive formal protests concerning errors, omissions or prejudice, including patently obvious errors in the IFB specifications or documents, at least ten (10) calendar days before the Closing Date for Receipt of Bids. The OTDA must receive formal protests concerning a pending Contract award within seven (7) calendar days after the protesting party (protester) knows or should have known of the facts which form the basis of the protest.
- 1.26.4 **Review and Final Determination of Protests** - Protests will be resolved through written correspondence. However, either the protester or the OTDA may request a meeting to discuss a formal protest or the OTDA may initiate a meeting on its own accord, at which time the participants may present their concerns. Either the protester or the OTDA may decline such a meeting. Where further formal resolution is required, the Director of the Bureau of Contract Management (BCM) shall designate an OTDA employee not involved in the procurement action (designee) to determine and undertake the initial resolution or settlement of any protest. The designee will conduct a review of the records involved in the protest, and provide a memorandum to the Director of BCM summarizing the facts as determined by the designee, an analysis of the substance of the protest, and a preliminary recommendation. The Director of BCM shall: (a) evaluate the designee's findings and recommendations, the evaluation team's reports and recommendations, (b) review the materials presented by the protesting party and/or any materials required of or submitted by other Bidders, (c) if necessary, consult with the OTDA's OLA, and (d) prepare a response to the protest (protest

determination). A copy of the protest determination, stating the reason(s) upon which it is based and informing the protester of the right to appeal an unfavorable decision to OSC, shall be sent to the protester or its agent within forty-five (45) calendar days of receipt of the protest, except that upon notice to the protester such period may be extended. The protest determination will be recorded and included in the procurement record, or otherwise forwarded to the OSC upon issue.

- 1.26.5 **Appeals** - Upon receipt of the OTDA's protest determination, a protester has ten (10) business days to file an appeal of the determination with the OSC Bureau of Contracts. The appeal must be filed with Charlotte Breeyear, Director, Bureau of Contracts, New York State Office of the State Comptroller, 110 State Street, 11th Floor, Albany, NY 12236. The protester's appeal must contain an affirmation in writing that a copy of the appeal has been served on the OTDA, the successful Bidder (except where the contracting agency upholds the protest and the successful Bidder is the appealing party) and any other party that participated in the protest. In its appeal, the interested party shall set forth the basis on which it challenges the OTDA's determination. The OSC Bureau of Contracts will conduct its determination of the appeal in accordance with its established policy.
- 1.26.6 **Reservation of Rights and Responsibilities of the OTDA** -The OTDA reserves the right to waive or extend the time requirements for protest submissions, decisions, and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the State and the OTDA. If the OTDA determines that there are compelling circumstances, including the need to proceed immediately with the Contract award in the best interest of the State, then these protest procedures may be suspended and such decision shall be documented in the procurement record. The OTDA will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action including solicitation of Bids or may withdraw the recommendation of Contract award prior to issuance of a formal protest decision.
- 1.26.7 **Procurement Activity Prior to Final Protest Determination** - Receipt of a formal Bid Protest shall not stay action on a procurement unless otherwise determined by the OTDA. If a formal protest or appeal is received by the OTDA on a recommended award prior to the underlying Contract being forwarded to the OSC, notice of receipt of the protest and appeal must be included in the procurement record forwarded to the OSC. If a final protest determination or final decision on appeal has been reached prior to transmittal to the OSC, a copy of the final protest determination or decision on appeal must be included in the procurement record and forwarded with the recommendation for award. If a final protest determination or final decision on appeal is made after the transmittal of a Bid package to the OSC, but prior to the OSC approval under State Finance Law § 112, a copy of the final OTDA decision shall be forwarded to the OSC when issued, along with a letter either: a) confirming the original OTDA recommendation for award and supporting the request for final § 112 approval, b) modifying the proposed award recommendation in part and supporting a request for final § 112 approval as modified; or c) withdrawing the original award recommendation.
- 1.26.8 **Record Retention of Bid Protests** - All records related to formal Bidder protests and appeals shall be retained for at least one (1) year following resolution of the protest. All other records concerning the procurement shall be retained according to the statutory requirements for records retention.
- 1.27 **Information Security Breach and Notification Act** – The Contractor shall comply with the provisions of the New York State Information Breach and Notification Act. The Contractor shall be liable for all costs associated with such breach if caused by the Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of the Contractor's agents, officers, employees, or subcontractors. The

Contractor must comply with the "Information and Security Breach and Notification Act" (also known as the "Internet Security Privacy Act" – Article 2 of the New York State Technology Law and Chapter 4212, Laws of 2005). In the event the Contractor has reason to believe that there has been unauthorized access to and/or use of the OTDA's data or the data system, the Contractor must provide immediate written notification to the OTDA. The Contractor must cooperate with activities necessary for the OTDA to determine the need for notification and/or to provide the notification(s) required. Within twenty-four (24) hours of the notification by the Contractor, the Contractor must report to the OTDA the steps taken or proposed to be taken in response to the instance of unauthorized access. The Contractor must also notify the OTDA of the steps taken to prevent similar instances in the future as soon as is practicable after the unauthorized access is discovered.

- 1.28 **Cyber Security Policy** - The Bidder must comply with the current New York State Information Security Policy as required by the Office of Cyber Security & Critical Infrastructure Coordination. A copy of this policy may be obtained on the following website: <http://www.dhSES.ny.gov/ocs/resources/>.
- 1.29 **Contract Execution** - Awards are not final and the resultant Contract is not considered executed and binding until approved by the Attorney General and the OSC as required by New York State Law. The OSC will not approve the resultant Contract until it has received notice from the State's Division of the Budget that sufficient appropriated funds exist for payment.
- 1.30 **Contract Duration** - The term of the Contract resulting from this IFB is five (5) years and two (2) months, which includes approximately a two (2) month Transition period and five (5) years for operations, commencing on the date upon which OSC approves the Contract (Contract Approval Date). The OTDA has the option and sole discretion, with approval of the OSC, upon a ninety (90) day notice to the Contractor, to exercise two (2) consecutive extensions up to twelve (12) months each. Payment to the Contractor shall be in accordance with this IFB. In the event that the OTDA elects to award debit card services to the successful Bidder of this IFB, such services shall commence upon termination of the Centralized Support Collection and Enforcement Contract.
- 1.31 **Multi-Agency Use** – Any Contract entered into pursuant to an award of this IFB must contain a provision that grants the option to the State to extend the terms and conditions of such Contract to any other State agency in New York, for the provision of the services set forth herein.
- 1.32 **Banking Protocols** - Any process included as part of a Bidder's response must comply with the protocols, rules and regulations established by:
- 1.32.1 the National Automated Clearing House Association (NACHA) (<https://www.nacha.org>);
- 1.32.2 New York State Department of Financial Services (<http://www.dfs.ny.gov>); and
- 1.32.3 the New York State OSC (<http://www.osc.state.ny.us>).
- 1.33 **Letter of Intent to Offer** – Any Bidder intending to submit a Bid Proposal is strongly encouraged to submit a Letter of Intent to Offer. A Letter of Intent to Offer, if submitted, must be received by the DCSE by 3:00 PM, EST on February 24, 2015 at the following email address: nybankingifb@otda.ny.gov. The Letter of Intent to Offer shall:
- 1.33.1 Specify the Bidder and any planned major Subcontractors where projected payments by the Contractor could exceed one million dollars (\$1,000,000) over the life of the Contract. For the purposes of this IFB and the resultant Contract, a Subcontractor is

considered to be any company that performs a portion of the Bidder's obligation under the terms of a written agreement with the Bidder. Any vendor that exclusively provides only goods, supplies and/or materials shall be considered exempt from this definition except for purposes of the MWBE requirements under Appendix Z of this IFB.

- 1.33.2 Indicate any MWBE, if known, with whom the Bidder intends to subcontract or intends to use as a supplier under the Contract.
- 1.33.3 Disclose any potential conflict of interest pertaining to this IFB involving the Bidder or any planned Subcontractor. If there are none, it shall be so stated.
- 1.33.4 Amendments to the Letter of Intent to Offer that specify changes in Subcontractors may be accepted by the OTDA at its discretion.

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Section 2 EVALUATION OF BID PROPOSALS

- 2.1 **Objective** - All Bid Proposals received shall be subject to an evaluation by the OTDA, assisted by such other personnel as deemed appropriate, for the purpose of selecting the Bidder with whom an agreement will be negotiated. Only Bid Proposals judged to be responsive to the submission requirements set forth in this IFB will be evaluated. The OTDA will award the contract(s) to the Bidder with the highest score as determined in Section 2.3.2.1.1 of this IFB, and which meets the other mandatory requirements of this IFB.
- 2.2 **Evaluation Philosophy** - The OTDA is committed to a fair and impartial evaluation process characterized by:
- 2.2.1 Requirements based upon the OTDA's substantiated needs;
 - 2.2.2 Equal opportunity for incumbent and non-incumbent Bidders; and
 - 2.2.3 Evaluation by a structured impartial process.
- 2.3 **Bid Proposal Evaluation Methodology**
- 2.3.1 **Format and Content Evaluation** – Each Bid Proposal will be examined to determine its compliance with the requirements of this IFB as specified herein.
- 2.3.1.1 Bidder's Bid Proposals that satisfy the format and content criteria will be examined to determine their responsiveness, either pass or fail, to each item in **Form BR-13** Technical Response Matrix of this IFB, and all additional required information and/or forms. Failure to meet any mandatory specification found in Sections 4.4.1 through 4.4.3.3 of this IFB will result in a Bidder's removal from further consideration. The OTDA reserves the right to allow Bidders the opportunity to cure proposal deficiencies. Bidders may suggest revisions as noted in Section 3.5 of this IFB, however, suggested revisions and any associated cost savings will only be taken into consideration during contract negotiations with a successful Bidder.
- 2.3.1.2 Only those Bid Proposals deemed responsive as a result of the initial review in Section 2.3.1.1 of this IFB will be further evaluated as noted in Section 2.3.2 of this IFB.
- 2.3.2 **Financial Evaluation** – Financial Proposal forms will be examined to determine the financial ranking of each Bidder's Financial Proposal.
- 2.3.2.1 Each Bidder's total cost for the five (5) year and three (3) month period for the nineteen (19) service categories will be determined from **Form BR-9A** Financial Proposal-Fixed Price Summary. The optional service pricing for debit card services will not be factored into the total cost calculation, but will be evaluated for reasonableness of price. The OTDA reserves the right to award the cardholder debit card services to another vendor in the event that the Bidder's proposed rate and fee schedule is determined to be unreasonably priced or more favorable pricing is obtained through another solicitation.
- Note: The cost calculation in Section 2.3.2 of this IFB is for evaluation purposes only as the Contractor's basis of payment is derived in accordance with Section 3.4 of this IFB.
- 2.3.2.1.1 After completing Section 2.3.2.1 of this IFB, the OTDA will rank the Bid Proposals based on the total cost. Bidders will be ranked lowest to highest based on the total cost determined in Section 2.3.2.1 of this IFB.
- 2.3.3 **Selection Method** – The OTDA will select the Bid Proposal with the lowest cost.

2.3.3.1

In the event of a tie, all Bidders will be notified and asked to submit a best and final offer using the required forms BR-10A, BR-10B and BR-13 included in Appendix B of this IFB. If there remains a tie for the lowest cost after each Bidder submits a best and final bid offer, the Contract will be awarded to the Bidder based on the earliest best and final offer bid receipt date, and then the earliest best and final offer bid receipt time.

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Section 3 SCOPE OF WORK

- 3.1 **General** - In order to preserve and enhance the current level of banking services to local social services districts, including implementing operating changes and improvements, and to preserve and enhance banking services performed for Non-IV-D Services Unit cases, the OTDA is soliciting Bid Proposals for banking services in support of Centralized Support Collection and Enforcement operations. The successful Bidder, hereafter referred to as the Contractor, upon entering into an agreement with the OTDA shall provide banking services based on the following Contractor requirements for Transition tasks, ongoing Operations, proposing revisions, and Contractor compensation.
- 3.2 **Transition** - This function encompasses tasks that the Contractor will be required to complete prior to providing on-going banking services to the fifty-eight (58) local district SCUs and the Non-IV-D Services Unit bank account, hereafter referred to as “fifty-nine (59) support accounts”, as well as the NYSCSPC bank account, hereafter referred to as the “Administrative bank account”. The objectives of the Transition functions are to provide for an orderly and controlled Transition such that banking services continue to be provided without interruption to local districts and their clients; and to implement all contract deliverables while maintaining the level of effectiveness required by the performance standards identified in Section 3 of this IFB. A Transition Plan must be submitted with the Bid Proposal using Form BR-6, Workplan.
- 3.2.1 **Timeframe** – The Contractor is required to begin participation in Transition functions on the day upon which OSC approves the Contract.
- 3.2.2 **Key Staff**
- 3.2.2.1 **Project Manager** - The Contractor is required to designate and make available a Project Manager on the date of approval of the Contract by the OSC. The Project Manager must have successfully managed within the past five (5) years the operation of banking services of comparable scope and complexity as defined within this IFB. In addition, the proposed Project Manager must have a minimum of three (3) years’ experience in project management.
- 3.2.2.2 The Contractor must propose the best use of the Project Manager and explain how the Project Manager will interact with the OTDA, the fifty-eight (58) local district SCUs, and the Centralized Support Collection and Enforcement contractor to ensure all deliverables and performance standards are met.
- 3.2.2.3 The Contractor must ensure that the Project Manager is available to:
- 3.2.2.3.1 participate in Transition functions;
 - 3.2.2.3.2 respond to inquiries made by the OTDA;
 - 3.2.2.3.3 coordinate provision of required supplies;
 - 3.2.2.3.4 resolve problems within the required timeframes;
 - 3.2.2.3.5 attend weekly progress meetings; and
 - 3.2.2.3.6 submit reports to the OTDA.
- 3.2.2.4 **Customer Service Representative** – The Contractor is required to designate and make available a Customer Service Representative within one (1) month after the commencement of Transition.
- 3.2.2.4.1 The Customer Service Representative must have one (1) year Customer Service experience in the banking environment including but not limited to the services

identified in this IFB.

- 3.2.2.4.2 The Contractor must ensure that the Customer Service Representative is available as specified in Section 3.2.21 of this IFB.
- 3.2.3 **Planning** - The Contractor shall, within fifteen (15) days of the commencement of Transition as noted in Section 3.2.1 of this IFB, prepare and submit a final and detailed Transition plan for approval by the OTDA. This plan will include the following to ensure that all processes and procedures noted in Sections 3.2 and 3.3 of this IFB are implemented and/or available prior to the required Operations start date.
- 3.2.3.1 planned activities;
- 3.2.3.2 staffing levels and responsibilities;
- 3.2.3.3 schedule of events including timeframes; and a
- 3.2.3.4 checklist of the review and acceptance by the OTDA of the processes and procedures developed to accommodate the milestones, deliverables, and performance standards required in Section 3 of this IFB.
- 3.2.4 **Testing** – The Contractor must complete the review and acceptance testing of all aspects of each banking service and deliverable identified in Sections 3.2 and 3.3 of this IFB prior to performing those functions.
- 3.2.5 **Facilities** – The Contractor must identify to the OTDA and maintain, throughout the Contract term, a depository office within thirty-five (35) miles of Albany, NY that has the ability to accept and process daily deposits of \$1 to \$19 million representing various volumes of deposit transactions (remittance devices) to be made by the Centralized Support Collection and Enforcement contractor to the Administrative bank account.
- 3.2.5.1 Where existent, the Contractor must also identify to the OTDA and each local district SCU, a depository office located within the designated county boundaries of the respective local district SCU, for the purpose of accepting deposits of various transaction volumes representing child support payments made in person to the respective local district SCU. The Contractor must provide the OTDA with a listing of such depository offices, to include the name, address, business hours, and the ability to accept night deposits. The Contractor must immediately provide the OTDA with a revised listing as changes occur. The Contractor will not be compensated for any expense associated with the Contractor establishing a new depository office(s) within any of the designated counties within any of the fifty-eight (58) local social services districts.
- 3.2.5.2 Where existent, the Contractor must also identify to the OTDA and each local district SCU, all branch offices located within the designated county boundaries of the respective local district SCU, for the purpose of enabling custodial parents to cash their child support checks.
- 3.2.6 **Disaster Recovery Plan** – The Contractor must provide a Disaster Recovery Plan as part of the Bid Proposal. The plan must include, at a minimum, the following:
- Immediate notification to the OTDA Project Director; and
 - Procedures for deposits, inbound and outbound files, and internet access as per Section 3.2.7.12 of this IFB.

- 3.2.6.1 The Disaster Recovery Plan presented as part of the Bid Proposal must be developed into a fully functional and documented arrangement during the Transition process. Equipment backup must be tested for compatibility and capacity, with any identified shortcomings corrected. Any backup facility must be able to provide processing for a minimum of two (2) months.
- 3.2.6.2 Disaster Recovery Testing - The Contractor must perform at the OTDA's request, a minimum of one (1) disaster recovery test every six (6) months.
- 3.2.7 **Account Establishment** – The Contractor is responsible for the following:
- 3.2.7.1 Required Documents – The Contractor must deliver to the OTDA within twelve (12) days after the commencement of Transition, sixty-one (61) sets of all documents required (e.g., customer signature cards) and depository account resolutions, including written instructions for completing the forms included in each set to establish and activate the sixty (60) bank accounts identified in Section 3.2.7.2 of this IFB.
- 3.2.7.1.1 The Contractor must review the documents returned by the OTDA for acceptance by the Contractor for processing. Upon the determination that any one of the documents is unacceptable to the Contractor, the Contractor must return the document(s) within forty-eight (48) hours to the OTDA with a written explanation of the reason for the return of the document(s).
- 3.2.7.2 Bank Account Names and Numbers – The Contractor must provide to the OTDA within twelve (12) days after the commencement of Transition, a listing comprised of each of the sixty (60) bank account names as listed in Appendix E, and their respective bank account numbers as assigned by the Contractor.
- 3.2.7.3 Account Analysis – The Contractor must maintain each of the established bank accounts on a daily basis (e.g., the posting of deposits, paid items, debits, credits, and adjusting memos). On a daily basis, the Contractor must review the bank accounts to verify the accuracy of all entries made to the bank accounts. The Contractor must analyze each of the entries (e.g., deposits, debits, credits, electronic transfers, paid checks, direct deposits) made to the bank accounts. The analysis must verify the correctness and accuracy of each entry. When errors are found, the correcting adjustment(s) must be made to the respective account. When errors are reported by the OTDA, a local district SCU, or the Centralized Support Collection and Enforcement contractor, the Contractor must correct such errors. The Contractor must complete the correcting adjustments within three (3) days from the reporting of the error to the Contractor.
- 3.2.7.4 Adjusting Memos – The Contractor must complete and provide electronically, as required under Section 3.2.7.12 of this IFB, an adjusting memo (e.g., debit memo, credit memo, and/or an adjustment advice) to the account holder within two (2) days of posting. Each adjusting memo must be reflected in the monthly statement of account required in Section 3.2.7.8.2 of this IFB.
- 3.2.7.5 Crediting Excess Earnings – Beginning with the first (1st) month that each of the fifty-eight (58) local district SCU, the Non-IV-D Services Unit, and the Administrative bank accounts are opened and each month thereafter, the Contractor must, by the twentieth (20th) day of the following month, add to each respective bank account its associated excess earnings as “Net Earnings” as determined in accordance with Section 3.4.9 of this IFB.
- 3.2.7.5.1 The monthly Net Earnings must appear on the monthly statement of account to be provided for each bank account in accordance with Section 3.2.7.8.2 of this IFB. The

monthly Statement of Account, as required in Section 3.2.7.8.2 of this IFB, must also include a separate report which depicts, at a minimum, the following information related to earnings:

- 3.2.7.5.1.1 Earnings period;
- 3.2.7.5.1.2 Average daily available balance;
- 3.2.7.5.1.3 Current month's total earnings calculated by the formula $E = PRT$, where:
 - P = average daily available balance
 - R = the monthly average yield on the three (3) month Treasury Bill determined at the weekly auction and available on www.treasurydirect.gov plus twenty-five (25) basis points
 - T = number of days in the month with a daily available balance exceeding zero;
- 3.2.7.5.1.4 Current month's total banking fees itemized by each service category;
- 3.2.7.5.1.5 Current month's excess earnings (total earnings less banking service fees) itemized by each service category; and
- 3.2.7.5.1.6 Current month's excess banking service fees (banking service fees less total earnings) itemized by each service category.
- 3.2.7.6 Debit Blocking – The Contractor must ensure that all debits received as Fed-Wires or through the Automated Clearing House “ACH” system are blocked (i.e., not accepted for any of the sixty (60) bank accounts established), unless otherwise identified by an individual local district SCU or the OTDA. Anyone previously remitting funds through either of those systems must contact the respective bank account holder to have funds returned, if necessary.
- 3.2.7.7 Account Activity Report – The Contractor must provide within thirty (30) days after commencement of Transition, to the OTDA for approval, the format and contents of the Daily Account Activity Report as it is to be provided to each of the account holders and the OTDA as described in Section 3.2.7.12 of this IFB and the OTDA. Once approved, the report must be made available by 9:30 AM EST the next business day to each of the fifty-nine (59) account holders, the Centralized Support Collection and Enforcement contractor and the OTDA. The report must include at minimum:
 - Bank transfers
 - Wire/ACH transfers
 - Electronic fund transfers
 - All adjusting transactions
 - Deposits
 - Data file Total paid amounts

Note: The OTDA reserves the right to request additional items/transactions be added to the Account Activity Report at a later date.
- 3.2.7.8 Statement of Accounts – The Contractor must provide the following Statement of Account for each of the fifty-nine (59) support accounts as well as the Administrative bank account , the format and contents of which must be prior approved by the OTDA:
 - 3.2.7.8.1 The Contractor must provide, on a weekly basis, a Statement of Account inclusive of all transactions occurring Monday thru Friday of each week except for the last week of the month. Each weekly statement must be cumulative of all activity occurring from the beginning of the month. The information for the last week of the month is deliverable as defined in Section 3.2.7.8.2 of this IFB. The weekly statements must be made available via an electronic process to each of the (58) local district SCUs, the Centralized Support Collection and Enforcement contractor, and the OTDA within three (3) business days after the defined week. The Contractor must provide the OTDA with a draft of a weekly

statement for approval within thirty (30) days after commencement of Transition.

3.2.7.8.2 The Contractor must provide a monthly Statement of Account inclusive of all transactions occurring from the first (1st) business day after the last business day of the prior month end day through the last Friday of each month. The OTDA will notify the Contractor of any exception months. The monthly statements must be provided electronically to each of the fifty-eight (58) local district SCUs and to the Centralized Support Collection and Enforcement contractor, and the OTDA within five (5) business days of the receipt of the month end data file containing the daily issues and adjustments for the last day of the banking month from the Centralized Support Collection and Enforcement contractor. The Contractor must submit a sample of the monthly statement to the OTDA within thirty (30) days after commencement of Transition, for the OTDA approval.

3.2.7.8.3 The Contractor must provide a monthly full reconciliation of issues, paid, and all adjustments to the issues and paid. The reconciliation must be provided electronically to each of the fifty-eight (58) local district SCUs, the Centralized Support Collection and Enforcement contractor, and the OTDA within five (5) business days of the receipt of the month end data file. The reconciliation process must allow for input via an electronic means approved by the OTDA. The account reconciliation must be an automated process comparing issues to paid and allowing for adjusting transactions (e.g., stop payments, cancellations, adds, deletes, paid-no issue, etc.). All reconciliation reports must be in issuance number sequence and at minimum, the following reports must be provided:

- Daily Issues, Paid, Stop Payments, and Cancel Summary;
- Daily Recap of Posted Items;
- Cancels, Stop Payment, Paid-No-Issue listing by issue;
- Proof of Reconciliation to Statement of Account;
- Paid Only listing by issue and summary; and
- Consolidation of Paid and Unpaid Summary.

3.2.7.8.4 Manual adjustments made to the reconciliation must be clearly defined on a "proofing" report (e.g., +20.00 issue #010000239 Paid \$80.00 3/13/06 should be Paid \$60.00). The Reconciliation reports must be provided electronically to each of the fifty-eight (58) local district SCUs, the Centralized Support Collection and Enforcement contractor, and the OTDA within five (5) business days of the receipt of the month end data file containing the daily issues and adjustments for the last day of the banking month from the Centralized Support Collection and Enforcement contractor.

3.2.7.8.5 The Contractor must also provide to the OTDA, within five (5) business days of the receipt of the month end data file from the Centralized Support Collection and Enforcement contractor containing the daily issues and adjustments as noted in Section 3.2.7.8.3 of this IFB, the following:

- a separate monthly summary of the previous month's individual earnings for each of the sixty (60) bank accounts; and
- a listing of the local district SCUs and the Non-IV-D Services Unit account with the date that each respective Statement of Account was provided as outlined in Section 3.2.7.8 of this IFB, or the status of any statement not provided.

3.2.7.8.6 On a monthly basis, the Contractor must provide each local district SCU and the OTDA with a listing of their issuances that have aged greater than one hundred eighty-three (183) days from the last reporting month (i.e., a stale dated check report). The Contractor is required to automatically stop payment on all issuances that age greater than one hundred eighty-three (183) days at the point in time that the greater than one

hundred eighty-three (183) day criteria is met. The Contractor must provide each respective local district SCU and the OTDA with a listing of each stale dated issuance electronically.

- 3.2.7.8.7 The Contractor must submit a sample of each report to the OTDA within thirty (30) days after commencement of Transition, for the OTDA's approval. The OTDA reserves the right to request revisions to or additional reports at a later date.
- 3.2.7.9 Paid Items - On a monthly basis, the Contractor must electronically provide each of the fifty-eight (58) local district SCUs and the OTDA with imaged copies of the front and back of each of the issuances paid and recorded accordingly, for the respective local district SCU bank account and the OTDA. The Contractor must provide, within five (5) business days of the defined end of the month, each of the fifty-eight (58) local district SCUs and the OTDA with access to the respective month's paid items. The Contractor must ensure that all electronic reproductions of cancelled checks, front and back, are of readable quality and mirror the original documents.
- 3.2.7.10 Banking Services Manual – The Contractor must provide the OTDA with a Banking Services Manual.
- 3.2.7.10.1 The manual must contain banking service information, instructions and at minimum, must include:
- A glossary of terms;
 - Samples of reports;
 - Explanation and guide for each report;
 - Explanation and guide for each separate banking service;
 - Facsimile numbers;
 - Customer Service Representative name, telephone number, and email address;
 - and
 - Customer Service Representative backup name, telephone number and email address.
- 3.2.7.10.2 The Contractor must use Microsoft Word in constructing the manual and submit the Banking Services Manual for approval to the OTDA within thirty (30) days after commencement of Transition.
- 3.2.7.10.3 The Contractor must maintain and update the Banking Services Manual within three (3) business days of receiving a request from the OTDA or as a result of a determination by the Contractor that changes are necessary. Upon approval of the manual update(s) by the OTDA, the Contractor must provide the OTDA with a copy of the approved updated Banking Services Manual.
- 3.2.7.11 Collateral for Deposits - The Contractor must comply with the New York State General Municipal Law, Banking Law, the State Finance Law, and other applicable statutes and provide securities, held by a third party subject to prior approval by the Bureau of Cash Management, OSC, to secure uninsured monies on deposit that exceed the Federal Deposit Insurance Corporation (FDIC) amount for each of the sixty (60) bank accounts. The securities must be made available and transferable within thirty (30) days after commencement of Transition, to each of the sixty (60) established bank accounts. All documents required by the Contractor to provide securities for the sixty (60) bank accounts must be delivered to the OTDA in sixty-one (61) sets within thirty (30) days after commencement of Transition, along with written instructions for completing the documents. The Contractor must review the documents returned by the OTDA for acceptance by the Contractor for processing. Upon the determination that any one of the documents is unacceptable to the Contractor, the Contractor must return the

document(s) within forty-eight (48) hours to the OTDA with a written explanation of the reason for the return of the document(s). The Contractor must provide the OTDA and the respective account holder with a complete copy of the fully executed collateral documents within twenty (20) days of accepting the documents from the OTDA.

- 3.2.7.12 Electronic Program Support – The Contractor must provide each of the fifty-eight (58) local district SCUs, the OTDA, and the Centralized Support Collection and Enforcement Contractor with secured Internet access to their respective bank account information.
- 3.2.7.12.1 The Contractor is responsible to provide training and training materials to each local district SCU, the OTDA, and the Centralized Support Collection and Enforcement Contractor sufficient to enable electronic access through the Internet.
- 3.2.7.12.2 The electronic banking system must meet, at a minimum, the following system requirements;
- Microsoft Windows 7 Service Pack 1
 - Internet Explorer 8
 - Java 1.6
 - Microsoft Office 2010
- 3.2.7.12.3 The Contractor is responsible for providing a System Security Administrator for the electronic banking system. The OTDA shall have the option to act as the System Security Administrator.
- 3.2.7.12.4 The Contractor must provide fully developed and operational Internet and software access systems that are compatible with the systems requirements identified in Section 3.2.7.12.2 of this IFB and will provide for, at minimum, the following:
- 3.2.7.12.4.1 Verification of Daily Activities (e.g., deposits, bank transfers, wire/ACH transfers, adjusting memo, debit memo, credit memo);
- 3.2.7.12.4.2 Initiating bank transfers, wire/ACH transfers, requesting the add/delete of issues;
- 3.2.7.12.4.3 Inquiry of individual check status;
- 3.2.7.12.4.4 Review of the previous day balance, account history, weekly, and monthly statements;
- 3.2.7.12.4.5 Transferring of account information to another software application;
- 3.2.7.12.4.6 Requesting copies of cancelled checks in hard copy, photocopy, or in an electronic format;
- 3.2.7.12.4.7 Request Stop payment;
- 3.2.7.12.4.8 Reverse Stop payment;
- 3.2.7.12.4.9 Stop payment and reverse functions reporting; and
- 3.2.7.12.4.10 Ability to print any of the above information from any terminal that has electronic access capability under the terms of the Agreement.
- 3.2.7.12.5 The Contractor must, within sixty (60) days from the commencement of Transition and throughout the remainder of the contract, ensure electronic accessibility to the local district SCUs, the Centralized Support Collection and Enforcement Contractor, and the

OTDA, Monday through Friday, 8:00 AM to 5:00 PM EST, excluding all holidays as noted by the OTDA. The Internet access systems must be available for access at the above noted hours except for an allowed thirty (30) minutes of downtime each day. System downtime reports must be submitted on a monthly basis to be received by the OTDA within five (5) business days of the month's end.

- 3.2.7.12.6 The Contractor must provide local district SCUs, the Centralized Support Collection and Enforcement Contractor, and the OTDA with direct access to their banking transactions by providing each with the same electronic program support as required in Section 3.2.7.12 of this IFB. The Contractor must provide all software and programming necessary to establish, implement and maintain the Internet access systems for each of the fifty-eight (58) local district SCUs, the Centralized Support Collection and Enforcement Contractor, and the OTDA.
- 3.2.7.12.7 The Contractor must make available to the users within twenty-four (24) hours of receiving a request for training at least one (1) staff person who is fully knowledgeable of all aspects of the electronic communications systems. Training must be provided to all users on all aspects of the systems. The training must be a self-help or user friendly system prompt and include, at a minimum, the preparation, distribution, and use of training manuals, and other materials as necessary to ensure consistency of information, and include user procedures/manual for all applications.
- 3.2.7.12.8 The Contractor must submit the following items for the electronic system within thirty (30) days after commencement of Transition, for approval by the OTDA:
- Manuals to support systems; and
 - All system information necessary to activate the electronic system.
- 3.2.7.12.9 The Contractor must maintain a System Trouble Log in support of the Internet access system:
- 3.2.7.12.9.1 To Include, at a minimum:
- Date of trouble
 - Time trouble is reported
 - Source of report
 - Nature of trouble
 - Brief description of resolution
 - Date and time of resolution
- 3.2.7.12.10 The Contractor must ensure the accuracy of the access system as noted in Section 3.2.7.12 of this IFB. The Contractor must provide accurate records mirroring the transactions of the account holder's bank account.
- 3.2.7.12.11 The Contractor's System Trouble Log must be submitted to the OTDA on a weekly basis containing the activity of the previous week and reporting the unresolved issues. The report must be received on the Monday following the preceding Monday through Friday to be reviewed by the OTDA.
- 3.2.7.12.12 The Contractor must, upon the determination by the OTDA, and after being advised by the OTDA, that any application of software supporting the access system is inoperable or unusable and cannot be repaired such that full use of the access system is unavailable beyond two (2) consecutive business days, correct, or replace at no charge to the OTDA the software application within seventy-two (72) hours of such determination.

3.2.7.12.13 A one hundred-eighty (180) day historical record must be maintained electronically for each of the bank accounts and at minimum, a seven (7) year period off-line, or longer if directed by law.

3.2.8 **Deposit Item Processing** – The Contractor must perform the following:

3.2.8.1 Foreign Currency Conversion - On a daily basis, via facsimile or electronically, the Contractor must provide the Centralized Support Collection and Enforcement Contractor with the daily rate of exchange for the various foreign currency formats as needed by the Centralized Support Collection and Enforcement Contractor. The Contractor must guarantee the foreign currency exchange rates for the same day deposits. The rates provided must not be subject to modification at a later date. The Contractor must provide the requested exchange rates to the Centralized Support Collection and Enforcement Contractor by 9:00 AM EST each business day.

3.2.8.2 Deposit Items – Upon receipt of local district SCUs and/or the Centralized Support Collection and Enforcement Contractor deposits, the Contractor must credit the respective bank account for the amount equal to the amount of the deposit items. The Contractor must process each individual deposit item to allow for the clearing of the item through the financial institution in which the item was drawn. The Contractor must correctly post deposits to the respective bank account the same banking day that the deposit is delivered to the financial institution. All payments included in a deposit must be processed for clearing the financial institution in which the item was drawn within the timeframe established by the Federal Reserve. In the event of a discrepancy in deposits, the Contractor is required to notify the OTDA of the discrepancy prior to posting the deposit to the respective bank account.

3.2.8.3 Image Based Electronic Deposits – The Contractor must provide automated procedures and electronic processes for the processing and deposit of support payments through the establishment, maintenance, and operation of an image based electronic program. The Contractor must ensure that the process meets all federal mandates for such electronic deposits.

3.2.8.4 Paper Based Deposits – The Contractor must provide procedures and processes for the processing and deposit of support payments through the establishment, maintenance, and operations of a paper deposit program. The Contractor must ensure that the process meets all federal mandates for such paper deposits.

3.2.8.5 Verified Deposit Tickets – The Contractor must immediately provide a depositing local district SCU and the Centralized Support Collection and Enforcement Contractor with copies of all verified deposit tickets for deposits made during business hours at a depository. The Contractor must electronically provide confirmation that the deposits have been credited to the respective bank accounts within two (2) days of the deposit.

3.2.8.6 Refer to Maker – The Contractor must return to the depositor all items returned to the Contractor as a result of “Refer to Maker” identification by the clearing agency. For items identified as “Refer to Maker”, the Contractor must adjust the respective account accordingly and provide the account holder with electronic notification as required under Section 3.2.7.12 of this IFB by 9:30 AM EST the following business day. The original payment instrument or an electronic equivalent must be provided to the account holder within three (3) days from when the notification is provided to the respective local district SCU or the Centralized Support Collection and Enforcement Contractor.

3.2.8.7 Stopped Payment – The Contractor must return to the depositor all items returned to the Contractor as a result of “Stopped Payment” identification by the clearing agency.

For items identified as “Stopped Payment” the contractor must adjust the respective account accordingly and provide the account holder with electronic notification as required under Section 3.2.7.12 of this IFB by 9:30 AM EST the following business day. The original payment instrument or an electronic equivalent must be provided to the account holder within three (3) days from when the notification is provided to the respective local district SCU or the Centralized Support Collection and Enforcement Contractor.

3.2.9 **Check Clearing Services** - The Contractor must provide Positive Pay Services for each check presented for payment issued from any one of the fifty-nine (59) support accounts, prior to payment.

3.2.9.1 The Contractor must compare the item presented for payment with the record of issuances for the individual local district SCU and Non-IV-D Services cases, and must, at minimum, verify the following information prior to providing payment:

- Account number;
- Check number;
- Check amount; and
- Issuance date.

3.2.9.2 The Contractor must, for those checks meeting the verification information noted above, post to the respective local district SCU and the Non-IV-D Services bank account the amount equal to the amount of the paid item the same business day as the item is identified as a paid item. Those checks not meeting the verification information noted above must not be posted to any one of the fifty-nine (59) support accounts established for this IFB. An electronic listing of those non-verified checks must be provided to the respective local district SCU and the OTDA on a daily basis. The listing must be provided the following business day and identify, for each check presented and not positive paid, the following information:

- Account number;
- Check number;
- Check amount; and
- Issuance date.

3.2.9.3 Prior to notifying a local district SCU or the OTDA of any issuance presented and not paid, the Contractor must first verify that the data for an issuance presented has been correctly recorded by the Contractor and was not included on any one of the data files received from the OTDA, or manually added as an issuance by the respective local district SCU or the OTDA.

3.2.10 **Cancelled Checks** - The Contractor must deliver to the United States Postal Service the original paid item addressed to the requesting party within three (3) business days of the request, or make it electronically available.

3.2.11 **Stop Payment Placement** - The Contractor must provide an automated process for each of the fifty-eight (58) local district SCUs and the OTDA to request and verify the stop payment of issues. Local district SCUs and the OTDA must have the ability to provide the account number, check number, date of issue, and amount of the check. Stop payments must be effective upon receipt of request from the requesting local district SCU or the OTDA.

3.2.11.1 The Contractor must provide the requesting local district SCU or the OTDA with the status of any check where a stop payment request has been received, by 10:00 AM EST the next business day.

- 3.2.11.2 If the check has been paid, the date paid must be provided to the requesting local district SCU or the OTDA.
- 3.2.11.3 If unpaid, the Contractor must provide documentation to the requesting local district SCU or the OTDA confirming and guaranteeing that the payment has been stopped as of the date and time of request and will not be paid from the issuing bank account.
- 3.2.11.4 The Contractor must not debit a local district SCU or Non-IV-D Services Unit bank account for funds to cover those check issuances where a stop payment was placed by the local district SCU or the OTDA, confirmed by the Contractor, and the Contractor subsequently paid the check after the stop payment was in effect.
- 3.2.11.5 Written procedures for the purpose of placing stop payments on issuances must be included in the Banking Services Manual, per Section 3.2.7.10.1 of this IFB.
- 3.2.12 **Stop Payment Removal** - The Contractor must provide an automated process for the removal/reversal of stop payments for each of the fifty-nine (59) support accounts. Local district SCUs and the OTDA must have the ability to provide account numbers, check numbers, date of issue, and amount of check. Stop payment removals must be effective upon receipt of request from the requesting local district SCU or the OTDA.
- 3.2.12.1 The Contractor must provide the requesting local district SCU or the OTDA with confirmation that the stop payment has been removed/reversed.
- 3.2.12.2 The Contractor must remove/reverse the stop payment placed on an issue by 10:00 AM EST the next business day after a request from a local district SCU or the OTDA to remove/reverse the stop payment is received.
- 3.2.12.3 Written procedures for the purpose of requesting the removal/reversal of stop payments must be included in the Banking Services Manual, per Section 3.2.7.10.1 of this IFB.
- 3.2.13 **Outbound Prearranged Payment and Deposit Entries** – This process will allow for the transfer of child support payments and identifying case information to custodial parent’s personal bank accounts or debit card accounts. The process must meet Federal mandates for such electronic funds transfer (i.e., using National Automated Clearinghouse Association “NACHA” Prearranged Payment and Deposit (PPD) Child Support Conventions). The Contractor must perform the following regarding outbound PPD:
- 3.2.13.1 **Procedures** - Written procedures for the outbound PPD process must be developed by the Contractor and submitted for approval to the OTDA within thirty (30) days after commencement of Transition. The process must, at a minimum, include:
- 3.2.13.1.1 Acceptance of an initial and subsequently, a daily application data file and the completion of the bank account verification as noted in Sections 3.2.13.3 and 3.2.13.4 of this IFB;
- 3.2.13.1.2 Acceptance of a PPD data file from the Centralized Support Collection and Enforcement Contractor;
- 3.2.13.1.3 Verification within a day that the daily PPD data file does not represent a duplication of a PPD for a previous day; and
- 3.2.13.1.4 Verification that the sum of each individual transaction for the respective bank account agrees with the total amount of all transactions for that bank account.

- 3.2.13.2 ACH Entries – The Contractor must complete the appropriate ACH entries for each bank account such that:
- 3.2.13.2.1 Each account on the PPD data file is credited with the respective amount of funds as noted in the data file; and
- 3.2.13.2.2 The bank account is debited for the total amount of the individual credit entry amounts noted in Section 3.2.13.1.4 of this IFB and such debiting occurs only after the verifications are completed as required by Sections 3.2.13.3 and 3.2.13.4 of this IFB.
- 3.2.13.3 Tracking - Each transaction must be assigned a unique tracking identifier in an acceptable format prior approved by the OTDA and must be included by the Contractor with the ACH transfer and the identifier for each ACH credit must be provided to the OTDA for recording in the New York State child support system.
- 3.2.13.4 Testing - Acceptance testing must be performed during Transition of an initial PPD application data file, and subsequently during Operations for the weekly application data file to:
- 3.2.13.4.1 Verify accuracy of new custodial parent requests for direct deposit or debit card; and
- 3.2.13.4.2 Provide, within two (2) days of receipt, a data file containing information identifying each custodial parent for whom a transaction cannot be completed;
- 3.2.13.4.3 The data file must contain the return reason code provided by the Receiving Depository Financial Institution (RDFI). This code must comply with NACHA rules.
- 3.2.13.5 Returned ACH Credits – The Contractor must complete the following for each item returned:
- 3.2.13.5.1 Adjust the respective bank account for the rejected transaction amount as identified in Section 3.2.13.4.3 of this IFB; and
- 3.2.13.5.2 Include an audit trail on every statement that records the adjustment made in accordance with Section 3.2.13.5.1 of this IFB that provides at a minimum, the date of rejection, the unique identifier assigned to the ACH credit in accordance with Section 3.2.14.3 of this IFB, and the amount of the rejected transaction.
- 3.2.13.6 Record Retention – The Contractor must maintain a one hundred-eighty (180) day history of all ACH transactions made for each respective bank account and must provide written documentation within five (5) business days, of receiving a request from any one of the account holders.
- 3.2.14 Outbound Electronic Funds Transfers – This process will allow for the electronic funds transfer (EFT) of child support payments and identifying case information to other New York State, other State, or foreign Child Support agencies, and ensure that the process meets Federal mandates for such electronic funds transfer (i.e., using NACHA CCD+, CTX, and IAT Child Support Conventions). The Contractor must perform the following regarding Outbound EFT:
- 3.2.14.1 Procedures - Written procedures for the Outbound EFT process must be developed by the Contractor and submitted for approval to the OTDA within thirty (30) days after commencement of Transition. The process must, at a minimum, include:
- 3.2.14.1.1 Acceptance of an initial test data file and the completion of the bank account

verification as noted in Section 3.2.14.3 of this IFB;

- 3.2.14.1.2 Acceptance of a daily Outbound EFT data file for each of the fifty-nine (59) support accounts from the Centralized Support Collection and Enforcement Contractor;
- 3.2.14.1.3 Verification that the daily Outbound EFT data file does not represent a duplication of an Outbound EFT file from a previous day; and
- 3.2.14.1.4 Verification that the sum of each individual Outbound EFT transaction amount for the respective local district SCU or Non-IV-D Services bank account agrees to the total amount of all Outbound EFT transaction amounts for that local district SCU or Non-IV-D Services Unit bank account as noted on the respective data file.
- 3.2.14.2 Outbound EFT Entries – The Contractor must complete the appropriate NACHA CCD+, CTX or IAT entries with accompanying addendum record information for each of the fifty-nine (59) support accounts using information contained on the respective data file, such that:
 - 3.2.14.2.1 Each account on an outbound EFT data file is credited with the respective amount of funds and the appropriate transaction(s) (i.e., CCD+, CTX or IAT including addendum record information), and is created from information contained on the Outbound EFT data file provided by the OTDA.
 - 3.2.14.2.2 The local district SCU and Non-IV-D Services bank accounts are debited for the total amount of all individual credit entry amounts noted in Section 3.2.14.2.1 of this IFB and such debiting occurs only after the verifications are completed as required by Section 3.2.14.4 of this IFB. The Contractor must debit the respective local district SCU and Non-IV-D Services bank accounts the same business day that the Contractor is provided notification of Outbound EFTs. The Contractor must provide the source destination information of the transfer and the unique tracking identifier as noted in Section 3.2.14.3 of this IFB, when posting the amount to the accounts. The Contractor must provide the OTDA with written procedures for initiating Outbound EFTs. The written procedures must be submitted to the OTDA for approval within thirty (30) days after commencement of Transition.
- 3.2.14.3 Tracking - Each transaction must be assigned a unique tracking identifier in an acceptable format prior approved by the OTDA and the identifier must be included by the Contractor with the Outbound EFT transaction and the identifier, for each Outbound EFT credit for CCD+ and each addendum record amount for CTX and IAT transactions, must be provided to the OTDA for recording in the child support system. The Contractor must provide a unique tracking identifier on a secured file transfer protocol (SFTP) via an encrypted process, and in a format as described by the OTDA to be transmitted daily to the OTDA.
- 3.2.14.4 Testing - Acceptance testing must be performed during Transition of each type of Outbound EFT data file. Within four (4) days of receipt of a test Outbound EFT data file, the Contractor must provide, at a minimum, a data file containing information identifying for each State, County, and Country whereby an Outbound EFT transaction cannot be completed because the bank account information is inaccurate, incomplete, the account no longer exists or is no longer active.
- 3.2.14.5 Returned Outbound EFT Credits – The Contractor must complete the following for each item returned for any of the reasons noted in Section 3.2.14.4 of this IFB:
 - 3.2.14.5.1 adjust the respective local district SCU and Non-IV-D Services bank account for the

rejected transaction amount;

- 3.2.14.5.2 provide the respective local district SCU or, in the case of a Non-IV-D Services Unit bank account, the OTDA with electronic notification as required under Section 3.2.7.12 of this IFB, by 10:00 AM EST the following business day. The notification must include the initiating date of the outbound EFT credit, the date of rejection, the reason for rejection, the child support account number, the unique identifier assigned to the outbound EFT credit in accordance with Section 3.2.14.3 of this IFB, the amount of the rejected transaction; and
- 3.2.14.5.3 include an audit trail on every statement (manual or electronic) that records the adjustment made in accordance with Section 3.2.14.5.1 of this IFB that provides at a minimum, the date of rejection, the unique identifier assigned to the outbound EFT credit in accordance with Section 3.2.14.3 of this IFB, and the amount of the rejected transaction.
- 3.2.14.6 **Record Retention** – The Contractor must maintain a one hundred-eighty (180) day history of all outbound EFT transactions made for each of the respective fifty-nine (59) support accounts and must provide written or electronic documentation within three (3) business days, of receiving a request from any one of the fifty-eight (58) local district SCUs or the OTDA.
- 3.2.15 **Bank Transfers** – On a daily basis, the Centralized Support Collection and Enforcement Contractor must be able to complete bank transfers of funds as follows:
- between each of the fifty-nine (59) support accounts; and
 - between the Administrative bank account and each of the fifty-nine (59) support accounts.
- 3.2.15.1 The Contractor must provide the Centralized Support Collection and Enforcement Contractor with secured Internet access and a personal computer-based application that will enable access for the completion of bank transfers as required in Section 3.2.7.12 of this IFB. The application must include, at a minimum, the following:
- 3.2.15.1.1 The source and destination of each transfer;
- 3.2.15.1.2 a unique tracking identifier as noted in Section 3.2.13.3 of this IFB;
- 3.2.15.1.3 for situations where there is either a single credit and single debit, single credit and multiple debits, or a single debit and multiple credits, the Contractor's application must be able to automatically verify that the sum of debit and credit amounts per transfer are equal and if not, the transfer must not be accepted for processing by the Contractor and the Contractor must immediately notify the OTDA Project Manager; and
- 3.2.15.1.4 a verification that the individual account listed as being debited or credited belongs to one of the fifty-nine (59) support accounts or the Administrative bank account. If not, the Contractor must not accept the transfer for processing and must notify the OTDA Project Manager.
- 3.2.15.2 The Contractor must post the debits and credits to one of the respective fifty-nine (59) support accounts or to the Administrative bank account in the amount indicated on the transfer request on the next business day after the request is received by the Contractor. The Contractor must provide the requested description for each transaction.
- 3.2.15.3 There are occasions where the sum of daily transfers from the Administrative bank account may exceed the balance in the bank account because funds received the prior day to be deposited to the Administrative bank account are in transit and will be

credited by the Contractor within twenty-four (24) hours. The Contractor is required to provide unlimited overdraft privileges for the Administrative bank account and process all transfers. The Contractor must notify the OTDA Project Manager whenever the overdraft privilege is utilized. The OTDA must not be charged a service fee for overdraft privileges on the Administrative bank account.

- 3.2.15.4 The Contractor must provide the OTDA with written procedures for initiating and receiving bank transfers. The written procedures must be submitted to the OTDA for approval, within thirty (30) days after commencement of Transition.
- 3.2.16 **ACH/Wire Transfers** – The Contractor must provide, via electronic access as required in Section 3.2.7.12 of this IFB, each of the fifty-nine (59) support accounts with a secured Internet access application that will enable their completion of ACH or wire transfers in limited situations (i.e., only debits from their respective bank account and credits), where one of the fifty-eight (58) local district bank accounts is involved, to their respective local district financial officer bank account.
- 3.2.16.1 The transfers must include, at a minimum, the following:
- 3.2.16.1.1 the date, source and destination of each transfer;
- 3.2.16.1.2 automatic verification that the separate sum of the debit and credit amounts are equal and if they are not, the Contractor must not process the transfer;
- 3.2.16.1.3 the Contractor must ensure the posting of the debits and credits in the amount indicated on the transfer and by the close of the next business day that the Contractor has received a valid transfer request;
- 3.2.16.1.4 rejection of any debit or credit not verified as acceptable for the respective account (e.g., credit to other than designated financial officer bank account); and
- 3.2.16.1.5 provide the respective local district SCU with electronic notification as required under Section 3.2.7.12 of this IFB by 10:00 AM EST the following business day.
- 3.2.16.2 The Contractor must include written procedures for initiating ACH or wire transfers for each of the fifty-nine (59) support accounts in the Banking Services Manual as required in Section 3.2.7.10 of this IFB.
- 3.2.17 **Inbound Electronic Funds Transfers** – Inbound EFT transactions can originate from the following:
- 3.2.17.1 Noncustodial parents and income providers making child support payments through an Internet or an Interactive Voice Response System application provided by the Centralized Support Collection and Enforcement Contractor or an OTDA approved third party vendor with the transaction usually occurring as a credit card payment or ACH debit in a PPD format; or
- 3.2.17.2 Income providers, other state, or foreign child support agencies' or financial institutions remitting ACH credits in CCD+, CTX, or IAT formats with accompanying addendum record information in standard NACHA child support conventions.
- 3.2.17.3 Regardless of the source of EFT, the Contractor must on a daily basis provide a single electronic data file using SFTP via an encrypted process to the Centralized Support Collection and Enforcement Contractor that provides all EFT transactions, and where applicable all addendum record information, in the format required by the OTDA.
- 3.2.17.4 The Contractor must process electronic funds transfers that are accompanied with

addendum record information as noted in Section 3.2.17.2 of this IFB, in CCD+, CTX, or IAT banking conventions by:

- accepting and crediting receiving account; and
- accepting and debiting sending account.

- 3.2.17.5 The Contractor must post to/from the respective fifty-nine (59) support accounts and the Administrative bank account by the next business day that the Contractor is provided notification of EFTs. The Contractor must provide the source destination information of the transfer and the unique tracking identifier as noted in Section 3.2.13.4 of this IFB, when posting the amount to the account (see Appendix C for Format Sample). The Contractor must provide the OTDA with written procedures for initiating and receiving electronic funds transfers. The written procedures must be submitted to the OTDA for approval within thirty (30) days after commencement of Transition.
- 3.2.17.6 The Contractor must provide payment identification information for all EFTs in CCD+, CTX, or IAT formats based on the information contained in the addendum records in accordance with the NACHA child support conventions and in the format required by the OTDA.
- 3.2.17.7 The Contractor must ensure that all EFTs, including pre-authorized from noncustodial parents, are received with complete addendum record information as presented with the EFT and as specified by the OTDA; (see Appendix C for sample Addenda Record Formats). At the request of the OTDA the Contractor must retransmit the files. The addendum record information must be delivered to the Centralized Support Collection and Enforcement Contractor on the same day that the funds are received and transferred to the Administrative bank account.
- 3.2.18 **Non-Sufficient Funds** - The Contractor must re-deposit all items returned as a result of non-sufficient funds the same day that the item is returned to the Contractor. For items returned that are not able to be re-deposited, the Contractor must adjust the account of deposit accordingly and provide the account holder with electronic notification as required under Section 3.2.7.12 of this IFB, by 10:00 AM EST the following business day. The original payment instrument or an electronic equivalent must be provided to the account holder within three (3) days of the notification being provided to the respective support account or the Centralized Support Collection and Enforcement Contractor.
- 3.2.19 **Issuance and Cancellation Processing** - On a daily basis, the Contractor must update each respective support account with the issuance, cancellation, addition, and deletion of information provided by the OTDA, the Centralized Support Collection and Enforcement Contractor, and each of the fifty-eight (58) local district SCUs, and the Non-IV-D Services Unit. On a daily basis, the Contractor must receive an electronic data file from the Centralized Support Collection and Enforcement Contractor in a format determined by the OTDA Project Manager.
- 3.2.19.1 The Contractor must confirm the receipt of the issuance file from the Centralized Support Collection and Enforcement Contractor, on a daily basis by 3:00 PM EST. On the days when the file is not received by 3:00 PM EST, the Contractor must immediately contact the OTDA.
- 3.2.19.2 The Contractor must verify that the data file and/or the data contained on the file is not duplicative of the current day file or a file from a previous day, extract the information, and correctly record the issues and cancellations contained on the file the same day as received. The Contractor must reconcile the postings to each support account to the data provided on the file.

- 3.2.20 **Image Replacement Document** – In the event that a deposit item(s) cannot be received by a depository bank the Contractor must produce a paper deposit item from the data file and provide the item to the depository bank.
- 3.2.21 **Customer Service** – The Contractor must receive inquiries from each of the fifty-eight (58) local district SCUs, the Centralized Support Collection and Enforcement Contractor and the OTDA, and respond to and resolve those inquiries within three (3) business days from the receipt of the inquiry or problem unless otherwise approved by the OTDA. Customer service must be available via a toll-free number, “1-800”, to each of the local district SCUs, the Centralized Support Collection and Enforcement Contractor and the OTDA. The Contractor must provide to the OTDA, a weekly activity report, in a format approved by the OTDA, reflective of the customer service activity occurring during the week.
- 3.2.21.1 The Contractor must ensure accessibility to customer service Monday through Friday, 9:00 AM – 3:00 PM EST, excluding all banking and the OTDA identified holidays. All calls including voice mail, received by the Contractor and or customer service must be completely resolved, including any and all necessary adjustments to respective accounts, within three (3) business days of receipt unless otherwise approved by the OTDA. The Contractor must propose for approval additional customer service performance standards (e.g., number of rings to answer, hold time, return call period, etc.) in writing to the OTDA one month after the commencement of Transition.
- 3.2.21.2 The Customer Service activity log must include, at a minimum:
- Date of Call
 - Time of Call
 - Account Holder Name
 - Recipient of Call
 - Detail of Issue
 - Resolution of Issue, or if unresolved, status of resolution in detail
 - Date and Time of Resolution
 - Source of error
- 3.2.21.3 Systems Log – The Contractor must provide a Systems Trouble Log, to include, at a minimum:
- Client Name
 - Account Holder Name
 - Account Number
 - Date of Call
 - Bank Contact
 - Nature of Trouble
- The Contractor must provide a complete copy of the Systems Trouble Log to the OTDA each Monday with the reports being inclusive of activity occurring during the prior Monday through Friday. The OTDA reserves the right to request additional logs, as it deems necessary.
- 3.2.22 **Inventory/Supplies** - The Contractor must provide an initial inventory/supplies as follows:
- 3.2.22.1 **Endorsement Stamps** – The Contractor must provide each of the fifty-eight (58) local district SCUs with an endorsement stamp for their respective bank account, except for New York City, for which the Contractor must provide four (4) endorsement stamps. The endorsement stamp must contain the information required to endorse payments for

deposit to a local district SCU bank account. The Contractor must deliver each local district's endorsement stamp(s) to the address provided by the OTDA. Replacement stamps must be provided to the requesting party within five (5) business days of the receipt of the request.

3.2.22.2 Deposit Containers – The Contractor must provide the Centralized Support Collection and Enforcement Contractor and local district SCUs with deposit containers sufficient to secure the daily non-image deposits, including cash bags for cash and foreign currency. The Contractor must provide for afterhours deposit supplies, as needed.

3.2.22.3 Blank Deposit Ticket Stock - The Contractor must provide four part deposit tickets with the account holders name imprinted on each copy and include specialized inventory control numbers pertaining to each support account, (see Appendix C of this IFB for a Sample Verified Deposit Slip). The Contractor must deliver the initial supply of blank deposit tickets to each of the local districts and the Centralized Support Collection and Enforcement Contractor within thirty (30) days after commencement of Transition. The Contractor must deliver additional supplies of blank deposit tickets to local districts and the Centralized Support Collection and Enforcement Contractor within one (1) week of the receipt of the request for deposit tickets.

3.2.22.4 Blank Check Stock - The Contractor must provide blank check stock in the format specified by the OTDA (see Appendix C of this IFB for the current format). Two different types of checks are currently required. Checks issued to other New York State Support Collection Units (herein noted as “SCU checks”) by each local district are different than all other checks issued by each support account, such that, the check appears in the middle of the document generated and those checks are not mailed. All other checks are currently issued in Z-fold format; (see Appendix C of this IFB for samples of existing Check Format). The OTDA will identify the type(s) of check stock and the quantity needed for an initial supply within four (4) days after commencement of Transition.

3.2.22.4.1 All check stock will be entirely blank except for an inventory control number and whatever security marks or features the OTDA requests.

3.2.22.4.2 The Contractor must deliver the initial supply of blank check stock to the Centralized Support Collection and Enforcement Contractor within thirty (30) days after commencement of Transition. Additional supplies of blank checks must be delivered to the Centralized Support Collection and Enforcement Contractor by the Contractor within three (3) weeks of the receipt of the request for stock from the OTDA.

3.2.23 Weekly Progress Reports – The Contractor shall submit Weekly Progress Reports beginning two (2) weeks after the start date for Transition, to be received by the OTDA the Wednesday following the previous one-week reporting period. These reports shall include an updated Transition plan, significant events, problems or backlogs encountered, meetings held and any other information deemed necessary by the OTDA or the Contractor. The OTDA reserves the right to request progress reports other than weekly if so desired (e.g., bi-weekly, monthly, etc.).

3.2.24 Correspondence – The Contractor must receive prior approval from the OTDA, for all written correspondence with the local district SCUs and/or the Centralized Support Collection and Enforcement Contractor. The OTDA reserves the right to request revisions to correspondence.

3.2.25 Controls and Records

3.2.25.1 Maintain Controls – The Contractor must maintain controls to ensure performance

standards detailed in Sections 3 of this IFB are met.

3.2.25.2 Reports – The Contractor must provide, at a minimum, the reports required, in accordance with Sections 3.2 and 3.3 of this IFB, as well as any other reports deemed necessary by the OTDA.

3.2.26 Performance Standards – The Contractor must ensure that the performance standards detailed in Section 3 of this IFB are met. The Contractor performance will be measured by a test check by the OTDA.

3.2.27 Contractor Compensation – The Contractor compensation for Transition efforts will be based upon a fixed price and full and proper performance of all milestones, deliverables, and performance standards. Added detail on the Contractor compensation for Transition efforts is included in Section 3.4.1 of this IFB.

3.2.28 OTDA Responsibilities – The OTDA will provide the Contractor with the following:

3.2.28.1 Local District Mailing and Delivery Addresses – The OTDA will provide the Contractor with the addresses for each of the local district SCUs to which the following items pertaining to their bank account must be mailed or delivered:

- 3.2.28.1.1 Correspondence;
- 3.2.28.1.2 Cancelled Checks;
- 3.2.28.1.3 Debit/Credit Memos;
- 3.2.28.1.4 Adjustment Advices;
- 3.2.28.1.5 Verified Deposit Tickets;
- 3.2.28.1.6 Non-Sufficient Funds (NSF)/Stop Payment/Return to Maker items;
- 3.2.28.1.7 Endorsement Stamps; and
- 3.2.28.1.8 Deposit Supplies.

Note: There may be different addresses for the various items noted above.

3.2.28.2 Information for Blank Deposit Supplies – The OTDA will provide the Contractor with the following information in order for the Contractor to provide the Centralized Support Collection and Enforcement Contractor, and each of the fifty-eight (58) local district SCUs with blank deposit tickets:

3.2.28.2.1 Beginning sequence number for processing center deposits;

3.2.28.2.2 Beginning sequence number for local district deposits;

3.2.28.2.3 Initial volumes for providing a three (3) month supply to cover the following:
-Processing Center Domestic Deposits
-Local District Payment Deposits
-Processing Center Foreign Deposits

3.2.28.2.4 Name and address for each of the local district SCUs, the Centralized Support Collection and Enforcement Contractor, and the OTDA.

3.2.28.3 New York State Child Support Processing Center Address - The OTDA will provide the Contractor with the address for the NYSCSPC to which the following items pertaining to the Administrative bank account must be delivered:

- 3.2.28.3.1 Correspondence;
- 3.2.28.3.2 Debit/Credit Memos;
- 3.2.28.3.3 Adjustment Advices;

- 3.2.28.3.4 Verified Deposit Tickets;
- 3.2.28.3.5 Non-Sufficient Funds (NSF)/Stop Payment/Return to Maker items; and
- 3.2.28.3.6 Endorsement Stamp.

Note: There may be different addresses for the various items noted above.

- 3.2.28.4 Executed Documents for Establishing Bank Accounts and Providing Secured Collateral Arrangements – The OTDA will provide the Contractor with the executed documents required for establishing a bank account and for providing secured collateral arrangements for each of the support bank accounts and the Administrative bank account.
- 3.2.28.5 Information for Blank Check Stock – The OTDA will provide the Contractor with the following information in order for the Contractor to provide the Centralized Support Collection and Enforcement Contractor with blank check stock:
 - 3.2.28.5.1 Check dimensions and layout
 - 3.2.28.5.2 Color of documents
 - 3.2.28.5.3 Check style
 - 3.2.28.5.4 Initial volumes for providing a three (3) month supply
- 3.2.28.6 Centralized Support Collection and Enforcement Contractor – The OTDA will provide the Contractor with the name and address of the Centralized Support Collection and Enforcement Contractor.
- 3.2.28.7 Delivery Address for Supplies – The OTDA will provide the Contractor with the address in which to deliver blank check stock and blank deposit ticket stock for each of the fifty-eight (58) local districts and the NYSCSPC. See Appendix E of this IFB for current addresses.
- 3.2.28.8 Local District Addresses and Contacts for Programming Support – The OTDA will provide the Contractor with the address and contact person for each local district SCU and the NYSCSPC in which the Contractor is to provide the deliverables listed in Sections 3.2 and 3.3 of this IFB.
- 3.2.29 **Centralized Support Collection and Enforcement Contractor Responsibilities** – The Centralized Support Collection and Enforcement Contractor will provide the Contractor with the following:
 - 3.2.29.1 A test daily check issuance file;
 - 3.2.29.2 A test daily PPD file;
 - 3.2.29.3 A test daily EFT file (CCD+, CTX, and IAT); and
 - 3.2.29.4 A test daily deposit image file.

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- 3.3 **Operations**
- 3.3.1 **Services** – The Contractor must provide the services identified in Sections 3.2 and 3.3 of this IFB on an on-going basis beginning 90 days from the commencement of Transition through the end of the contract term, to include meeting or exceeding the milestones, deliverables, or performance standards required in this IFB.
- 3.3.2 **Weekly Project Reporting** – The Contractor shall continue to submit Weekly Project Reports beginning two weeks after the start date for Operations, to be received by the OTDA the Wednesday following the previous one-week reporting period. These reports shall include significant events, problems or backlogs encountered, meetings held and any other information deemed necessary by the OTDA or the Contractor. The OTDA reserves the right to request progress reports other than weekly if so desired (e.g., weekly, monthly, quarterly, etc.).
- 3.3.3 **Controls and Records**
- 3.3.3.1 **Maintain Controls** – The Contractor must maintain controls to ensure performance standards detailed in Sections 3.2.26 and 3.3.5 of this IFB are met.
- 3.3.3.2 **Reports** – The Contractor must provide, at a minimum, the reports required, in accordance with Sections 3.2 and 3.3 of this IFB, as well as any other reports deemed necessary by the OTDA.
- 3.3.4 **Inventory/Supplies** - The Contractor must provide on-going supplies for deposits and check stock to local districts and the Centralized Support Collection and Enforcement Contractor based upon requests received from the OTDA and in accordance with Section 3.2.22 of this IFB.
- 3.3.4.1 **Reimbursable Expenses** - All costs of paper and printing supplies directly and reasonably incurred by the Contractor associated with the printing of deposit slips and check stock, and FDIC expenses shall be subject to reimbursement by the OTDA.
- 3.3.4.1.1 The OTDA reserves the right to require reasonable evidence, including the requirement that the Contractor follow formal bidding procedures, that the best available vendor has been obtained, price and all other factors considered.
- 3.3.4.1.2 If, during the term of the Agreement, any expense other than those referred to in Section 3.3.4.1 of this IFB is approved by the OTDA as a reimbursable expense, the Agreement will be modified to provide for reimbursement to the Contractor.
- 3.3.5 **Performance Standards** – The Contractor must ensure that the performance standards detailed in Section 3 of this IFB are met. Contractor performance will be measured by a test check by the OTDA.
- 3.4 **Contractor Compensation** – The Contractor compensation for operations efforts will be based upon a fixed price and full and proper performance of all milestones, deliverables, and performance standards. The Contractor's compensation will be calculated as follows:
- 3.4.1 **Transition** – The total fixed price cost on **Form BR-9A** Financial Proposal, of Appendix B – Fixed Price Summary for Transition will be divided by sixty (60) representing the sixty (60) bank accounts and the resultant amount will be included on the first monthly fee calculation summary as required in Section 3.4.6 of this IFB.

- 3.4.2 **Account Establishment** – The total fixed price on **Form BR-9A** Financial Proposal, of Appendix B – Fixed Price Summary for Account Establishment will be apportioned among the sixty (60) bank accounts. The Contractor will first determine a total monthly amount by dividing the total fixed price for Account Establishment by sixty (60) months. The first three (3) months will be billed according to Section 3.4.6.1 of this IFB. The monthly amount will be apportioned among the sixty (60) bank accounts based on a schedule provided by the OTDA during the Transition period. The resultant monthly amount will be used to calculate banking service fees in accordance with Section 3.4.6 of this IFB.
- 3.4.3 **Earnings and Banking Services Fees** - The OTDA fully expects that on an individual bank account basis, for the individual fifty-nine (59) support accounts and the administrative bank account, the earnings, required to be determined on the average daily balance of funds on deposit throughout a given month may be equal to, or greater than the banking services fees incurred on those respective accounts throughout the same month. On the occasions when the interest is greater than the banking services fees, the Contractor must apply the excess interest to the respective accounts by the twelfth (12) day of the following month. For the accounts where interest is equal to the banking service fees there will be no interest posted and the respective account will not be billed for that month. For the accounts that do not have earnings that fully offset the banking services fees in any given month, the OTDA will be billed in accordance with Section 3.4.10 of this IFB.
- 3.4.4 **Processing Service Categories** – The processing service categories include: Deposit Item Processing (paper and image); Image Replacement Documents; Non-Sufficient Funds; EFT Inbound (CCD+, CTX and IAT); Check Clearing Services; EFT Outbound (CCD+, CTX; IAT; and PPD); Bank Transfers; ACH/Wire Transfers; Stop Payment Placement; Stop Payment Removal; Issuance and Cancellation Processing; and Cancelled Check Copies. The individual total fixed price cost on **Form BR-9A** Financial Proposal – Fixed Price Summary will be divided by the projected volume provided for each respective category to determine a per item fixed price cost. The per item fixed price cost for each category herein will be used to calculate the monthly banking services fees in accordance with Section 3.4.6 of this IFB.
- 3.4.5 **Calculation of Earnings** – Earnings will be calculated on the average daily available balance. The earnings must be expressed as an amount equal to the monthly average yield on the three (3) month Treasury Bill determined at the weekly auction and available on www.treasurydirect.gov plus twenty-five (25) points. The Contractor must determine earnings commencing with the first available daily balance of funds on deposit for each of the sixty (60) bank accounts. The Contractor must provide to the OTDA, a monthly detailed summary for each of the bank accounts of the earnings based on each respective bank account's average daily available balance throughout the month.
- 3.4.6 **Calculation of Banking Services Fees** – The Contractor must separately calculate and report the banking services fees on a monthly basis for each of the sixty (60) bank accounts. The Contractor will calculate the monthly banking service fees as follows:
- 3.4.6.1 **Transition** - Compensation for Transition will be calculated in accordance with Section 3.4.1 of this IFB and will be included in banking services fees for the first (1st) month of Operations only, for each of the sixty (60) bank accounts summaries as required in Section 3.4.6.2 of this IFB.
- 3.4.6.2 **Operations** - For each month throughout the Contract term beginning with the Operations start date, the Contractor will calculate the monthly banking service fees for

each of the sixty (60) bank accounts for the services identified in Section 3.4.4 by multiplying the actual monthly volume for each category of service for the respective bank accounts by the per item fixed price costs for the respective banking services category as determined in Section 3.4.4 of this IFB. The resultant individual amounts will be included on the monthly summary as required in Section 3.4.6 of this IFB.

- 3.4.6.3 For each month throughout the Contract term beginning with the Operations start date, the Contractor will include Account Establishment fees as determined in Section 3.4.2 of this IFB for each of the sixty (60) bank accounts on the monthly summary of fees as required in Section 3.4.6 of this IFB.
- 3.4.7 **Summary of Fees** – The Contractor must summarize the banking service fees for each of the sixty (60) bank accounts as determined in Sections 3.4.6.1 through 3.4.6.3 of this IFB on a monthly basis.
- 3.4.8 **Offsetting Earnings Against Banking Service Fees** – The Contractor must on a monthly basis, for each individual bank account, offset the respective earnings as determined in Section 3.4.3 of this IFB against the respective summary of fees as determined in Section 3.4.6 of this IFB. If earnings remain, the Contractor must credit excess earnings to the respective bank account in accordance with Section 3.4.9 of this IFB. If the summary of fees exceeds earnings, the Contractor will be compensated in accordance with Section 3.4.10 of this IFB. The Contractor must provide a separate monthly report of earnings/fees as required in Section 3.2.7.5.1 of this IFB (See Appendix C of this IFB for a sample of that report).
- 3.4.9 **Excess Earnings Added to Bank Accounts** – If after offsetting earnings against banking service fees in accordance with Section 3.4.8 of this IFB, excess earnings remain, the Contractor must add the excess earnings as “Net Earnings” to the respective bank account. The Net Earnings added under Section 3.4.8 of this IFB must be clearly recorded as “Net Earnings” on the monthly statement of account provided by the Contractor for that respective month as required by Section 3.2.7.5.1 of this IFB.
- 3.4.10 **Excess Banking Service Fees Billed to the OTDA** – If after offsetting earnings against banking service fees in accordance with Section 3.4.8 of this IFB, excess banking service fees remain, the Contractor must bill the OTDA for payment of such excess fees in the manner prescribed by the OTDA.
- 3.4.11 **Reimbursable Expenses** - Separate records must be maintained for reimbursable expenses.
- 3.4.11.1 Reimbursables must include those items specified in Section 3.3.4.1 of this IFB and records must be maintained detailing the postage, paper stock, envelopes, and cash receipt books costs incurred for each support account and the Administrative account for the following items:
- Deposit Supplies;
 - Check Stock; and
 - FDIC charges.
- 3.4.11.2 Invoices, receipts, a copy of the check for Contractor payment of reimbursable costs, or other evidence substantiating reimbursable expenses must be maintained. Claims for Payment submitted by the Contractor for reimbursable expenses must specify the approved cost for each of the categories in Section 3.3.4.1 of this IFB.
- 3.4.12 **Withholding of Payment and Assessment of Liquidated Damages** – The provisions of Section 3.4.10 of this IFB are applicable to all milestones and deliverables described in Section 3 of this IFB.

- 3.4.12.1 In the event the Contractor fails, in the reasonable judgment of the OTDA, to properly achieve or furnish any or all milestones and deliverables required for any banking service category, full or partial payment of fees for that banking service category may be withheld by the OTDA, in its sole discretion, until such time as those milestones and deliverables which were not achieved or furnished are determined by the OTDA to have been properly achieved to the OTDA's satisfaction. If the milestones or deliverables in question are subsequently properly achieved or furnished as determined by the OTDA, bank service fees (less any liquidated damages assessed pursuant to Section 3.4.12.3 of this IFB) shall be offset against earnings in accordance with Section 3.4.8 of this IFB.
- 3.4.12.2 Where the OTDA determines to withhold full or partial payment of fees of any banking service category pursuant to Section 3.4.12.1 of this IFB, the OTDA shall notify the Contractor in writing of such determination, in accordance with the provisions of Section 5.22 of this IFB. Such notice shall identify the milestones and deliverables which the Contractor failed to properly achieve or furnish, and further, shall advise the Contractor that the Contractor must, within five (5) business days of receipt of the notice, correct the deficiency to the OTDA's satisfaction.
- 3.4.12.3 If the Contractor fails to correct the deficiency within the "cure" time of five (5) business days, the OTDA may assess as liquidated damages a ten percent (10%) non-refundable reduction against the fees assessed for the banking service category for the month as summarized in accordance with Section 3.4.8 of this IFB, which the parties hereby agree represents a reasonable measure of the damages incurred by the OTDA in lieu of calculating actual damages which are impossible to determine for such non-performance. The total fees for the month in which the failure was identified will be immediately reduced by the amount of liquidated damages. The contractor must also immediately reduce the total fees for the month by the amount of any damaged reimbursables delivered to the OTDA or to the Centralized Support Collection and Enforcement Contractor.
- 3.4.13 **Detection of Errors** – The Contractor must immediately correct all errors detected during and after processing. The Contractor must notify the OTDA immediately of all errors the Contractor detects. The Contractor must within twenty-four (24) hours of the notification of the error, where the OTDA determines it necessary, complete the corrective action by following the OTDA's required procedures within the timeframes requested, complete the OTD's requested action, and provide written documentation detailing the action taken to rectify the error.
- 3.4.14 **Corrective Action** – The Contractor must provide the OTDA with a written corrective action plan for the OTDA approval. The corrective action plan must be provided to the OTDA within the following timeframes:
- 3.4.14.1 Within three (3) business days of a notice from the OTDA that the Contractor has failed to properly perform a task in accordance with the performance standards identified in Section 3 of this IFB;
- 3.4.14.2 Within two (2) business days from the date that the OTDA issues a notice of deficiency.
- 3.4.14.3 The corrective action plan must detail the actions taken, or to be taken, and the timeframe for such actions by the Contractor to correct the deficiency.
- 3.4.15 **Corrective Action Liquidated Damages** – The Contractor shall perform and complete each action or meet each milestone within an approved corrective action plan within the approved timeframe as required by Section 3.4.14 of this IFB. Each day that the corrective action plan is not submitted or completed as set out in Sections 3.4.15.1 and/or 3.4.15.2 of this IFB shall constitute a separate occurrence:

3.4.15.1 Failure to timely submit or complete a corrective action plan as set out in Sections 3.4.14 of this IFB. Each day the corrective action plan is not submitted or completed shall constitute a separate occurrence.

Amount Per Business Day \$10,000

Example: 1 day delay = 1 X \$10,000 5 day delay = 5 X \$10,000

3.4.15.2 Failure to timely perform an action or meet a milestone as set out in Section 3.4.15 of this IFB. Each day an action or a milestone is not performed or completed shall constitute a separate occurrence.

Amount per task or milestone per business day: \$1,000

Example: 1 task, 1 day late = 1 x 1 x \$1,000

2 tasks, 4 days late = 2 x 4 x \$1,000

3.4.16 **Non-Exclusive Remedy** – Assessment of liquidated damages pursuant to Section 3.4.12.3 of this IFB does not constitute an exclusive remedy, and the OTDA may elect to pursue any other remedies available under the law and the terms of the Agreement.

3.4.17 **Billings** – In those instances where Section 3.4.10 of this IFB determines that the OTDA owes the Contractor payment for banking service fees (as reduced by the amount of liquidated damages, if any) whereby the required earnings are not sufficient to offset those fees, the Contractor must bill the OTDA on standard New York State Claim for Payment satisfactory to the OTDA and the OSC

3.5 **Bidder Revisions** – The OTDA encourages contractors with whom it does business to develop ideas that will lead to cost containment, productivity and/or operational efficiencies. The purpose of Section 3.5 of this IFB is to encourage Bidders to describe revisions to the Banking Services in Support of the Centralized Support Collection and Enforcement Operations that have not been requested or required by this IFB. The OTDA expects that the Bidder's expertise and experience will provide a source of innovative concepts for improving the efficiency of the Banking Services in Support of Centralized Support Collection and Enforcement Operations.

3.5.1 The OTDA further expects that Bidders will be able to take the opportunity to propose revisions that foster and promote the goals for MWBE purchasing and subcontracting as set forth in this IFB.

3.5.2 Bidders are requested to address Section 3.5 of this IFB. Bidders addressing Section 3.5 of this IFB must, based on the Bidder's understanding of the constraints and performance standards articulated in this IFB, develop the following for each Bidder Revision:

3.5.2.1 **Narrative** - Brief narrative that explains the potential revision including all benefits and disadvantages, both tangible and intangible.

3.5.2.2 **Effect on Performance Standards** - Description of the effect of the revision on the performance standards outlined in Sections 3.2 and 3.3 of this IFB. Identification of the specific IFB citation is requested (e.g., revision to Section 3.4.2 of this IFB, etc.).

3.5.2.3 **Cost** - Statement of any and all design, development, and implementation costs and any increases or decreases in costs

3.5.2.4 **Impact** - For program cost containment ideas, description of the impact on local districts and/or the OTDA and the amount of the annual savings.

- 3.5.3 Bidders must complete and submit Form BR-7 Bidder Suggested Revision, Appendix B.
- 3.5.4 Revisions may be accepted or rejected by the OTDA, in its sole discretion, in whole or in part. Bidders must not make their financial proposal contingent on acceptance of any Bidder Revision(s).
- 3.5.5 **OTDA Approval** – Bidders are encouraged to submit in their Bid Proposals revisions to the services outlined in this IFB. In general, the OTDA will look favorably upon revisions that improve services to, and have no adverse effect on, the local districts or recipients of services associated with the collection and disbursement function. The OTDA will determine the implementation schedule of any approved revision. The OTDA reserves the right to use any Bidder Revisions proposed by any Bidder. This right extends to revisions by unsuccessful Bidders. By submitting any Bidder Revision(s) in its Bid Proposal, the Bidder agrees to the terms of the three (3) preceding sentences. The State will not, in any manner, reimburse the unsuccessful Bidders for any of their Revisions, which the State may decide to implement. The Bidder’s Revisions will not be used in evaluating that Bidder’s Proposal. Bidder’s acceptable revisions will be included in the final Agreement entered with the successful Bidder.
- 3.5.6 The OTDA reserves the right to reject any revision proposed by a Bidder, which the OTDA deems impractical in the New York State environment or not in the best interest of the State.
- 3.6 **Turnover** - At the expiration of the contract, the Contractor must keep all accounts open and continue to pay checks, make account adjustments and provide reports as required in Section 3.2.7 of this IFB for a period of six (6) full months or until the balance on any individual account or debit card account is equal to zero dollars (\$0.00).
- 3.7 **Optional Service – Debit Cards**
- 3.7.1 **Intent of the OTDA** – The OTDA is soliciting Bid Proposals for the operation of debit card services under both the November 2014 Centralized Support Collection and Enforcement RFP and this IFB. The OTDA, in its sole discretion, will award the debit card disbursement process to the selected Contractor of either procurement that proposes the most favorable debit card pricing.
- 3.7.1.1 The provision of debit cards is currently being provided by the Centralized Support Collection and Enforcement Contractor, Xerox State and Local Solutions, Inc. The debit card services will be provided under that contract until the current contract expires.
- 3.7.1.2 The Contractor must ensure adequate access for Automated Teller Machines (ATM) and Bank Teller withdrawals.
- 3.7.2 **No Fee Transactions** – The Contractor must provide two (2) transaction/surcharge fee free ATM withdrawal transactions per month per child support account at in-network ATM locations.
- 3.7.2.1 Balance inquiry transactions at in-network ATMs, as well as transactions that are denied, reversed, voided or adjusted either partially or completely, will not be counted toward the allotted 2 free in-network withdrawals and shall not be billable to the OTDA or the Cardholder. Any ATM usage transaction fee deducted from the cardholder’s cash account accompanying a balance inquiry, denied, reversed, voided or adjusted transactions either partially or completely must be credited back to the cardholder

account immediately. Surcharged ATM cash transactions may not incur usage transaction fees (interchange and switch fees) that will be billable to the OTDA or to the cardholder. Once the cardholder has performed two (2) free in-network ATM withdrawals per month, the cardholder will be charged by the Contractor for any additional ATM usage fees associated with cash withdrawals at the rate proposed by the Offeror on Appendix B, **Form BR-12**, not to exceed the \$.50 per withdrawal for the remainder of the calendar month. The number of free ATM usage transactions is based on a calendar month and is not affected by the status of the account, nor whether the benefits were posted/deposited to the account during the month. Cash withdrawals and balance inquiries at other than in-network ATM locations will be charged to the cardholder at the rate proposed by the Offeror on Appendix B, **Form BR-12**, not to exceed \$.50 per inquiry or withdrawal.

3.7.3 **Debit Cards Issuance**

3.7.3.1 **Brandmark** – The Contractor must provide debit cards carrying either a Mastercard or Visa brandmark.

3.7.3.2 **Graphics** – The Contractor must provide for the debit card graphics, as approved by the OTDA.

3.7.3.3 **Multiple Child Support Accounts** – The Contractor must issue one (1) debit card per custodial parent with multiple child support accounts.

3.7.3.4 **Supply On-Hand** – The Contractor must maintain on-hand, a two (2) month supply of debit cards sufficient to cover the number of debit cards issued for the previous two (2) months.

3.7.3.5 **Mailings** - The Contractor must issue notices to custodial parents within five (5) days of receiving a data file from the OTDA. The Contractor must mail debit cards within five (5) days of a qualified requestor's receipt of a request for enrollment, or receipt of a request for a replacement card. The envelope must contain a New York return address, approved by the OTDA.

3.7.3.6 **Bank Accounts** – The Contractor must establish individual banking accounts for custodial parents who elect or are pre-enrolled in the OTDA debit card program. The Contractor must manage the individual bank accounts in compliance with banking rules and regulations.

3.7.4 **Returned Mail - Debit Card Enrollment Notices**

3.7.4.1 **Debit Card Enrollment Notices with a New Address** – Notices returned with a new address are to be processed as follows:

3.7.4.1.1 Place original contents in a new envelope, enter the new address as the mailing address, and mail the new envelope.

3.7.4.1.2 Update the debit card record to reflect the date of the new mailing and address.

3.7.4.1.3 Retain a copy of the United States Postal Service (USPS) notification providing the new address along with supporting documentation of the undeliverable notice for sixty (60) days, and then destroy in a secure and confidential manner.

3.7.4.1.4 Provide to the OTDA a list containing the new mailing addresses for custodial parents in an electronic format approved by the OTDA.

- 3.7.4.2 Debit Card Enrollment Notices without a New Address - Notices returned without a new address are to be processed as follows:
- 3.7.4.2.1 Provide in an electronic format approved by the OTDA, a list of cases to be researched in the child support system to obtain a current mailing address for the custodial parent.
- 3.7.4.2.2 If a new address for the custodial parent is provided, the Contractor must perform the tasks in Sections 3.7.4.1.2 and 3.7.4.1.3 of this IFB.
- 3.7.4.2.3 If no new address is provided for the custodial parent, the contractor must perform the following:
- 3.7.4.2.3.1 Retain original notice for sixty (60) days.
- 3.7.4.2.3.2 Retain a copy of the USPS notification along with supporting documentation of the undeliverable notice for sixty (60) days, and then destroy in a secure and confidential manner.
- 3.7.4.2.3.3 Update the debit card record to reflect the returned notice.
- 3.7.4.2.3.4 Provide, in an electronic format approved by the OTDA, a list of cases to be updated in the child support system to relect the undeliverable address for the custodial parent.
- 3.7.5 **Return Mail - Debit Card Mailings**
- 3.7.5.1 Debit Cards with a New Address – Cards returned with a new address are to be processed as follows:
- 3.7.5.1.1 Place original contents in a new envelope, enter the new address as the mailing address and mail the debit card notice to the new address.
- 3.7.5.1.2 Update the debit card record to reflect the date of the new mailing and address.
- 3.7.5.1.3 Retain a copy of the USPS notification providing the new address along with supporting documentation of the undeliverable debit cards for sixty (60) days, and then destroy in a secure and confidential manner.
- 3.7.5.1.4 Provide to the OTDA a list containing the new mailing addresses for custodial parents in an electronic format approved by the OTDA.
- 3.7.5.2 Debit Cards without a New Address – Cards returned without a new address are to be processed as follows:
- 3.7.5.2.1 Provide in an electronic format approved by the OTDA, a list of cases to be researched in the child support system to obtain a current mailing address for the custodial parent.
- 3.7.5.2.2 If a new address is provided for custodial parent, the Contractor must perform the task in Sections 3.7. 4.1.2 and 3.7.4.1.3 of this IFB.
- 3.7.5.2.3 If no new address for the custodial parent is provided, the contractor must perform the following tasks:
- 3.7.5.2.3.1 Update the debit card record to reflect the undeliverable card, the same day as is received.

- 3.7.5.2.3.2 Provide in an electronic format approved by the OTDA, a list of cases to be updated, in the child support system to reflect the undeliverable address for the custodial parent.
- 3.7.5.2.3.3 The undeliverable card mailings are to be destroyed within forty-eight (48) hours of receipt from the USPS.
- 3.7.5.2.3.4 Retain a copy of the USPS notification along with supporting documentation of the undeliverable card, for sixty (60) days, then destroy in a secure and confidential manner.

3.7.6 **Debit Card Maintenance**

- 3.7.6.1 The Contractor must establish a process to update and maintain debit card records. The Contractor must, at a minimum, perform the following:
 - 3.7.6.1.1 Personal Data Updates – Upon notification from the custodial parent or the OTDA, the Contractor must update the personal data (i.e., DOB, SSN, name, address, etc.) for the respective Debit Card account the same day as received. The Contractor must maintain a record of such requests received and the resulting activity of such requests. The Contractor must also provide notice of such changes to the OTDA in an approved method and format.
 - 3.7.6.1.2 Fund Reversals – Upon written notification from the OTDA to reverse monies on a custodial parent debit card, the Contractor must transfer those funds to the respective local district SCU or the OTDA bank account within forty-eight (48) hours of receiving notice from the OTDA. The Contractor must maintain a log of such requests received from the OTDA and the resulting activity of such requests.
 - 3.7.6.1.3 Linking – Upon notification from the custodial parent or the OTDA, the Contractor must link multiple child support accounts for the same custodial parent to an existing debit card account within twenty-four (24) hours of receiving notification. The Contractor must maintain and provide a log of such notifications providing details involving the linking and the resulting activity (i.e., cases linked, requesting party) to the OTDA.
 - 3.7.6.1.4 Reissue Expiring Debit Cards – The contractor must reissue debit cards between thirty (30) and forty-five (45) days prior to the date of expiration.
 - 3.7.6.1.5 Termination – Upon written notification from the OTDA, the contractor must terminate debit card accounts within forty-eight (48) hours of receiving notice from the OTDA. The Contractor must maintain a log of such requests received from the OTDA and the resulting activity of such requests. The Contractor must also provide this information to the OTDA.

3.7.7 **Creating A Data File of Debit Card Statuses**

- 3.7.7.1 Creating Data File – The Contractor must provide to the OTDA by 1:00 PM EST each day, a data file containing the individual debit card statuses such as, but not limited to, notices mailed, undeliverable cards, activated cards, and terminated accounts (see Appendix C).
- 3.7.7.2 The Contractor must verify the receipt of the data file by performing a STRUN job monitoring verification in accordance with the OTDA requirements. The Contractor must print and maintain a copy of each file verification.

3.7.8 **Debit Card Customer Service**

- 3.7.8.1 Interactive Voice Response System – The Contractor must provide an Interactive Voice Response (IVR) System to provide, at a minimum, the following services:
- 3.7.8.1.1 a toll free telephone service;
 - 3.7.8.1.2 accessible in English and Spanish;
 - 3.7.8.1.3 available seven (7) days a week, three hundred and sixty five (365) days per year;
 - 3.7.8.1.4 special messaging;
 - 3.7.8.1.5 reference the Debit Card Customer Service website services;
 - 3.7.8.1.6 balance inquiry;
 - 3.7.8.1.7 most recent set of transactions;
 - 3.7.8.1.8 most recent set of deposits;
 - 3.7.8.1.9 option to speak with a representative at any time during call;
 - 3.7.8.1.10 provide for validation of client by abbreviated Social Security number (SSN);
 - 3.7.8.1.11 process for reporting change in addresses and telephone numbers;
 - 3.7.8.1.12 process for addressing accounts of deceased card holders; and
 - 3.7.8.1.13 provide information pertaining to the escheatment process for debit card funds.
- 3.7.8.2 Debit Card Call Center Services – The Debit Card Customer Service center must be located within the continental United States and provide at minimum, the following services:
- 3.7.8.2.1 a toll free telephone service;
 - 3.7.8.2.2 access seven (7) days per week, except State holidays;
 - 3.7.8.2.3 acceptance of calls 7:00 AM to 7:00 PM, EST;
 - 3.7.8.2.4 no more than two (2) minutes wait time to speak with a call center representative;
 - 3.7.8.2.5 English and Spanish speaking representatives;
 - 3.7.8.2.6 acceptance from and conferencing in of calls with a language interpreter service, as approved by the OTDA;
 - 3.7.8.2.7 reference the Debit Card Customer Service website services;
 - 3.7.8.2.8 cardholder access;
 - 3.7.8.2.9 address and telephone number updating;
 - 3.7.8.2.10 card activation;
 - 3.7.8.2.11 PIN establishment and resets;
 - 3.7.8.2.12 card replacement;
 - 3.7.8.2.13 a directory of ATM locations;
 - 3.7.8.2.14 responses to most frequently asked questions; and
 - 3.7.8.2.15 a process for response to all other questions.
- 3.7.8.3 Debit Card Web Site Services – The Debit Card Customer Service website must have sufficient bandwidth to efficiently receive and process inquiries, and at a minimum, provide for the following services:
- 3.7.8.3.1 accessible seven (7) days a week, three hundred and sixty five (365) days per year;
 - 3.7.8.3.2 Debit Card Customer Service website in English and Spanish and an alternative for other languages;
 - 3.7.8.3.3 special messages;
 - 3.7.8.3.4 same services for persons with disabilities;
 - 3.7.8.3.5 card activation;
 - 3.7.8.3.6 PIN establishment and resets;
 - 3.7.8.3.7 card replacement;
 - 3.7.8.3.8 a directory of ATM locations;
 - 3.7.8.3.9 balance inquiry;
 - 3.7.8.3.10 most recent set of transactions;
 - 3.7.8.3.11 most recent set of deposits;
 - 3.7.8.3.12 account statements;
 - 3.7.8.3.13 provide for validation of client by abbreviated Social Security number (SSN);
 - 3.7.8.3.14 process for reporting change in addresses and telephone numbers;

- 3.7.8.3.15 process for addressing accounts of deceased card holders;
- 3.7.8.3.16 escheatment process;
- 3.7.8.3.17 completion of requested action the same day received; and
- 3.7.8.3.18 provide a link to the New York State Child Support Website.
- 3.7.8.4 Debit Card Customer Service Design and Scripting - The Contractor must provide design plans and scripting for the Interactive Voice Response System, Debit Card Call Center Services, and the Debit Card Customer Service Website Services for the OTDA approval.
- 3.7.8.5 Persons with Disabilities - The Customer Service Operations must support callers with disabilities and provide services for TTY/TDD and certified video relay services calls.
- 3.7.8.6 Call Recording - All calls must be recorded and retained by the Contractor for a period of at least one (1) year.
- 3.7.8.6.1 Calls of threatening nature must be referred to the OTDA and retained until otherwise directed by the OTDA.
- 3.7.8.6.2 The recordings must be clear, audible and in a format conducive to electronic transfer to the OTDA
- 3.7.8.6.3 Recordings requested by the OTDA must be provided within the following timeframes:
- 3.7.8.6.3.1 Within twenty-four (24) hours for non-threat calls; and
- 3.7.8.6.3.2 Immediately for threat calls.
- 3.7.8.7 All inquiries from any press or any members of government must be referred immediately to the OTDA.
- 3.7.9 **Reporting** - The Contractor must provide the OTDA, at a minimum, with the following information in a report format to be approved by the OTDA:
- 3.7.9.1 Daily Report:
- A report of total number of incoming calls ;
 - Number of accepted calls;
 - Number of calls per language and requested language;
 - Number of calls from persons with disabilities (by method);
 - Number of calls in queue;
 - Call wait time;
 - Time of call;
 - After talk time;
 - Name and telephone number of caller;
 - Nature of call;
 - Questions asked and occurrences;
 - Responses provided;
 - Length of call;
 - Number of calls escalated to a supervisor;
 - Number of OTDA referrals;
 - Notification that a call back was required;
 - Verification that a call back was completed;
 - Number of abandoned calls;
 - Percentage of line busy
 - Customer Service staffing; and
 - Repeat Caller report.

- 3.7.9.2 Monthly Report:
 -cards printed (date and number);
 -cards mailed (date and number);
 -number of cards expiring;
 -new enrollments;
 -cards in circulation;
 -number of cards pinned;
 -number of cards unpinned;
 -unpinned cards with balances;
 -unpinned cards without balances; and
 -debit card usage.
- 3.7.9.3 The Contractor must on an ongoing basis identify problems and recommend solutions, and identify potential efficiencies and cost effectiveness improvements.
- 3.7.10 **Performance Standards** - The following performance standards apply to the operation of Customer Service. **(Note: the functions regarding issuance and monitoring of debit cards will not apply if the OTDA determines to award the debit card functions through another solicitation.)**
- 3.7.10.1 The Contractor must adjust staffing to support call volumes per month, week, day, and hour of operation based upon mailings, initiatives, and normal call patterns.
- 3.7.10.2 The Contractor must allow for special messaging.
- 3.7.10.3 The Debit Card Customer Service Center must have less than a two percent (2%) busy rate.
- 3.7.10.4 A call must connect to the Interactive Voice Response System within three (3) rings.
- 3.7.10.5 The Debit Card Customer Service Center must have no more than than a two (2) minute wait time for a caller to speak with a Customer Service Representative from the time the caller requests to speak with a call center representative.
- 3.7.10.6 The same services must be provided to clients for English, Spanish, or any other language.
- 3.7.10.7 A message must be provided to the caller after each minute of wait time. The message must, at a minimum, provide the following information:
- 3.7.10.7.1 all Customer Service Representatives are currently busy;
- 3.7.10.7.2 expected wait time; and
- 3.7.10.7.3 refer the caller to the Debit Card website for information.
- 3.7.10.8 In the event all Customer Service staff is busy, after three (3) receiving rings a message must be provided as identified in Section 3.7.10.7 of this IFB.
- 3.7.10.9 Responses to callers must not exceed the following per case:
- 3.7.10.9.1 Seven (7) minutes with experienced staff for English and Spanish, and seventeen (17) minutes for any language other than English or Spanish;
- 3.7.10.9.2 Nine (9) minutes with inexperienced staff for English and Spanish and twenty-two (22) minutes for any language other than English or Spanish; and

- 3.7.10.9.3 A response is defined as the period of time encompassing the connection of a call to a Customer Service Representative through the Customer Service Representative's availability to connect to the next incoming call.
- 3.7.10.10 In the event that a call cannot be completed in a manner as identified in Section 3.7.8.2.15 of this IFB, the representative must refer the caller to a unit supervisor for response. The caller must be notified when a return call will be provided.
- 3.7.10.11 Caller requested action must be completed the same day as received.
- 3.7.10.12 Mailing of hard copy account statements must be mailed the business day following the receipt of the request.
- 3.7.10.13 A message must be provided to callers, calling outside of the hours identified in Section 3.7.8.2.3 of this IFB, notifying the caller of the debit card Customer Service Center hours.
- 3.7.10.14 The Debit Card Customer Service Center must receive a 95% overall rating in accuracy, courtesy, efficiency and politeness. The Contractor must develop a method of surveying callers as approved by the OTDA.
- 3.7.10.15 Daily reports must be provided to the OTDA by 9:00 AM EST the following business day.
- 3.7.10.16 Monthly reports must be provided to the OTDA by the fifth (5th) business day following the end of month.
- 3.7.11 **Delivery of Services** - Each response provided by the Customer Service Center staff must always be completed in a courteous and professional manner and the information provided must reflect the status of the specific case debit card account in question or when no account exists, it must reflect a response approved by the OTDA.
- 3.7.12 **Outreach** – The Contractor must provide outreach to those custodial parents who have not pinned their debit card or their replacement card (lost or expired) within thirty (30) and forty-five (45) days of receiving their debit card. The Contractor must complete outreach by using various methods such as; sending custodial parents an informational letter; and by telephone. The Contractor must provide the OTDA with a monthly report of the Outreach activities.
- 3.7.13 **Performance** – The Contractor's performance under the above performance standards, unless otherwise noted, will be measured by test checks performed by the OTDA staff.
- 3.7.14 **Turnover** – At the expiration of the contract, the Contractor must keep all accounts open and continue to make account adjustments and provide reports as required in Section 3.2.7 of this IFB until the balance on any individual debit card account is equal to zero dollars (\$0.00) or the funds are escheated.
- 3.7.15 **Security Procedures and Confidentiality** - Contractor shall comply with the provisions of the New York State Information Breach and Notification Act see Section 1.27 of this IFB.
- 3.7.16 **Failure to Take Action or Notify the OTDA** - The Contractor must, within twenty-four (24) hours, notify the OTDA when the Contractor learns of any situation, which can be reasonably expected to adversely affect any or all of the various Banking Operations. The Contractor must provide the OTDA with a description of the situation and a recommendation for a resolution. The Contractor must immediately notify the OTDA's

Project Manager of any emergency requiring the initiation of the disaster recovery plan.

- 3.7.17 **Detection of Errors** – The Contractor must immediately correct all errors detected during and after processing. The Contractor must notify the OTDA immediately of all errors the Contractor detects. The Contractor must within twenty-four (24) hours of the notification of the error, where the OTDA determines it necessary, complete the corrective action by following the OTDA's required procedures within the timeframes requested, complete the OTD's requested action, and provide written documentation detailing the action taken to rectify the error.
- 3.7.18 **Corrective Action** – The Contractor must provide the OTDA with a written corrective action plan for the OTDA approval. The corrective action plan must be provided to the OTDA within the following timeframes:
- 3.7.18.1 Within three (3) business days of a notice from the OTDA that the Contractor has failed to properly perform a task in accordance with the performance standards identified in Section 3.7.18 of this IFB
- 3.7.18.2 Within two (2) business days from the date that the OTDA issues a notice of deficiency.
- 3.7.18.3 The corrective action plan must detail the actions taken, or to be taken, and the timeframe for such actions by the Contractor.
- 3.7.19 **Corrective Action Liquidated Damages** – The Contractor shall perform and complete each action or meet each milestone within an approved corrective action plan within the approved timeframe as required by Section 3.7.18 of this IFB. Each day that the corrective action plan is not submitted or completed as set out shall, the liquidated damages as set out in Section 3.4.15 of this IFB shall apply.
- 3.7.20 **Key Performance Standards** - Failure by the Contractor to meet the Key Performance Standards set out herein shall result in the assessment of damages or liquidated damages as set forth below. The OTDA, at its sole discretion, may waive liquidated damages if in the best interest of the State. The amount of the liquidated damages for any given month will be calculated based upon the amount of reduction per occurrence as set forth in the schedules below, multiplied times the number of occurrences of Contractor failure in a calendar month. These amounts represent a reasonable measure of the damages incurred by the OTDA, or the local social services districts where applicable, for such nonperformance. The total monetary amount of the applicable Claim for Payment for the month in which the failure occurred or is reported will be reduced by the total amount of liquidated damages as calculated herein. The OTDA will consider each failure as a separate occurrence for calculation of the liquidated damages (i.e., the Contractor could have multiple occurrences of failure each processing day).
- 3.7.20.1 All new or replacement debit cards must be mailed within the timeframes set out in Section 3.7.3.5 of this IFB.
- 3.7.20.2 The Contractor must enroll custodial parents within five (5) days of receiving a data file for enrollment or request for enrollment as set out in Section 3.7.3.5 of this IFB.
- 3.7.20.3 All calls to the debit card customer service center must be recorded and retained by the Contractor for a period of one (1) year as required by Section 3.7.8.6 of this IFB.
- 3.7.20.4 Recording of calls to the debit card customer service center must be provided to the

the OTDA within the timeframes required by Sections 3.7.8.6.3 of this IFB.

3.7.20.5 All calls to the debit card customer service center must be answered by a call center representative within the timeframe required by Sections 3.7.8.2.4 and 3.7.10.5 of this IFB.

3.7.21 **Liquidated Damages**

3.7.21.1 Failure to timely enroll customers or mail new or replacement cards as required in Sections 3.7.20.1 and 3.7.20.2 of this IFB. Each day that a data file is untimely shall constitute a separate occurrence.

Amount Per Failure = \$50
Example: 4 failures = 4 X \$50

3.7.21.2 Failure to record or retain customer service calls as required in Sections 3.7.20.3 and 3.7.20.4 of this IFB.

Amount Per Failure = \$50
Example: 4 failures = 4 X \$50

3.7.21.3 Failure to answer a call within the timeframe required in Section 3.7.20.5 of this IFB

Amount Per Failure = \$50
Example: 4 failures = 4 X \$50

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Section 4 BID PROPOSAL REQUIREMENTS

- 4.1 **Binding of Bid Proposals** – Each Bidder must bind its Bid Proposal so that updated pages can be easily incorporated into the original Bid Proposal. The official name of the Bidder must appear on the outside front cover of each one of the required six (6) paper and electronic copies (see Section 1.3.2 of this IFB) of the Bid Proposal.
- 4.2 **Page Numbering** - Each page of the Bid Proposal must be numbered consecutively from the beginning of the Bid Proposal through all appended material.
- 4.3 **Updating Bid Proposals** – The OTDA is aware of the problems associated with ensuring accurate and timely updates to Bidder’s Bid Proposals. The following two (2) methods of updating will be accepted by the OTDA:
- 4.3.1 **Errata and Addenda Sheets** – Upon written notification by the Bidder and agreement by the OTDA, pen and ink changes may be made by the OTDA when corrections are minimal and do not substantially change the Bid Proposal. The correction and correction date will be noted on appropriate page(s) and also entered at the front of the Bid Proposal copy on a standard errata/addenda sheet.
- 4.3.2 **Updating Pages** – Upon written notification by the Bidder and agreement by the OTDA, new or updated pages may be placed in the Bid Proposal. All new or corrected pages will show the date of the revision and indicate the portion of the page being changed.
- 4.4 **Bid Proposal Response Order** – Each Bidder’s Bid Proposal must include the following:
- 4.4.1 **Transmittal Letter** – Must be submitted on Bidder’s letterhead and include or confirm the following:
- 4.4.1.1 a listing of those officials authorized to bind the Bidder;
- 4.4.1.2 a statement that the individual signing the transmittal letter is authorized to bind the company, including an explanation of how that official’s authorization has been conferred;
- 4.4.1.3 a statement that the Bid Proposal will remain valid for a minimum of one (1) year from the “Closing Date for Receipt of Bids”;
- 4.4.1.4 confirmation that the financial institution is licensed to conduct business in New York State and has at least one (1) branch office within New York State boundaries and a depository within a thirty-five (35) mile radius of Albany, NY with the ability to accept daily deposits of \$1 to \$19 million;
- 4.4.1.5 confirmation that deposits will be covered by secured collateral as explained in Section 3.2.7.11 of this IFB. (see Appendix D for a Schedule of Local District SCU Average Daily Balances for April 2014);
- 4.4.1.6 a statement that the Bidder understands it is obligated to complete this project even if the actual costs exceed those on Form **BR-9A** Financial Proposal - Fixed Price Summary completed and submitted by the Bidder and accepted by the OTDA;
- 4.4.1.7 a statement that the Bidder understands that the prices contained in **Form BR-9A** Financial Proposal - Fixed Price Summary, once approved by the OTDA and the OSC, are fixed for the entire term of the project, including any extensions, and are not subject to change;

- 4.4.1.8 a statement that the Bidder understands that the prices contained in **Form BR-12** Debit Card Transaction and Cost Details, if approved by the OTDA and the OSC, are fixed for the entire term of the project, including any extensions, and are not subject to change;
- 4.4.1.9 a confirmation of the Bidder's willingness and capability to execute and perform a Contract containing the terms and conditions specified in this IFB and indicate the ability to meet all Contract requirements;
- 4.4.1.10 a statement informing the OTDA if the Bidder has or has not been suspended or debarred from entering into Federally-funded contracts pursuant to U.S. Executive Order 12549 and/or 41 CFR Part 105-68, or if there is any information known to the Bidder or its agents that there has been any activity or investigation that could result in its suspension or debarment; and
- 4.4.1.11 a description of the Bidder's understanding of the division of responsibility between the OTDA, the Centralized Support Collection and Enforcement contractor, and the Bidder.
- 4.4.2 **Technical Response Matrix** - The Bidder must complete BR-14 Technical Response Matrix. Failure to say "Yes" to each specific requirement may result in a Bid Proposal being considered non-responsive, except as noted in the instructions of BR-14.
- 4.4.3 **Additional Information** – The Bidder must provide the following:
 - 4.4.3.1 the organizational structure of the firm, including all proposed Subcontractors, titles of key staff positions, and lines of reporting, and where the project responsibilities will lie for Transition and Operation tasks;
 - 4.4.3.2 the corporate financial status which describes the product line structure with relative size of each total asset and total deposit; the current ratios demonstrating that the Bidder meets or exceeds those minimum qualifications as required in Section 1.5 of this IFB; and the percentage of gross revenue relative to banking services and depository accounts; and
 - 4.4.3.3 A Transition Plan.

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Section 5 CONTRACTUAL PROVISIONS

5.1 General

5.1.1 Upon selection, the successful Bidder shall enter into an Agreement with the OTDA (the Agreement). The contents of the selected Bidder's Bid Proposal, together with this IFB and any formal questions and answers passed during the bidding process, will be made a part of the Agreement. Should the selected Bidder fail to enter in an Agreement with the OTDA within one (1) month of notification of the award, the State reserves the right to select another firm and commence negotiations.

5.2 Agreement Duration and Amendment

5.2.1 The services to be performed under the Agreement shall commence on the Contract approval date. The term of the Contract resulting from this IFB is five (5) years and three (3) months, which includes approximately a three (3) months Transition period and five (5) years for Operations, commencing on the Contract approval date. In the event that the OTDA elects to award debit card services to the successful Bidder of this IFB, such services shall commence upon termination of the Centralized Support Collection and Enforcement Contract.

5.2.2 The State of New York (State) shall have the right to re-negotiate the terms and conditions of the Agreement in the event applicable State or Federal statutes, policy, rules, regulations, and guidelines are altered from those existing at the time of this Agreement in order to be in continuous compliance therewith. It shall be understood that, in the event the State and the Contractor are unable to mutually agree to a set of terms and conditions through re-negotiations, the terms and conditions required to continue the Agreement in compliance with revised State or Federal statutes, policy, rules, regulations, and guidelines shall be decided by the Commissioner of the OTDA or his/her duly authorized representative(s) or designee(s), in accordance with Section 5.12 of this IFB, Interpretation and Disputes.

5.2.3 The Agreement is subject to amendment only upon mutual consent of the parties, reduced to writing, and approved by the OSC if necessary.

5.2.4 The OTDA has the option and sole discretion, with the approval of the OSC, upon a ninety (90) day notice to the Contractor, to exercise two (2) consecutive extensions up to twelve (12) months each. Payment to the Contractor for each extension shall be based on Form BR-10A, Financial Proposal – Fixed Price Summary, and Form BR-13, Debit Card and Cost Details for each twelve (12) months extension, and calculated as per Sections 3.4.6.2 through 3.4.10 of this IFB.

5.3 Executory Provision

5.3.1 The State Finance Law of the State of New York, Section 112, requires that any contract made by a State department, which exceeds fifty thousand dollars (\$50,000) in amount, be first approved by the OSC before becoming effective. The parties recognize that this Agreement is wholly executory until and unless approved by the OSC. The parties also agree that the effectiveness of the Agreement is conditioned upon receipt of any approval required pursuant to Federal law to permit full Federal Financial Participation in the costs thereof.

5.3.2 The State of New York is not liable for any cost incurred by the Contractor in preparation for or prior to the approval of an executed Contract by the OSC. Additionally, no cost will be incurred by the State for the Contractor's participation in any pre-contract award activity.

5.3.3 The Agreement and the Appendices constitute the entire Agreement between the parties with respect to the subject matter; all other prior agreements, representations, statements,

negotiations, and undertakings are superseded hereby. The terms, provisions, representations, and warranties contained in this Agreement shall survive performance hereunder.

5.3.4 The State and the Contractor acknowledge and agree that time is of the essence in the Contractor's performance hereunder, when and if a time for performance is specifically stipulated.

5.4 **Standard Contract Provisions**

5.4.1 Standard Clauses for All New York State Contracts, attached hereto as Appendix A, is hereby fully incorporated into the Agreement.

5.4.2 The parties agree that the Agreement shall be construed and interpreted in accordance with the laws of the State. The Contractor shall be required to bring any legal proceeding against the State arising from the Agreement in New York State courts.

5.4.3 Should any provision of the Agreement be declared or found to be illegal, unenforceable, ineffective, or void, then each party shall be relieved of any obligation arising from such provision; the balance of this Agreement, if capable of performance, shall remain in full force and effect.

5.4.4 No term or provision of this Agreement shall be deemed waived and no breach consented to, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent, by a party to, or waiver of, a breach under this Agreement shall not constitute or consent to, a waiver of, or excuse for any other, different or subsequent breach.

5.5 **Assurances**

5.5.1 The Contractor warrants that it has carefully reviewed the needs of the State, as described in this IFB and its attachments and otherwise communicated in writing by the State to the Contractor, that it has familiarized itself with the State's specifications, and it warrants that it can provide such services as represented in its Bid Proposal.

5.5.2 The Contractor agrees that it will perform its obligations hereunder in accordance with all applicable laws, rules, and regulations now or hereafter in effect.

5.5.3 The Contractor warrants and affirms that its other contractual obligations will not adversely influence its capabilities to perform under this Agreement.

5.5.4 The Contractor certifies that all information provided to the OTDA with respect to the New York State Procurement Lobbying Act is complete, true, and accurate.

5.6 **Contractor Requirements**

5.6.1 The Contractor accepts sole and complete responsibility for the timely accomplishment of all activities required under the Agreement and to perform in accordance with Section 3 of this IFB.

5.6.2 The State shall not be held liable for any minimum utilization of Contractor Services. Upon written notification to the Contractor, the State may, at any time, make changes to the Services required within the general scope of the Agreement. It shall also be understood that the State reserves the right to suspend or reduce Contractor Services during the term of the Agreement upon fifteen (15) days prior written notice.

5.6.3 Inspection and acceptance of the work required under the Agreement will be performed by the OTDA's Project Manager and/or designee.

5.6.4 For the term of the Agreement, and for three (3) months after its termination, each party agrees not to offer employment to any employee of the other party, except as required by law, unless mutually agreed to in writing by the State and Contractor for an employee under consideration.

5.7 **Non-Assignability**

5.7.1 Full responsibility for the delivery of services provided by another firm or manufacturer, which is a Subcontractor or supplier to the Contractor under this Agreement, shall be assumed by the Contractor. Should the Contractor seek external financing, the State reserves the right to approve the assignment of the Contract for financing purposes. The State shall consider the prime Contractor to be sole contact with regard to all provisions of this Agreement.

5.7.2 No provision in the Agreement, expressed or implied, is intended to confer upon any person, corporation, or other entity, other than the parties hereto any rights or remedies.

5.7.3 It shall be understood that the Contractor is an independent Contractor, and the Contractor, its agents, officers, and employees, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees of the State.

5.7.4 Subcontracting or assignment of the Contractor's duties and responsibilities will not be allowed without prior written approval of the State. The Contractor shall furnish to the State the following:

5.7.4.1 A description of the supplies or services to be provided under the proposed subcontract;

5.7.4.2 Identification of the proposed subcontractor; and

5.7.4.3 Any other reasonable information or documentation requested by the State.

5.8 **Charges**

5.8.1 The OTDA agrees to process for payment the Contractor's monthly invoicing based on the rates set forth in the Contractor's proposal for actual billable services provided to the OTDA.

5.8.2 Payments to the Contractor shall be based on invoices submitted to the State by the Contractor on a Claim for Payment (AC3253-S) in a form acceptable to the State and the OSC. The State will make best efforts to process all Claims for Payment within thirty (30) days of their receipt; however, failure to make payment within said time frame shall not be considered a breach of Contract. Timeliness of payment and any interest to be paid to the Contractor for late payment shall be governed by Article XI-A of the State Finance Law to the extent required by law.

5.8.3 The State shall not be liable for the payment of any taxes under this agreement however designated, levied or imposed. For purposes of tax free transactions under the Internal Revenue Code, the New York State tax-exempt number is 14740026K. It shall be further understood that the State shall not be liable for any travel/per diem expenditures the Contractor may incur.

5.8.4 The Contractor grants the option to extend the terms and conditions of this Agreement to any other program area or State agency in New York as well as local social service districts in New York.

5.8.5 The Contractor shall provide complete and accurate Claims for Payment to the OTDA in order to receive payment. Claims for Payment submitted to the OTDA must contain all information and supporting documentation required by the OTDA and the OSC. Payment for Claims for Payment submitted by the Contractor shall only be rendered electronically unless payment by

paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the OSC's procedures to authorize electronic payments. Authorization forms are available at the OSC's website at www.osc.state.ny.us/epay/index.htm, by email at epayments@osc.state.ny.us or by telephone at 518-402-4111. The Contractor acknowledges that it will not receive payment on any Claims for Payment submitted under this Contract if it does not comply with the OSC's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

5.9 **Public Officers' Law**

5.9.1 The Contractor agrees not to engage in any conduct which the Contractor knows would violate or would assist an employee of the State in violating Sections 73 and 74 of the Public Officers' Law.

5.9.2 The Contractor further recognizes that a finding that a Contractor has violated any of the statutes specified in the Contractor/Subcontractor Background Questionnaire completed prior to the award of this Contract may entitle the State to terminate the Contract, at its discretion, within thirty (30) days after the Contractor notifies the State of such finding or the State notifies the Contractor that it has become aware of such finding. Any termination of the Agreement by the State under this provision shall be deemed to be a termination of the Contract for cause. The remedies set forth in this Section shall be in addition to any other remedy available to the State under the Agreement or under any other provisions of law.

5.10 **New York State MWBE Contract System Reporting Requirements**

5.10.1 The Contractor shall comply with the following OTDA New York State MWBE Contract System reporting requirements as set forth below:

5.10.1.1 OTDA has developed compliance requirements to ensure that (i) all contractors as defined under § 310 (3) (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom OTDA enters into State Contracts, as defined in § 310 (13) [hereinafter "Contractors"], as well as proposed or actual "Subcontractors", as defined in § 310 (14) shall comply with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, and, (ii) there are meaningful participation opportunities for certified minority or women-owned business enterprises (M/WBEs) in the OTDA procurement process. Contractors participating in and/or selected for procurement opportunities with OTDA shall fulfill their obligations to comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for Minority and Women Business Enterprises, including but not limited to the Statute and its implementing regulations as promulgated by the New York State Division of Minority and Women's Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-144). Please refer to Appendix Z, attached and incorporated by reference herein, for the specific EEO/MWBE requirements. To streamline the MWBE compliance tracking, vendors may now report payments and track goals using an electronic monitoring and compliance system. The New York State Contract System will allow vendors to electronically update their contact information, provide subcontractor payment data for contract audits and provide revenue and payment data for concession audits. The system will also allow Subcontractors to enter the system to verify receipt of Contractor payments. Data is to be submitted without change to goals specified in the RFP or contract, unless otherwise authorized by OTDA. The electronic monitoring and reporting system can be viewed at <https://ny.newnycontracts.com/?TN=ny>. The Vendor Guide and Vendor Training Manual are available on the OTDA's internet site at <http://otda.ny.gov/contracts/mwbe/forms.asp>.

5.10.1.2 Vendors who cannot access the electronic monitoring and compliance tracking system may also

opt to submit hardcopy forms to the designated OTDA Program Manager. Please refer to Appendix Z, attached and incorporated by reference herein, for the specific EEO/MWBE requirements and associated forms required by this procurement. These forms are to be submitted without change to goals specified in the RFP or contract, unless otherwise authorized by OTDA. Copies of the required OTDA Forms are identified in this Appendix and available on OTDA's Internet site at <http://otda.ny.gov/contracts/mwbe/forms.asp>

5.11 **Rights of The State**

5.11.1 The Contractor hereby grants the OTDA (and its agents and subcontractors) the right to use any proprietary information, systems, and products (including Contractor or third party software) to access or use any system, program, or product which is intended for the OTDA use under this IFB and Agreement (collectively referred to as Proprietary Information), during the term of the Agreement.

5.11.2 Because federal funds are a source of funding for the Agreement, the Contractor grants the Federal government a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use and authorize others to use for Federal government purposes, the Proprietary Information.

5.12 **Document Incorporation and Order of Precedence**

5.12.1 This Agreement consists of:

5.12.1.1 The body of this Agreement; and

5.12.1.2 The Appendices attached to or incorporated by reference in this Agreement body.

5.12.2 In the event of any inconsistency in or conflict among the document elements of this Agreement identified in this Section, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the following order:

5.12.2.1 First, Appendix A;

5.12.2.2 Second, any amendments to the Agreement;

5.12.2.3 Third, the body of this Agreement and the Appendices (except Appendix A);

5.12.2.4 Fourth, this IFB; and

5.12.2.5 Fifth, the Contractor's Bid Proposal.

5.13 **Interpretation and Disputes**

5.13.1 This provision shall apply to any dispute of the parties relating to performance under the Agreement. Any dispute concerning any question of fact or law arising under the Agreement, which is not disposed of, by mutual agreement of the parties, shall be initially decided by the adjudicator designee (hereinafter "Designee") of the Director of the Bureau of Contract Management (hereinafter "Director"). The Director shall also designate the person who will present the OTDA's position in the dispute (hereinafter "Advocate"). All documents submitted as part of this dispute provision may be sent either by surface mail, by carrier, or electronically to the Director, NYS Office of Temporary and Disability Assistance, Bureau of Contract Management, 40 North Pearl Street, 12th Floor Section D, Albany, NY, 12243.

5.13.2 Within thirty (30) days of such designations, the Advocate will state and brief the Designee on the OTDA's position on the dispute. The Contractor will then have thirty (30) days to make its

submission; the submission may include any material the Contractor deems relevant to the dispute.

- 5.13.3 The Advocate will have a right to submit a rebuttal to the Contractor's submissions. The Advocate's rebuttal must be limited to evidence and arguments raised by the Contractor in its most recent submission and must be submitted within fifteen (15) days of receipt of the Contractor's submission. If the Advocate submits a rebuttal, the Contractor will have thirty (30) days to prepare and submit a response to the Advocate's rebuttal; this response shall consist wholly of material which responds to evidence or arguments raised in the Advocate's rebuttal. Any actual rebuttal by the Advocate shall generate a right of response by the Contractor until such time as the Designee has received the Contractor's submission and deems the submission process complete or the Contractor fails to submit a response within thirty (30) days as required.
- 5.13.4 The Advocate and the Contractor will be informed in writing by the Designee when the submission process is deemed complete. The Designee shall have the right to take administrative notice of relevant matters of law and fact as he/she believes appropriate, in accordance with general principles of Administrative Law.
- 5.13.5 The Designee will prepare and forward the recommended written decision to the Director. The Director shall: (a) evaluate the Designee's findings and recommendations, (b) review the materials presented by the Contractor and the Advocate, (c) if necessary, consult with the OTDA Office of Legal Affairs (OLA), and (d) prepare a response to the dispute either ratifying, modifying, or reversing the recommended decision. The Director's final written decision will be rendered within forty-five (45) days of the date when the submission process is deemed complete.
- 5.13.6 A copy of the Director's final written decision stating the reason(s) upon which it is based and informing the Contractor of the right to appeal an unfavorable decision to the General Counsel of the OTDA, will be issued to both parties. The Director's final written decision shall be deemed a final and conclusive agency decision unless a written notice of appeal is received no more than fifteen (15) calendar days after the date the Director's final written decision is received by the Contractor. Such notice of appeal must be filed with the General Counsel of the OTDA.
- 5.13.7 The General Counsel of the OTDA or his/her designee(s) shall hear and make a final decision on all appeals ("General Counsel's decision"). A formal dispute appeal may not introduce new facts unless responding to facts or issues unknown to the Contractor prior to the Director's final written decision. The General Counsel's decision will be rendered within thirty (30) calendar days of the date that the notice of appeal is received by the General Counsel.
- 5.13.8 If the Contractor is unwilling to accept the decision rendered through this procedure or if the General Counsel's decision is not made within ninety (90) calendar days after the record is deemed final, it may then pursue its normal legal remedies de novo, but it is specifically agreed that any and all reports rendered through this procedure shall be admissible as evidence in any court action taken with respect to the matter. Pending conclusion of any dispute or disagreement by whatever procedure, the construction placed upon the Agreement by the State shall govern operation thereunder and the Contractor and the OTDA shall continue to perform under the Contract.
- 5.13.9 The Director and General Counsel shall have the power to change any or all of their designees or otherwise alter the rules of proceeding upon written notice to the Contractor.
- 5.13.10 The Contractor shall be required to bring all legal proceedings relating to this Agreement against the OTDA or the State of New York in the Supreme Court of the State of New York in the County of Albany or the New York Court of Claims.

5.14 **Liability and Indemnification for Damages**

- 5.14.1 In performance of its duties, the Contractor shall fully indemnify and hold harmless the State from suits, actions, damages, and costs of every name and description relating to personal injury, damage to real, or personal tangible or intangible property, or any other claim for direct damages arising as a result of acts or omissions of the Contractor, its officers, employees, subcontractors, partners, or agents in performing the Agreement..
- 5.14.2 The Contractor shall be jointly and severally responsible for the actions of its agents, employees, partners, or subcontractors, including for losses arising from, but not limited to:
- 5.14.2.1 Providing defective or inadequate specifications;
- 5.14.2.2 Defective or inadequate performance;
- 5.14.2.3 The disclosure or security breach of confidential information provided to the Contractor by the OTDA and identified as such, whether caused by the Contractor or a third party;
- 5.14.2.4 System installation or connections, including telecommunications;
- 5.14.2.5 Defective or inadequate maintenance and warranty service; or
- 5.14.2.6 Removal of existing equipment or acquisition of components resulting from defective specifications.
- 5.14.3 The State may, in addition to other remedies permissible by law, retain such monies from amounts due the Contractor, as may be necessary to satisfy the claim for damages, penalties, costs, and the like asserted by or against it; provided, however, that the Contractor shall not indemnify to the extent that any claim, loss or damage arising hereunder is caused by the solely negligent act or failure to act of the State.
- 5.14.4 As a condition to the foregoing indemnity obligations under this Article the OTDA shall provide the Contractor with prompt notice of any claims for which indemnification may be sought hereunder, shall reasonably cooperate with the Contractor in connection with any such claim.

5.15 **Force Majeure**

- 5.15.1 Neither party shall be liable or deemed to be in default for any delay or failure in performance under the Agreement resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, wars, riots, civil disturbances, insurrections, fire, explosions, earthquakes, flood, the elements, acts or omissions of public utilities, or any other causes not reasonably foreseeable or beyond the control of a party. The parties are required to use best efforts to eliminate or minimize the effect of such events during performance of to the Agreement.
- 5.15.2 Any notice required by the Agreement to be given between the Contractor and the OTDA shall be sent to the OTDA's Director of Centralized Payment and Processing Operations or the Contractor's authorized representative to bind the Contractor, by registered or certified mail, return receipt requested, via email, or shall be delivered in hand and a receipt granted.
- 5.15.3 Whenever, by any provision of the Agreement, any right, power or duty is imposed or conferred on the OTDA, the right, power or duty so imposed or conferred shall be possessed and exercised by the Commissioner of the OTDA unless any such right, power or duty is specifically delegated to the duly appointed agents or employees of the OTDA.

5.16 **Record Retention**

- 5.16.1 The Contractor agrees to preserve all Agreement-related records in accordance with the provisions of Appendix A of this Agreement. Records involving matters in litigation shall be kept for a period of not less than three (3) years following the termination of the litigation. Electronic copies of any Agreement-related documents may be substituted for the originals with the prior written approval of the State, provided that the electronic procedures are accepted by the State as reliable and are supported by an adequate retrieval system.
- 5.16.2 The Contractor shall be responsible for assuring that the provisions of this section shall apply to any subcontract related to performance under this agreement.
- 5.17 **Access to and Audit of Agreement Records**
- 5.17.1 All records and information obtained by the State pursuant to the provisions of this Agreement, whether by audit or otherwise, shall be usable by the State solely for the purpose of performing this Agreement in any manner, in its sole discretion, as it deems appropriate and the Contractor shall have no right of confidentiality or proprietary interest in such records or information. Notwithstanding the preceding sentence and in addition to the provisions set forth in Appendix A, the State agrees, in those instances in which it has discretion, not to disclose outside those Government agencies involved in the performance of this Agreement and then only to the personnel who are involved in the performance, the following data:
- 5.17.1.1 Any resume or other description of qualifications which includes the name of any individual;
- 5.17.1.2 Any individual's actual salary;
- 5.17.1.3 The Contractor's indirect rates including labor overhead, General and Administrative (G&A) fee;
- 5.17.1.4 The methodology for calculating those indirect rates including the allocation base; and
- 5.17.1.5 The Contractor's corporate financial statements.
- 5.17.2 The Contractor shall promptly notify the State of any request by anyone for access to any records maintained pursuant to this Agreement. Access by Federal or State bank regulatory agents, or the Contractor's regular outside auditors to the Contractor's financial records, pursuant to regularly scheduled or routine audits or inspection of the Contractor, shall not require notification to the State provided that rights of confidentiality or proprietary interests are preserved.
- 5.17.3 The Contractor shall be responsible for assuring that the provisions in this section shall apply to any subcontract related to performance under this Agreement.
- 5.18 **Confidentiality of Information**
- 5.18.1 The Contractor, its officers, agents, and employees and subcontractors, shall treat all information, with particular emphasis on information relating to recipients and providers, which is obtained by it through its performance under the Agreement, as confidential information to the extent required by the laws of the State of New York and of the United States and any regulations, policies, and guidelines promulgated thereunder. The Contractor must be in compliance with NYS Cyber Security Policy which may be obtained on the following website: <http://www.dhSES.ny.gov/ocs/resources>.
- 5.18.2 Individually identifiable information relating to any eligible recipient or provider shall be held confidential and shall not be disclosed by the Contractor, its officers, agents, and employees or subcontractors, without the prior written approval of the OTDA.

- 5.18.3 “Individually identifiable information” shall include Protected Health Information (“PHI”) under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its implementing regulations, including those at 45 CFR Parts 160 and 164. For purposes of this Agreement, “PHI” means any information, including demographic information collected from an individual, that relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.
- 5.18.4 The use of information obtained by the Contractor in the performance of its duties under the Agreement shall be limited to purposes directly connected with such duties.
- 5.18.5 The Contractor shall promptly advise the OTDA of all requests made to Contractor for information related to this IFB.
- 5.18.6 The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its officers, agents and employees or subcontractors contains a provision, which strictly conforms to the provisions of this subsection.
- 5.18.7 The Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa, State Technology law Section 208). The Contractor shall be liable for the costs associated with such breach if caused by the Contractor’s negligent or willful acts or omissions, or the negligent or willful acts or omissions of the Contractor’s agents, officers, employees, or subcontractors.
- 5.19 **Non-Discrimination, Equal Employment Opportunity and Minority and Women-Owned Business Enterprise**
- 5.19.1 All work conducted under this Contract must be in compliance with the specifications set forth in the applicable IFB and the OTDA’s policies and procedures set forth in Appendix A, Standard Clauses for NYS Contracts, and as may be amended from time to time.
- 5.19.2 By submission of its Bid/Proposal, the successful Contractor agrees that it will not discriminate against any employee or applicant for employment to the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, and as more fully set forth in paragraph five of Appendix A. By submission of its Bid/Proposal, the successful Contractor further agrees that it will comply with applicable Federal, State, and local requirements concerning EEO and opportunities for MWBEs, including but not limited to the statute and its implementing regulations as promulgated by the New York State Division of Minority and Women’s Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-144), and as more fully set forth in paragraph twelve of Appendix A. The successful Contractor further agrees that it will comply with the OTDA’s Appendix Z, attached and incorporated by reference herein, for the specific EEO/MWBE requirements and associated forms required for this procurement.
- 5.20 **Termination of the Agreement**
- 5.20.1 The Agreement shall be subject to the following termination provisions:
- 5.20.1.1 All or any part of this Agreement may be terminated by mutual written agreement of the contracting parties.
- 5.20.1.2 All or any part of this Agreement may be terminated by the State for cause upon the failure of the Contractor to materially comply with the terms and conditions of this Agreement, including the attachments hereto, provided that the State shall give the Contractor written notice of termination via registered or certified mail, return receipt requested, or shall deliver same

personally by hand. Such written notice of termination shall specify the Contractor's failure to perform and identify deficiencies which must be cured within thirty (30) days of receipt of such notice (the Cure Period). The OTDA shall have the option to extend the Cure Period. In the event the OTDA determines that the Contractor failed to satisfactorily correct such deficiencies within the Cure Period, then such termination for cause shall be effective thirty (30) days after the Contractor is notified of such determination. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.

- 5.20.1.3 This Agreement may be terminated if the State deems that termination would be in the best interest of the State provided that the State shall give written notice to the Contractor not less than thirty (30) days prior to the date upon which termination for convenience shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand-delivered with receipt made or electronic notice. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of the Contractor's receipt for notice in the case of hand delivery and for electronic notice. In the case of termination under this subsection, the State agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith. The Contractor, on its part, agrees to incur no new obligations after receipt of notification of termination and to cancel as many outstanding obligations as possible. The Contractor shall take all reasonable measures to mitigate any damages for which the State may be liable.
- 5.20.1.4 Should the State determine that Federal and State funds are unavailable, the State may terminate the Agreement immediately upon notice to the Contractor. If the initial notice is oral notification, the State shall follow this up immediately with written notice. The State will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either orally or in writing by the Contractor from the State.
- 5.20.1.5 If this Agreement is terminated for cause, the State shall have the right to award a new contract to a third party. In such event, the Contractor shall be responsible for damages, and for all additional costs incurred in reassigning (including re-procurement if necessary) of the contract.
- 5.20.1.6 It is understood that the State reserves the right to suspend or reduce the Contractor Services during the term of the Agreement or during a task order period. Such action(s) by the State shall not be considered a breach of this Agreement or otherwise give rise to damages on the part of the Contractor, provided, however, that the Contractor is given written notification of such action.
- 5.20.1.7 The State reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Procurement Lobbying Act was intentionally false or intentionally incomplete. Upon such finding, the State may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.
- 5.20.1.8 Should the State determine that the Contractor/subcontractor has become non- responsible, or, in the event it is found that the Contractor/subcontractor Background Questionnaire as submitted was intentionally false or incomplete, the State shall advise Contractor or Contractor and subcontractor of such finding and Contractor/ subcontractor shall have thirty (30) calendar days to provide evidence that the Contractor/subcontractor is responsible or correct/resolve such non-responsibility issues. If, after the thirty (30) calendar day time period, at the State's sole discretion, the State determines that the Contractor/subcontractor continues to be non-responsible, the State may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

5.21 Patent/Copyright Indemnification

- 5.21.1 The Contractor will indemnify, defend and hold the State harmless from and against any and all damages, expenses (including reasonable attorney fees), claims, judgments, liabilities, and costs which may be finally assessed against the State in any action for infringement of a United States Letter Patent or of any copyright, trademark, trade secret, or other third party proprietary right with respect to the products furnished or services performed under the Agreement, provided that the State shall give the Contractor:
- 5.21.1.1 Prompt written notice of any action, claim or threat of infringement suit, or other suit;
- 5.21.1.2 The opportunity to take over, settle, or defend such action, claim, or suit at the Contractor's sole expense; and
- 5.21.1.3 Assistance in the defense of any such action at the expense of the Contractor.
- 5.21.2 If the use of any item(s) or part(s) thereof shall be enjoined for any reason or if the Contractor believes that it may be enjoined, the Contractor shall have the right, at its own expense and sole discretion, to take action in the following order of precedence:
- 5.21.2.1 to procure for the State the right to continue using such item(s) or part(s) thereof, as applicable;
- 5.21.2.2 to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or
- 5.21.2.3 to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance.
- 5.21.3 The foregoing provisions shall not apply to any infringement occasioned by modification by the State of any tangible or intangible products without the Contractor's approval or the use of any equipment with any adjunct device added by the State without the consent of the Contractor.
- 5.21.4 In the event that an action at law or in equity is commenced against the State arising out of a claim that the State's use of a product under this Agreement infringes any patent, copyright or proprietary right and the Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in this Agreement, the Contractor shall immediately notify the State and the Office of the Attorney General in writing and shall specify to what extent the Contractor believes it is obligated to defend and indemnify under their terms and conditions of this Agreement. The Contractor shall in such event protect the interests of the State and secure a continuance to permit the State to appear and defend its interests in cooperation with the Contractor as is appropriate, including any jurisdictional defenses the State may have.

5.22 **Lobbying Certification**

- 5.22.1 Section 1352 of Title 31 of the U.S. Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Contractor or grantee (such as the State) must be required to certify that no Federal funds will be used to lobby or influence a Federal officer or a Member of Congress. The certification the State has been required to sign for the Health and Human Services Administration for Children and Family Services provides that the language of this certification (shall) be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Contractor understands and agrees to the Federal requirements for certification and disclosure.

5.23 **Notification**

- 5.23.1 Any notice or other communication required by or pertaining to this Agreement shall be sent to the destinations indicated by the State's designated Project Manager or the Contractor's designated Project Director. If no destination has been so indicated, such notices or communications may be directed to the address(es) or destination(s) at which the parties to this Agreement were located when this Agreement was executed or to the last known address or destination for such party. The Contractor shall be responsible for notifying the State of any change of address or destination to which notices and communications should be sent.
- 5.23.2 Except as otherwise specified elsewhere in this Agreement, notices or communications may be given orally or in writing and shall be effective when received. To remain effective, oral notifications must be confirmed in writing, transmitted in a manner to be received no later than ten (10) working days after the oral notification. Notices or communications may be transmitted by personal delivery, ordinary U.S. Mail, registered or certified mail, overnight delivery service, telegram, telephone, facsimile device, electronic means, or any other means of transmission that results in the fixation of the information transmitted in a tangible medium of expression.
- 5.23.3 Notices or communications shall be considered received on the day such receipt is acknowledged by a signed receipt or by any other means of verification that is recorded in a tangible medium of expression. Notices or communications from the State to the Contractor shall also be considered received as follows:
- 5.23.3.1 Oral notifications shall be considered received on the date indicated as the date of conversation in any written confirmation or on the day sworn in an affidavit to be the date of such conversation, unless contested.
- 5.23.3.2 Notices or communications by ordinary, registered or certified U.S. Mail shall also be considered received on the first (1st) working day after five (5) days following the day the transmittal is postmarked.
- 5.23.3.3 Notices or communications dispatched by overnight delivery service shall be considered received one (1) working day after having been dispatched.
- 5.23.3.4 Transmissions by facsimile device or electronic means shall be considered received, upon the receipt by one (1) party of a signal from the equipment of the other party indicating that the transmission was received.
- 5.23.3.5 Notices or communications transmitted by personal delivery shall be considered received on the day the transmission is delivered to the Contractor or the OTDA.
- 5.23.3.6 Any other transmissions shall be considered received no later than five (5) working days after transmission by the State or the Contractor is completed, provided the delivery of such notice can be verified.
- 5.24 **Conflict of Interest**
- 5.24.1 For the term of the Agreement, and for three (3) months after its termination, the Contractor agrees not to offer employment to any employee of the OTDA, without the express written consent of the OTDA.
- 5.24.2 If during the term of this Agreement and any extension thereof the Contractor becomes aware of an actual or potential relationship, which may be considered a conflict of interest, the Contractor shall notify the State in writing immediately. Should the Contractor engage any current or former New York State employee as its own employee or as an independent Contractor because of such employee's knowledge of New York State finances, operation or knowledge of the State's programs, or any current or former State employee who in the course

of his State employment had frequent contact with Management-level Contractor employees, the Contractor shall notify the State, in writing, immediately; should the State thereafter determine that such employment is inconsistent with State or Federal Law, the State shall so advise the Contractor, in writing, specifying its basis for so determining, and may require that the contractual or employment relationship be terminated.

5.25 Other Agency Use

5.25.1 Any other State Agency may “piggyback” on the Agreement, whereby it enters into an agreement with the Contractor for essentially the same services in accordance with the terms and conditions of this Agreement.

5.25.2 Upon request by a social services district or its designated purchasing agent, the Contractor shall enter into an agreement with such district or agent for the purchase of the goods and services that are the subject of this Agreement. Such new agreement shall provide that the cost of such goods and services to the district/agent entering into such agreement shall be the same as charged to the OTDA under this Agreement except that the Contractor shall be permitted to negotiate an increase in price to the extent it can show an increase in the cost of providing such goods and services.

5.26 Limitation of Liabilities

5.26.1 For damages arising as a result of acts or omissions of the Contractor, its officers, employees, subcontractors, partners or agents, the Contractor shall be liable for losses arising from, but not limited to: (i) providing defective or inadequate specifications; (ii) unsatisfactory or inadequate performance; (iii) losses incurred in shipping and delivery of products to site; (iv) connection, installation or including telecommunications failures; (v) defective or inadequate recommendations inducing detrimental reliance by the OTDA; (vi) defective or inadequate maintenance and warranty service; or (vii) removal of existing equipment or acquisition of components resulting from defective specifications. The Contractor remains liable, without monetary limitation, for direct damages for personal injury, death, or damage to real property or tangible personal property attributable to the negligence or other tort of the Contractor, its officers, employees, agents, or subcontractors.

5.26.2 The warranties set forth in the Agreement include the implied warranties of merchantability and fitness for a particular purpose.

5.26.3 For any suit, action, claim, damages or costs arising under or connected to the title, patent, and copyright actions by third parties as set forth in this section, the Contractor shall be fully liable for damages without limitation.

5.26.4 The Contractor’s liability under this Agreement for failure to provide adequate services or deliverables, regardless of whether such liability is asserted under a theory of contract breach, default, negligence, or warranty, or otherwise, shall not exceed two times (2x) the value of the total Agreement amount for the entire Contract term (including extensions) as indicated in the State Financial System.

5.27 New York State Contractor Insurance Requirements

5.27.1 Prior to the start of work the Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, policies of insurance as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York (“admitted” carriers) with an A.M. Best Company rating of “A-” or better or as acceptable to the OTDA. The OTDA may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of

New York (ELANY) Affidavit; provided that nothing herein shall be construed to require the OTDA to accept insurance placed with a nonauthorized carrier under any circumstances. The Contractor shall deliver to the OTDA evidence of such policies in a form acceptable to the Agency.

5.27.1.1 Contractor's Insurance Requirements

5.27.1.1.1 Conditions Applicable to Insurance - All policies of insurance required by the Contract resulting from this Agreement must meet the following requirements:

5.27.1.1.1.1 Coverage Types and Policy Limits - The types of coverage and policy limits required from the Contractor are specified in 5.27.1.2.

5.27.1.1.1.2 Policy Forms - Except as may be otherwise specifically provided herein or agreed in writing by the OTDA, policies must be written on an occurrence basis.

5.27.1.1.1.3 Certificates of Insurance/Notices – The Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the OTDA, before commencing any work under this Contract. Certificates shall reference the Contract Number. Certificates shall be mailed to:

NYS Office of Temporary and Disability Assistance
40 North Pearl Street, 12D BCM
Albany, NY 12243

5.27.1.1.1.4 Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to the OTDA. 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. Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply the OTDA updated replacement Certificates of Insurance, and amendatory endorsements.

5.27.1.1.2 Certificates of Insurance shall:

5.27.1.1.2.1 Be in the form approved by the OTDA.

5.27.1.1.2.2 Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the contract.

5.27.1.1.2.3 Specify the Additional Insured and Named Insured as required herein.

5.27.1.1.2.4 Refer to the Contract by number and any other attachments on the face of the certificate.

5.27.1.1.2.5 When coverage is provided by a non-admitted carrier, be accompanied by a completed ELANY Affidavit; and

5.27.1.1.2.6 Be signed by an authorized representative of the insurance carrier or producer.

5.27.1.1.2.7 Only original documents (Certificates of Insurance and other attachments) will be accepted.

5.27.1.1.3 Primary Coverage - All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to the OTDA for any claim arising from the Contractor's work under this Contract, or as a result of the Contractor's activities. Any other insurance maintained by the OTDA shall be excess of and shall not contribute with the Contractor's insurance regardless of the "other insurance" clause contained in the OTDA or the OTDA's own policy of insurance.

- 5.27.1.1.4 Policy Renewal/Expiration - At least two weeks prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the OTDA than the expiring policies shall be delivered to the OTDA in the manner required for service of notice in 5.27.1.1.1.3 Certificates of Insurance/Notices above. If, at any time during the term of this Contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the Contract or proof thereof is not provided to the OTDA, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by the OTDA. Any delay, time lost, or additional cost incurred as a result of the Contractor not having insurance required by the Contract or not providing proof of same in a form acceptable to the OTDA, shall not give rise to a delay claim or any other claim against the OTDA. Should the Contractor fail to provide or maintain any insurance required by this Contract, or proof thereof is not provided, the OTDA may withhold further contract payments, treat such failure as a breach or default of the Contract.
- 5.27.1.1.5 Self-Insured Retention/Deductibles - Certificates of Insurance must indicate the applicable deductible/ self-insured retention on each policy. Deductibles or self-insured retentions above \$100,000 are subject to approval from the OTDA. The Contractor shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.
- 5.27.1.1.6 Subcontractors - Should the Contractor engage a Subcontractor, the Contractor shall endeavor to impose the insurance requirements of this document on the Subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the Subcontractor. Proof thereof shall be supplied to the OTDA.
- 5.27.1.1.6.1 Acceptance and/or approval by the OTDA does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Contract.
- 5.27.1.2 Insurance Requirements - The Contractor, throughout the term of this Contract, or as otherwise required by this Contract, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by the terms of this Contract, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):
- 5.27.1.2.1 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 basis.
- 5.27.1.2.2 Workers Compensation, Employers Liability, and Disability Benefits as required by New York State. If employees will be working on, near or over navigable waters, US Longshore and Harbor Workers' Compensation Act endorsement must be included. 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 for this contract.
- 5.27.1.2.3 Comprehensive Business Automobile Liability Insurance with a limit of not less than two million dollars (\$2,000,000) each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
- 5.27.1.2.4 If providing professional occupation job titles, the Contractor shall maintain errors and omissions liability insurance with a limit of not less than two million dollars (\$2,000,000) per loss

- 5.27.1.2.5 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 petroleum, petroleum product hazardous material or substance, it may not exclude bodily injury, property damage, pollution or asbestos related claims, testing, monitoring, measuring, or laboratory analyses.
- 5.27.1.2.6 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 three years from the time work under this Contract is completed. Written proof of this extended reporting period must be provided to the OTDA prior to the policy's expiration or cancellation.
- 5.27.1.2.7 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 the OTDA, 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 the OTDA or (ii) any other form of permission for the release of the OTDA.
- 5.27.1.2.8 Workers' Compensation Insurance and Disability Benefits Requirements:
- 5.27.1.2.8.1 Workers' Compensation Law (WCL) §57 & §220 requires the heads of all municipal and state entities to ensure that businesses applying for permits, licenses or contracts document it has appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals, whether the governmental agency is having the work done or is simply issuing the permit, license or contract. Failure to provide proof of such coverage or a legal exemption will result in a rejection of your bid or renewal.
- 5.27.1.2.8.2 Proof of Compliance with Workers' Compensation Coverage Requirements:
- 5.27.1.2.8.2.1 An ACORD form is 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, a contractor shall:
- 5.27.1.2.8.2.1.1 Be legally exempt from obtaining Workers' Compensation insurance coverage; or
- 5.27.1.2.8.2.1.2 Obtain such coverage from an insurance carrier; or
- 5.27.1.2.8.2.1.3 Be a Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan.
- 5.27.1.2.8.2.2 A contractor seeking to enter into a contract with the State of New York shall provide one of the following forms to the OTDA at the time of bid submission or shortly after the opening of bids:
- 5.27.1.2.8.2.2.1 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.ny.gov
- 5.27.1.2.8.2.3 Certificate of Workers' Compensation Insurance:
- 5.27.1.2.8.2.3.1 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 OTDA; or
- 5.27.1.2.8.2.3.2 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 OTDA.

- 5.27.1.2.8.2.3.3 Form SI-12, Certificate of Workers' Compensation Self-Insurance available from the New York State Workers' Compensation Board's Self-Insurance Office.
- 5.27.1.2.8.2.3.4 Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self- Insurance available from the contractor's Group Self-Insurance Administrator.
- 5.27.1.2.9 Proof of Compliance with Disability Benefits Coverage Requirements:
 - 5.27.1.2.9.1 In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, a contractor shall:
 - 5.27.1.2.9.1.1 Be legally exempt from obtaining disability benefits coverage; or
 - 5.27.1.2.9.1.2 Obtain such coverage from an insurance carrier; or
 - 5.27.1.2.9.1.3 Be a Board-approved self-insured employer.
 - 5.27.1.2.10 A contractor seeking to enter into a contract with the State of New York shall provide one of the following forms to the OTDA at the time of bid submission or shortly after the opening of bids:
 - 5.27.1.2.10.1 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.ny.gov); (Reference applicable RFP and Group #s on the form).
 - 5.27.1.2.10.2 Form DB-120.1, Certificate of Disability Benefits Insurance. Contractor must request its business insurance carrier to send this form to the OTDA; or
 - 5.27.1.2.10.3 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.
 - 5.27.1.2.11 For additional information regarding Workers' Compensation and Disability Benefits requirements, please refer to the New York State Workers' Compensation Board website at: <http://www.wcb.ny.gov/content/main/Employers/busPermits.jsp>
 - 5.27.1.2.12 When submitting the appropriate Worker's Compensation form and Disability Benefits form as referenced above, The Office of Temporary and Disability Assistance, 40 North Pearl Street, Albany, NY 12243, must be named as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder), Issuing Government Entity, or otherwise identified as required by the form.
- 5.27.1.2.13 Requirements related to Contractor Debarments:
 - 5.27.1.2.13.1 Contracting entities must ensure that for any public work contract subject to Article 8 of the New York State Labor Law, including amendments or renewals that extend the term of an existing contract, no bid is accepted from, or contract or subcontract awarded to, a vendor or any substantially owned affiliate of a vendor, that is debarred pursuant to WCL Section 141-b. The contracting entity must check the Workers' Compensation Board Debarment List at <http://dbr.labor.state.ny.us/EDList/searchPage.do> to verify that no contractor or subcontractor is debarred pursuant to WCL Section 141-b.
 - 5.27.1.2.13.2 Contracting entities should include in all public work contracts subject to WCL Section 141-b, a provision that provides notice to the contractor that the contract may be terminated if it is later determined that at the time of either the bid submission or contract award, the contractor was, in fact, debarred by WCL Section 141-b, or was the substantially owned affiliate of a debarred

contractor. Additionally, the contract should include a provision that allows the State to require the contractor to replace, at no additional charge to the State, any subcontractor who the State or the contractor subsequently learns was debarred.

- 5.27.1.2.13.3 Note: For contracts which are subject to the prevailing wage laws, the contracting entity is also reminded to check the debarment list maintained by the New York State Department of Labor at <http://dbr.labor.state.ny.us/EDList/searchPage.do> to ensure that bids are not accepted from, nor awards made to, vendors who have been debarred for violations of those laws. Although WCL debarment applies only to public work contracts covered by Article 8 of the Labor Law, prevailing wage debarments apply to public work contracts governed by Articles 8 and 9 of the Labor Law.

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