



**New York State
Division of Criminal Justice Services (DCJS)
Office of Probation and Correctional Alternatives (OPCA)**

**OPEN AND CONTINUOUS
REQUEST FOR APPLICATIONS**

**Provision of Ignition Interlock Services
In New York State**

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**For Release
September 3, 2010**

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**Provision of Ignition Interlock Services
In New York State
OPEN AND CONTINUOUS REQUEST FOR APPLICATIONS**

APPLICATION HIGHLIGHTS

1. Manufacturers seeking to do business and provide an ignition interlock program in New York State shall submit a complete response to this RFA that conforms to the format and content requirements as set forth in this RFA and the attached application. **This application process for manufacturers is open and continuous; therefore, applications may be submitted at any time, provided it is in the format prescribed.** The applicant must furnish one (1) completed original signed application and five (5) additional copies. Your response should be enclosed in one mailing envelope or box with the notation “Ignition Interlock Program in New York State Application” clearly visible on the front. Fax or e-mail transmittals will not be accepted. **Send Applications to:**

**Marlena Alford, Director of Financial Administration
NYS Division of Criminal Justice Services (DCJS)
Office of Probation and Correctional Alternatives (OPCA)
80 Wolf Road – Suite 501
Albany, New York 12205**

2. This is an evaluative process. All manufacturers evaluated as meeting the minimum stated criteria herein will be selected to provide ignition interlock services in New York State and be deemed “qualified” to do business in New York State.
3. Notification of approved applications is expected to take place within 45 business days of receipt of the application.

Open and Continuous Request for Applications
Ignition Interlock Program
In New York State

I. INTRODUCTION

The New York State Division of Criminal Justice Services (DCJS), specifically the Office of Probation and Correctional Alternatives (OPCA), has responsibility to exercise general supervision over the administration of probation and alternative to incarceration services throughout New York State. The office promotes public safety and offender accountability in probation and other community corrections programs through funding and oversight. OPCA is statutorily authorized to collect statistical and other information in order to promote coordination between, and the most effective use of correctional alternative programs and probation services. DCJS' OPCA is committed to improving practices that reduce recidivism, promote public safety, ensure offender accountability and provide restitution to victims.

On November 18, 2009, Governor David A. Paterson signed into law Chapter 496 of the Laws of 2009, commonly referred to as Leandra's Law. In general, the new law is groundbreaking in that it strengthens for prosecution purposes various laws relative to driving while intoxicated or while impaired by drugs to: achieve greater offender accountability; promote public, especially child safety; and deter unsafe driving. Effective December 18, 2009, it increased criminal sanctions surrounding driving while intoxicated or under the influence of drugs (DWI) with children (under the age of 16) in the car, while also increasing penalties associated with other DWI related felonies. Pertinent to this Request for Applications, effective August 15, 2010, the new law expanded the use of ignition interlock devices. Its provisions, applicable to any individual who commits a misdemeanor or felony DWI offense on or after November 18, 2009 and is then sentenced on or after August 15, 2010, are as follows:

- The court, in addition to any other criminal disposition (including a fine, local or state imprisonment), must also impose upon a DWI felon or misdemeanant a sentence of probation or conditional discharge AND order as a condition that he/she install and maintain a functioning ignition interlock device in any motor vehicle owned or operated by such person during the term of probation or conditional discharge and in no event for a period of less than six (6) months. Current law requires installation and maintenance of such a device as a condition of sentence for certain probationers and repeat DWI offenders.
- Where imprisonment has been imposed in connection with an individual sentenced upon conviction of a DWI crime, the sentence of probation or conditional discharge shall run consecutively to any period of imprisonment and commence immediately upon such person's release from imprisonment. (Effective December 18, 2009)
- Where a person serving a sentence for felony DWI, Vehicular Assault, Vehicular Manslaughter, Aggravated Vehicular Assault, or Aggravated

Vehicular Manslaughter is subsequently paroled or conditionally released such person shall also be required to have a condition that he/she install and maintain a functioning ignition interlock device in any motor vehicle owned or operated by such person during the term of parole or conditional release. The Board of Parole may not authorize operation of a motor vehicle by anyone whose license or privilege to operate has been revoked. Prior law prohibited courts from authorizing any such person to operate a motor vehicle where license or privilege has been revoked. (December 18, 2009)

- A post-revocation conditional license may be revoked by the Commissioner of Motor Vehicles for failure to install or maintain a court-ordered ignition interlock device or failure to comply with the terms of the conditions of a conditional discharge sentence. Current law already referenced probation.
- The court must require that the person subject to the ignition interlock device as a condition of conditional discharge provide proof of installation to the court and the probation department. Failure to provide proof of compliance may result in revocation, modification, or termination of the person's conditional discharge sentence as provided under law. Current law already referenced probation.
- The cost of an ignition interlock shall be borne by the person subject to such condition, unless the court determines that he/she is financially unable to afford such cost, whereupon the court may impose a payment plan or waive the cost in its entirety. In the event of waiver of the cost of such a device, the cost shall be borne in accordance with regulations issued by the Division of Criminal Justice Services pursuant to such other agreement as may be entered into for provision of the device. Prior law required cost borne by the probationer subject to an ignition interlock device.
- Circumvention of Interlock Device is a Class A misdemeanor and includes a person subject to a court ordered ignition interlock device who operates a motor vehicle without such a device.

The enacted legislation charged then DPCA, now the Office of Probation and Correctional Alternatives—merged with the Division of Criminal Justice Services (DCJS), with the responsibility to promulgate regulations governing the monitoring of compliance by persons ordered to install and maintain ignition interlock devices on vehicles they own or operate. These regulations are to provide standards for monitoring by probation departments and options for monitoring of compliance by such persons which counties may adopt as an alternative to monitoring by a probation department. These regulations have been drafted and were promulgated as emergency regulations on April 23, 2010, with a subsequent emergency adoption on July 21, 2010. DCJS is advancing these regulations consistent with formal rule-making pursuant to the State's Administrative Procedures Act (SAPA).

OPCA is requesting on behalf of DCJS applications from manufacturers who desire to provide ignition interlock services for the population of drivers who commit misdemeanor or felony DWI offenses on or after November 18, 2009, and are sentenced on or after August 15, 2010. It is anticipated that approximately 25,000 DWI offenders convicted

each year in New York State will require the ignition interlock program. This is based on 2008 data, wherein there were 4,326 felony and 21,091 misdemeanor DWI convictions or a total of 25,417 DWI convictions. Of the DWI offenders sentenced in 2008, 9,091 were sentenced to probation supervision while 178 received a conditional discharge. With the implementation of the new law, we anticipate that approximately 16,000 offenders will receive conditional discharges and be subject to the ignition interlock law, in addition to those sentenced to probation supervision. On December 31, 2008, there were 10,880 felony and 14,750 misdemeanor DWI offenders under active probation supervision for a total of 25,630 DWI probationers.

II. DEFINITIONS

The words and terms used in this Request For Applications (RFA) shall have the following meanings unless the context clearly indicates otherwise:

- (a) The term “blood alcohol concentration” or “BAC” shall mean the weight amount of alcohol contained in a unit volume of blood, measured as grams ethanol/ 100 ml. blood and expressed as %, grams %, % weight/volume (w/v), and % BAC. Blood alcohol concentration in this Part shall be designated as % BAC.
- (b) The term “certificate of completion” shall mean a document issued by the monitor after the conclusion of the ignition interlock period, including any extensions or modifications as may have occurred since the date of sentence which shows either completion of the operator’s sentence or a change in the conditions of probation or conditional discharge no longer requiring the need for a device.
- (c) The term “circumvent” shall mean to request, solicit or allow any other person to blow into an ignition interlock device, or to start a motor vehicle equipped with the device, for the purpose of providing the operator whose driving privileges is so restricted with an operable motor vehicle, or to blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is so restricted or to tamper with an operable ignition interlock device.
- (d) The term “conviction” shall mean the entry of a plea of guilty or a verdict of guilty to a crime or youthful offender adjudication for a crime involving a violation of subdivision two, two-a, or three of section 1192 of the Vehicle and Traffic Law or any crime defined by the Vehicle and Traffic Law or Penal Law of which an alcohol-related violation of any provision of section 1192 is an essential element.
- (e) The term “county” shall mean every county outside of the city of New York, and the City of New York as a whole.

- (f) The term “county executive” shall mean a county administrator, county manager, county director or county president and in cities with a population of one million or more, the mayor.
- (g) The term “division” shall mean the division of probation and correctional alternatives.
- (h) The term “drinking driver program” shall mean an alcohol and drug rehabilitation program established pursuant to section 1196 of the Vehicle and Traffic Law.
- (i) The term “failed tasks” shall mean failure to install the ignition interlock device or failure to comply with a service visit or any requirement resulting therefrom as prescribed by this Part.
- (j) The term “failed tests” shall mean a failed start-up re-test, failed rolling re-test, or missed rolling re-test.
- (k) The term “failure report recipients” shall mean all persons or entities required to receive a report from the monitor of an operator’s failed tasks or failed tests pursuant to a county’s plan which may include, but is not limited to the sentencing court, district attorney, operator’s alcohol treatment provider, and the drinking driver program, where applicable.
- (l) The term “ignition interlock device” shall mean any blood alcohol concentration equivalence measuring device which connects to a motor vehicle ignition system and prevents a motor vehicle from being started without first determining through a deep lung breath sample that the operator’s equivalent blood alcohol level does not exceed the calibrated setting on the device as required by standards of the department of health.
- (m) The term “installation/service provider” shall mean an entity approved by a qualified manufacturer that installs, services, and/or removes an ignition interlock device.
- (n) The term “lockout mode” shall mean circumstances enumerated in this Part which trigger the ignition interlock device to cause the operator’s vehicle to become inoperable if not serviced within five (5) calendar days.
- (o) The term “monitor” shall mean the local probation department where the operator is under probation supervision or any person(s) or entity(ies) designated in the county’s ignition interlock program plan for any operator granted conditional discharge.
- (p) The term “operator” shall mean a person who is subject to installation of an ignition interlock device following a conviction of a violation of subdivision two, two-a, or three of section 1192 of the Vehicle and Traffic Law or any crime defined by the Vehicle and Traffic Law or Penal Law of which an

alcohol-related violation of any provision of section 1192 is an essential element.

- (q) The term “qualified manufacturer” shall mean a manufacturer or distributor of an ignition interlock device certified by the New York State Department of Health which has satisfied the specific operational requirements herein and has been approved as an eligible vendor by the division in the designated region where the county is located.
- (r) The term “region” shall mean counties comprising an area within New York State designated by the division where a qualified manufacturer is authorized and has agreed to service.
- (s) The term “start-up test” shall mean a breath test taken by the operator to measure the operator’s blood alcohol concentration prior to starting the vehicle’s ignition.
- (t) The term “start-up re-test” shall mean a breath test taken by the operator to measure the operator’s blood alcohol concentration required within five (5) to fifteen (15) minutes of a failed start-up test.
- (u) The term “rolling test” shall mean a breath test, administered at random intervals, taken by the operator while the vehicle is running.
- (v) The term “rolling re-test” shall mean a breath test, taken by the operator while the vehicle is running, within one (1) to three (3) minutes after a failed or missed rolling test.
 - (1) The term “failed rolling re-test” shall mean a rolling re-test in which the operator’s BAC is at or above the set point.
 - (2) The term “missed rolling re-test” shall mean failure to take the rolling re-test within the time period allotted to do so.
- (w) The term “service period” shall mean the length of time between service visits.
- (x) The term “service visit” shall mean a visit by the operator to or with the installation/service provider for purposes of having the ignition interlock device inspected, monitored, downloaded, recalibrated, or maintained. It shall also mean where applicable, the act by any operator of sending the portion of the interlock device that contains the data log and the breath testing module to the qualified manufacturer for the purposes of downloading the data, reporting to the monitor, and recalibrating the device.
- (y) The term “set point” shall mean a pre-set or pre-determined BAC setting at which, or above, the device will prevent the ignition of a motor vehicle from operating.

- (z) The term “STOP-DWI” shall mean special traffic options program--driving while intoxicated.
- (aa) The term “tamper” shall mean to alter, disconnect, physically disable, remove, deface, or destroy an ignition interlock device or any of its component seals in any way not authorized by this Part.

III. SCOPE OF WORK

The purpose of an ignition interlock program is to hold offenders convicted of driving while intoxicated accountable and to change their driving behavior, thereby increasing public safety. An ignition interlock program is currently in place in New York State with six manufacturers providing approximately 2,400 units. On or after August 15, 2010, qualified manufacturers must be able to provide service within the parameters specified herein as well as in DCJS regulations 9 NYCRR Part 358 and the New York State Department of Health regulations 10 NYCRR Part 59 in order to be certified and eligible to participate in New York State’s ignition interlock program. Qualified manufacturers will be required to enter into contractual agreements of a period of three years with DCJS setting forth the requirements of the qualified manufacturer and all of its installation/service providers consistent with DCJS regulations 9 NYCRR Part 358 and the approved application submission. New applications may be filed at any time with the DCJS’ OPCA for approval by manufacturers seeking to commence business after August 15, 2010.

IV. QUALIFICATION OF MANUFACTURERS AND SERVICE PROVIDERS

The goal of New York State in structuring its ignition interlock program is to provide the best products and services at competitive prices. Each manufacturer seeking to conduct an ignition interlock program in New York State shall provide the following information in application for approval by the office to contract to conduct such business:

1. submit evidence of a strong background in the development and maintenance of a statewide ignition interlock service program and evidence of operational programs in other states. The manufacturer must be well-versed in the installation and maintenance of ignition interlock devices and must supply and train installers/service providers to ensure quality customer service and compliance with all contract requirements.

2. certify that it will establish and distribute to the office, its installation/service providers, and to probation departments and other monitoring agencies in any county where it does business, a current list of all installation/service providers in the county, including business name, address and telephone number and maintain a toll-free 24 hour telephone number to be called from anywhere in the continental United States for an up-to-date listing of installation/service providers in the continental United States and for emergency assistance, prior to doing business in the state. Distribute an up-to-date listing of New York State installation/service providers to the office.

3. certify that it will provide immediate notice to DCJS and the applicable county monitor(s) of any removal of any installation/service provider and the reasons for such;

4. certify that it will provide immediate notice to DCJS and the New York State Department of Health whenever the manufacturer's device has been disapproved, suspended, revoked, or otherwise cancelled by another state or jurisdiction;

5. certify that prior to commencing business in New York State it will provide written certification to DCJS in a format prescribed by the office that all installation/service providers:

- (i) have been trained in advance as to installation, maintenance, troubleshooting, set point requirement of .025 BAC percent, and recalibration of such manufacturer's devices;
- (ii) have instructions as to installation and usage and agreed to comply with applicable provisions of division regulation 9 NYCRR Part 358;
- (iii) have agreed to comply with their manufacturer's service agreements;
- (iv) have agreed to provide hands-on training to the operator, any member of the same family or household, or any owner of a motor vehicle in which an ignition interlock device is being installed, with a valid driver's license who appears with the operator at installation to receive training as to the operation of an installed device on the vehicle, and to provide written or video instructional material to the operator;
- (v) have been informed of New York State law governing circumvention of ignition interlock devices and penalties associated therewith;
- (vi) have agreed to safeguard personal information with respect to any operator and any reports and provide access to such records only as authorized herein, by law, or by court order; and
- (vii) have been made aware that non-compliance will result in immediate removal and updating the listing of installation/service providers identified in 9 NYCRR Part 358 Section 358.5(c)(9). An installation/service provider may be reinstated by DCJS upon satisfactory proof from the qualified manufacturer of corrective action.

6. certify that it will conduct annual quality assurance audits or reviews of installation/service providers to ensure compliance with applicable laws, regulations and any contractual agreements and provide the office with yearly sworn statements that such audits have been conducted. Failure to conduct quality assurance audits may result in removal of the qualified manufacturer from doing business in the State of New York. Nothing shall preclude the office and/or its representative from conducting random audits and quality assurance audits or reviews.

7. certify that it will take all reasonable steps necessary to prevent tampering or circumvention of the ignition interlock device and promptly notify the office, the applicable county's monitor and district attorney of any reasonable belief that an employee of an installation/service provider has attempted to alter or has altered ignition interlock data or has been otherwise involved in tampering or circumventing an ignition interlock device of any operator or any attempt thereof. Failure to notify the monitor and the district attorney

may result in removal of the qualified manufacturer from doing business in the State of New York;

8. certify that it will submit reports, as requested and in such format as determined by DCJS, for each model or type of certified device, including, but not limited to:

- (i) operator and other vehicular user operation error;
- (ii) faulty automotive equipment that directly impacts successful implementation and use of the device;
- (iii) apparent misuse or attempts to circumvent or tamper/bypass a device;
- (iv) device malfunctions, including action taken by the manufacturer to correct such malfunctions;
- (v) deficiencies in device calibration stability;
- (vi) operator, vehicular user, and installation/service provider complaints; and
- (vii) any other information determined by the division to be relevant to the effectiveness, reliability and value of ignition interlock devices as a sentencing sanction.

9. designate the region or regions, up to and including all four regions, within New York State in which it will provide ignition interlock services if so authorized. On or after August 15, 2010, only a qualified manufacturer may conduct business in New York State with respect to any operator. If a manufacturer is authorized to provide services in a region, it must certify that it will adhere to and comply with all applicable provisions specified in 9 NYCRR Part 358, with respect to service delivery. The manufacturer must certify that installer/service providers will be available to service every county within a region and that there shall be an installation/service provider within 50 miles from the operator's residence or location where the vehicle is parked or garaged, whichever is closest. They shall also certify that repair or replacement of a defective ignition interlock device shall be made available within the same 50 mile radius by a fixed or mobile installation/service provider, or through a qualified manufacturer sending a replacement, within 48 hours of receipt of a complaint, or within 72 hours where an intervening weekend or holiday. Mobile servicing may be permissible provided that the above facility requirements are met and a specific mobile servicing unit with regular hours is indicated. The four regions of the state by counties for purposes of 9 NYCRR Part 358 are as follows (See Appendix C for map of regions):

- (i) Region 1: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates;
- (ii) Region 2: Broome, Chenango, Clinton, Cortland, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, and Tompkins;
- (iii) Region 3: Albany, Columbia, Delaware, Dutchess, Greene, Montgomery, Orange, Otsego, Putnam, Rensselaer,

- Rockland, Saratoga, Schenectady, Schoharie, Sullivan,
Ulster, Warren, and Washington; and
(iv) Region 4: Bronx, Kings, Nassau, New York, Queens,
Richmond, Suffolk, and Westchester.

10. provide documentation and verification of insurance (to be submitted upon each policy issuance or renewal) covering product liability, including coverage in New York State, with a minimum policy limit of \$1 million per occurrence, and \$3 million aggregate total. The manufacturer shall provide a signed statement holding harmless the State of New York, DCJS, every county, and their employees and agents from all claims, demands, and actions, as a result of damage or injury to persons or property that may arise, directly or indirectly, out of any act or omission by the manufacturer or their installation/service provider relating to the installation, service, repair, use and/or removal of an ignition interlock device.

V. FEES

Every manufacturer seeking approval to operate an ignition interlock program in New York State shall provide a thorough description of each device intended for use in New York State, and the maximum fee structure associated with each specific device. The proposed fee structure should take into consideration and be based upon an anticipated ten percent (10%) waiver of the fees by sentencing courts due to operator unaffordability. Descriptive information about the device should include but not be limited to: make and model of device, special features of the device such as camera, reporting capabilities, removable head, Global Positioning Satellite capability, 911 alert, and real-time or next day reporting. Fee structure information shall include any and all fees charged to the operator, including but not limited to installation, monthly use, any special service, shipping and de-installation fees. These fees will be maximum fees and manufacturers will only be able to charge fees approved in their contracts. Manufacturers are required to further advise DCJS' OPCA in writing of any reduction or elimination of fees charged for ignition interlock services.

DCJS' OPCA will classify all certified ignition interlock devices into categories based upon features of the devices and provide the list to every county. **This classification system and subsequent device classification is subject to change by DCJS as new information and technology become available.** Every qualified manufacturer shall enter into a contractual agreement of a minimum of three years with the division setting forth the requirements of the qualified manufacturer and all of its installation/service providers consistent with DCJS regulations 9 NYCRR Part 358 and the application submission approved by DCJS. Currently DCJS' OPCA classifies ignition interlock devices as follows:

CLASS I: This CLASS contains the following features:

- Meets all New York State Department of Health and National Highway Traffic Safety Administration Regulations and Standards,
- Utilizes fuel cell technology,
- Reporting capabilities,
- Capabilities for storage of data,
- Programmable Re-Test Sequences,

- Data download, inspection and re-calibration service, and
- Anti-tampering and anti-circumvention features.

CLASS II: This CLASS has all the features of CLASS I and contains the following additional features:

- Photographic positive identification capability (camera or biometric facial recognition).

CLASS III: This CLASS has all the features of CLASSES I and II and contains one or more of the following additional features:

- GPS location of vehicle capability,
- Real time data reporting,
- Infra-red or other low-light camera capability for night use,
- Hum Tone Detection,
- Infra-red sensor that detects heat and proximity to verify human breath,
- Keys enabling service codes to be entered,
- Early recall system if a fuel cell fails-uses split cell technology,
- Restricted drive time capabilities,
- Unlock code to minimize towing due to lockouts,
- Voice instruction,
- Probation/Judicial Internet Access for Real-Time Monitoring 24/7,
- 911 Emergency Response Program for Interception of a Targeted Vehicle During a Rolling Re-test Failure, and
- Target Tracking, subject must be in photo to take test.

An operator shall pay the cost of installing and maintaining the ignition interlock device unless the operator has been determined to be financially unable to afford the cost of the ignition interlock device by the sentencing court whereupon such cost may be imposed pursuant to a payment plan or waived. As part of this application, manufacturers must certify that they agree to adhere to a maximum fee/charge schedule with respect to all operator's costs associated with such devices, offer a payment plan for any operator determined to be financially unable to pay the cost of the ignition interlock device where a payment plan is so ordered, and provide a device free of fee/charge to the operator where the cost is waived by the sentencing court, or pursuant to such other agreement as may be entered into for provision of the device. Any contractual agreement between the operator and the qualified manufacturer or its installation/service providers shall permit an early termination without penalty to the operator when a certificate of completion has been issued, where the sentence has been revoked, and whenever the operator has been transferred to a jurisdiction where the manufacturer does not do business. Nothing shall prevent a qualified manufacturer from lowering the fee/charge schedule during the course of an operator's contract and/or the contractual agreement with DCJS. OPCA within DCJS must be notified of such. As stated above, manufacturers should base their fee structure on an anticipated ten percent (10%) unaffordability rate. In six months from the start of the ignition interlock program, on or about February 15, 2011, and annually thereafter, DCJS shall review requests by qualified manufacturers for rate adjustments which shall include information submitted by qualified manufacturers involving unaffordability waivers granted by courts, and at its discretion approve rate adjustments where appropriate.

VI. CANCELLATION, SUSPENSION AND REVOCATION OF MANUFACTURERS, INSTALLATION/SERVICE PROVIDERS, AND CERTIFIED IGNITION INTERLOCK DEVICES

The applicant must certify that it understands that any of the following reasons may result in revocation of a certified ignition interlock device or removal of a qualified manufacturer or installation/service provider:

- (1) When there is a voluntary request by a manufacturer to cancel certification of a device;
- (2) When notified by the department of health that a device no longer meets their regulatory standards;
- (3) When a device is discontinued by the manufacturer;
- (4) When the manufacturer's liability insurance is terminated or cancelled;
- (5) When the manufacturer or installation/service provider conceals or attempts to conceal its true ownership;
- (6) When materially false or inaccurate information is provided relating to a device's performance standards;
- (7) When there are defects in design, materials, or workmanship causing repeated failures of a device;
- (8) When the manufacturer or installation/service provider knowingly permits nonqualified service technicians to perform work;
- (9) When a manufacturer or installation/service provider assists users with circumventing or tampering with a device;
- (10) When service or the submission of required reports is not provided in a timely manner as required in 9 NYCRR Part 358;
- (11) When the manufacturer or installation/service provider refuses to provide an ignition interlock device free of charge to an operator who has received a judicial waiver;
- (12) When there is a pattern of substandard customer service;
- (13) When a manufacturer or installation/service provider interferes with or obstructs a review or investigation by the division or any designee;
- (14) When there are any other violations of the provisions contained in 9 NYCRR Part 358, including DCJS and department of health regulations, or any ignition interlock contractual agreement;
- (15) Upon notification of disapproval, suspension, revocation, or cancellation of a manufacturer's device by another state or jurisdiction,
- (16) When a manufacturer or installation/service provider provides gratuities or any other personal incentives to a state or local official or any monitor for purposes of soliciting business, and
- (17) When a manufacturer or installation/service provider conducts business in New York State outside of the designated region or regions of operation approved by DCJS.

VII. IGNITION INTERLOCK DEVICE SPECIFICATIONS

All ignition interlock devices used in New York State pursuant to Chapter 496 of the Laws of 2009 must meet New York State Department of Health regulatory standards contained in 10 NYCRR Part 59. The manufacturer shall provide proof of such certification for each device intended for use in New York State. The manufacturer shall certify that any devices utilized in New York State will be calibrated at a set point of .025 BAC percent, and have the capacity to require the operator

after passing the start-up test allowing the engine to start, to submit to an initial rolling test within a randomly variable interval ranging from five to fifteen minutes. Subsequent rolling tests shall continue to be required at random intervals not to exceed thirty (30) minutes for the duration of the travel. A start-up re-test shall be required within five (5) to fifteen (15) minutes of a failed start-up test. A rolling re-test shall be required within one (1) to three (3) minutes after a failed or missed rolling test. An ignition interlock device shall enter into a lockout mode upon the following events: one failed start-up re-test, one missed start-up re-test, one failed rolling re-test or one missed rolling re-test within a service period, or one missed service visit.

VIII. IGNITION INTERLOCK DEVICE INSTALLATION

The manufacturer shall certify that its installation/service providers will comply with the following requirements:

1. the ignition interlock device shall be installed in any vehicle(s) owned or operated by the operator within seven (7) business days of the operator's request for installation of the device.
2. provide to all operators, at the time of device installation a hardcopy statement of fees/charges clearly specifying warranty details, schedule of lease payments where applicable, any additional costs anticipated for routine recalibration, service visits, and shipping where the device includes the direct exchange method of servicing, and listing any items available without charge if any, along with a list of installation/service providers in their respective county, a toll-free 24 hour telephone number to be called from anywhere in the continental United states to secure up-to-date information as to all installation/service providers located anywhere in the continental United States, and for emergency assistance, and a technical support number available during specified business hours to reach a trained staff person to answer questions and to respond to mechanical concerns associated with the ignition interlock device.
3. record the odometer reading of the motor vehicle in which the ignition interlock is installed and during all service visits.
4. installation shall be performed in a professional manner by persons trained and authorized by the manufacturer pursuant to 9 NYCRR Part 358.
5. installation shall be performed according to the manufacturer's detailed written instructions, with calibration to the required set point of .025 BAC percent and in a manner so as to ensure proper vehicular operation.
6. at the time of installation permanently affix the warning label notice prescribed by the department of health in a highly visible location on the installed ignition interlock device.
7. be equipped with the necessary tools and equipment to ensure proper ignition interlock device installation and removal.
8. perform installations and maintenance, including recalibrations, within a secure area of the installation/service provider's or qualified manufacturer's business establishment or at a location serviced by a mobile unit to prevent unauthorized persons from observing or accessing secured items such as tamper seals and installation, data download, transmission, or recalibration instructions.
9. maintain records of installation and maintenance work performed on the devices.
10. screen vehicles for mechanical and electrical conditions that would interfere with the functioning of the device, such as low battery or alternator voltage, defective horn, un-tuned engine, and frequent stalling.

11. prior to installation, require that the operator complete mechanical repairs or adjustments where necessary for the proper functioning of the device. In such event, the seven (7) day installation period in paragraph one shall commence when repairs or adjustments are completed.
12. after installation during any service visit, recalibrate as necessary or required in 9 NYCRR Part 358 and check the device and vehicle to ensure proper operation.
13. notify the monitor and county probation department when an ignition interlock device has been installed on an operator's vehicle(s) within three (3) business days of installation.
14. adhere to any other applicable state or federal requirements.
15. prior to installation of the ignition interlock device, obtain and record the following information from every operator:
 - a. photo identification;
 - b. the name and policy number of his/her automobile insurance;
 - c. the vehicle identification number (VIN) of all motor vehicles owned or routinely driven by the operator, and a statement disclosing the names of all other individuals who operate the motor vehicle(s) owned or driven by the operator.
 - d. a notarized affidavit from the registered owner of the vehicle granting permission to install the device if the vehicle is not registered to the operator.
16. if, during the installation, the operator fails to pass the initial breath test, the installation will be halted and the monitor notified.

IX. SERVICE VISITS

Manufacturers shall certify that the manufacturer or its authorized installation/service providers will complete the following with respect to service visits:

1. obtain and record photo identification from the operator during all required in-person services.
2. provide service/monitoring of the ignition interlock device as required in 9 NYCRR Part 358.
3. recalibrate as necessary the ignition interlock device at each service visit.
4. check for signs of circumvention or tampering.
5. installation/service provider or the manufacturer shall download the usage history of every operator's ignition interlock device within thirty (30) calendar days between service visits or if the operator fails to appear for a service visit(s) as soon thereafter as the device can be downloaded, and provide the monitor with such information and in such format as determined by the division. Further guarantee that the installation/service provider shall take appropriate, reasonable and necessary steps to confirm any report of failed tasks, failed tests, circumvention, or tampering and thereafter notify the appropriate monitor within three (3) business days of knowledge or receipt of data, indicating :
 - (i) installation of a device on an operator's vehicle(s);
 - (ii) report of a failed start-up re-test;
 - (iii) report of a missed start-up re-test;
 - (iv) report of a failed rolling re-test;
 - (v) report of a missed rolling re-test;
 - (vi) report of the device entering lockout mode;
 - (vii) failure of an operator to appear at a scheduled service visit; or

- (viii) report of an alleged circumvention or tampering with the ignition interlock devices as prohibited by paragraphs (a), (c) or (d) of subdivision (9) of section 1198 of the Vehicle and Traffic Law, or an attempt thereof;
6. agree to safeguard personal information with respect to any operator and any reports and provide access to such records only as authorized by division regulation, by law, or court order. Record retention and disposition of all records of any qualified manufacturer, and installation/service provider with respect to 9 NYCRR Part 358 shall be in accordance with the applicable Records Retention and Disposition schedule promulgated by the State Education Department.

X. IGNITION INTERLOCK DEVICE REMOVAL

The manufacturer shall certify that its installation/service providers will comply with the following requirements related to the removal of the ignition interlock device:

1. remove an ignition interlock device and return the vehicle to normal operating condition only after having received a certificate of completion or a letter of de-installation from the monitor as authorized by 9 NYCRR Part 358. If a device is removed for repair and cannot be reinstalled immediately, a substitute device shall be provided;
2. where at the time of removal the installation/service provider notices any failed tests that have not been backed up by a successful re-test, the monitor shall be notified for approval before the removal is made. Where the device includes direct exchange method of servicing, the qualified manufacturer shall report to the monitor before removal is made.

XI. RECORDS AND REPORTING

The manufacturer shall certify that the manufacturer and its installation/service providers will comply with DCJS and county reporting requirements in providing information and reports as may be necessary with respect to an operator's use of the ignition interlock device. The manufacturer shall also certify that it will provide, no more than monthly, to the operator upon his or her request, the operator's usage history, including any report of failed tasks, failed tests, circumvention, or tampering. Such request shall be in writing and provide either an email address or self-addressed stamped envelope.

XII. APPLICATION REQUIREMENTS AND THE REVIEW PROCESS

Manufacturers seeking to provide an ignition interlock program in New York State shall submit a complete response to this RFA that conforms to the format and content requirements as set forth in this RFA and the attached application. **Applications may be submitted at any time.** The applicant must furnish one (1) completed original signed application and five (5) additional copies. Your response should be enclosed in one mailing envelope or box with the notation "Ignition Interlock Program in New York State Application" clearly visible on the front. Fax or e-mail transmittals will not be accepted.

Send Applications to:

**Marlena Alford, Director of Financial Administration
NYS Division of Criminal Justice Services
Office of Probation and Correctional Alternatives (OPCA)
80 Wolf Road – Suite 501
Albany, New York 12205**

All applications will become the property of DCJS, and will be considered public documents once awards are granted, with the exception of any information deemed proprietary by DCJS upon review of such request from a manufacturer.

Review and Selection Process

The review and selection process will begin upon receipt of the application. Award/Approval decisions will be made by DCJS, based on a review of responses to the requirements delineated in this RFA and contained in the application. Upon a thorough review by OPCA, applications will be recommended for award based upon certification of compliance with all (100%) of the elements contained in this RFA. There will be no limit to the number of awards issued. Every application meeting the minimum criteria contained in this RFA will be awarded approval to contract with DCJS to conduct an ignition interlock program in New York State. The final decision to grant an award rests with the Commissioner/Acting Commissioner of DCJS in consultation with the Director. Notification of successful applicants is expected to take place within 45 business days of receipt of an application.

XIII. ADMINISTRATIVE CRITERIA AND CONDITIONS

A. Cost Incurred Prior to Contract Approval

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

B. Commitment

Submission of response to this RFA shall not be construed as a commitment by the State to proceed with this project.

C. Certain State's Rights

The State reserves the right:

1. To reject all applications and re-issue a modified version of this RFA.
2. Utilize any or all ideas submitted in the applications received unless those ideas are covered by legal patent or proprietary rights.
3. Amend RFA specifications to correct errors or oversights, and to supply additional information as it becomes available. All applicants who have received this RFA will be supplied with all amendments or additional information issued.
4. Make typographical corrections to applications with the concurrence of the applicant.
5. Correct computational errors with the written concurrence of the applicant.
6. Change any of the scheduled dates stated herein with written notice to all applicants who have received this RFA.

7. Negotiate with manufacturers responding to this RFA within the RFA requirements to serve the best interests of the State.
8. Disqualify applications that fail to meet mandatory requirements.

D. Contract Negotiations

During contract negotiations, the State expects to have direct access to applicant personnel who have full authority to make commitments on behalf of the applicant.

E. Executed Contracts

Any negotiated contract must conform to the laws of New York State and will be subject to approval by the Department of Law and the Office of the State Comptroller.

F. Proposal Security

Public inspection of the application is regulated by the Freedom of Information Law (Article 6 of the New York State Public Officers Law). The applications are presumptively available for public inspection. If this would be unacceptable to an applicant, the applicant should apply to the State for trade secret protection of its application. In applying for trade secret protection, it would be unacceptable to indiscriminately categorize the entire application as such. The applicant should point out those sections of the application that are trade secrets and explain the reasons therefore. The State will review applications and grant trade secret protection, if appropriate.

G. State Property

All proposals and any accompanying documentation become the property of the State of New York and will not be returned.

H. Proposal Certifications

The following certification (Bidding Practices) must be included.

1. Bidding Practices
 - a. Each applicant shall submit, as part of the application, a completed copy of the Non-Collusive Bidding Certification as set forth in Appendix B, Exhibit 1. This submission will certify that, to the best of the applicant's knowledge and belief:
 - i. The prices in the application have been arrived at independently, without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other applicant or with any competitor;
 - ii. Unless otherwise required by law, the prices which have been quoted in the application have not been knowingly disclosed by the applicant and will not knowingly be disclosed by the applicant, directly or indirectly, to any other applicant or to any competitor prior to completion of the selection process; and
 - iii. No attempt has been made or will be made by the applicant to induce any other person, partnership or corporation to submit or not to submit an application for the purpose of restricting competition.
 - b. In accordance with NYS Finance Law §139-d, an application shall not be considered for award nor shall any award be made where the above conditions have not been complied with; provided, however, that if in any case the applicant cannot make the foregoing certification, the applicant shall so state and shall furnish with the application a signed

statement which sets forth, in detail, the reasons therefore. Where the above conditions have not been complied with, the application shall not be considered for award nor shall any award be made unless the head of the purchasing unit of DCJS determines that such disclosure was not made for the purpose of restricting competition.

c. The fact that an applicant has published price lists, rates, or tariffs covering items or services being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same prices being bid, does not constitute a disclosure within the meaning stated above.

2. Fair Employment

In accordance with State Finance Law Section 165, compliance with the MacBride Fair Employment Principles must be certified by completion of the Nondiscrimination in Employment in Northern Ireland statement as set forth in Appendix B, Exhibit 2.

3. Vendor Responsibility

New York State Procurement Laws and Guidelines require the award of State contracts to responsible vendors. Accordingly, the Vendor Responsibility Questionnaire form, as set forth in Appendix B, Exhibit 4, must be certified for non-governmental agencies. Attached as Exhibit 4 in Appendix B is a summary of the vendor responsibility filing requirements.

I. Announcements or Releases

Public announcements or news releases pertaining to the selection of the applicant or award of a contract must not be made without prior written approval from DCJS.

J. Debriefing Sessions

Unsuccessful applicants will be notified in writing and will be offered an opportunity to be debriefed. A debriefing, if any, will be scheduled for all unsuccessful applicants, upon request of those applicants, at a date and time convenient to both DCJS and the applicants concerned.

K. Contract Provisions

1. Standard Clauses for All New York State Contracts

The applicant must agree to abide by all of the provisions of Appendix A, Standard Clauses for New York State Contracts, contained herein, which has precedence over the Contract entered into with the successful applicant and the RFA and its other attachments and remaining Appendix B.

L. Miscellaneous Requirements

1. The CONTRACTOR specifically agrees to comply with New York State's "Information Security Breach and Notification Act" as set forth in State Technology Law Section 208 and General Business Law Section 899-aa. The CONTRACTOR shall promptly notify DCJS and specifically OPCA where there is reasonable belief of breach of security, unauthorized access or unauthorized release of personal computer data containing personal information and take appropriate action with respect to notification of affected individuals and to other required state agencies consistent with such Act. CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

2. Contractor Requirements under Executive Law Article 15-A. The applicant must agree to abide by Appendix B, Exhibit 3 as to Minority and Women-Owned Business Enterprise (MWBE) and Equal Employment Opportunities Requirements and complete and submit the Workforce Composition form contained in such exhibit along with the RFA submission.

3. Workers' Compensation And Disability Benefits Compliance: New York State law requires that all state agencies receive written documentation that any funded agency has both workers' compensation and disability benefits insurance coverage, or where applicable has received a disability exemption. **Accordingly, it is necessary that you include such written documentation of coverage and/or exemption in application material returned to OPCA.** If you think you are exempt from the requirement to carry New York State Workers' Compensation and/or Disability Benefits, this should be verified with the Workers' Compensation Board, Bureau of Compliance, which can be reached at 518-486-6307 or toll-free at 866-298-7830, prior to filing form CE-200 (*Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.*) For more information as to this requirement and to obtain any necessary forms, please refer to the instructional manual which is available on-line at the Workers' Compensation Board's website, <http://www.wcb.state.ny.us/content/main/Employers/EmployerHandbook.pdf>

ATTACHMENT A

Checklist of Required Documents and Attachments - This checklist should be completed by the applicant and appear at the front of the submission after the cover page.

Required Item	Submitted with Application Yes/No
Transmittal Letter signed by the individual authorized to make contractual commitments on the organization's behalf and must contain ALL of the following: (1) A statement attesting to the accuracy and truthfulness of all information contained in the application and (2.) A statement that the applicant has read, understands, and is able and willing to comply with all standards and participation requirements described in the RFA.	
Completed Application	
Non-Collusive Bidding Certification dated and completed including street addresses and signed. (See Appendix B)	
Non-discrimination in Employment in Northern Ireland filled out, signed and dated. (See Appendix B)	
Completed Vendor Responsibility Questionnaire with signed and notarized certification - (or filed electronically) (See Appendix B)	
Copy of most recent annual financial audit	
Workers' Compensation and Disability Benefits Compliance documentation	

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital

status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating,

or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL

SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

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

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color,

national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be

governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

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

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax:: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or

political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

APPENDIX B

ADDITIONAL LEGAL REQUIREMENTS

- γ EXHIBIT 1 - Non-Collusive Bidding Certification**
- γ EXHIBIT 2 - Nondiscrimination in Employment in Northern Ireland**
- γ EXHIBIT 3 - Minority And Women-Owned Business Enterprise(MWBE) and Equal Employment Opportunities Requirements**
- γ EXHIBIT 4 - Vendor Responsibility**

Exhibit 1 Non-Collusive Bidding Certification - 1

**NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY
SECTION 139-D OF THE STATE FINANCE LAW**

SECTION 139-D, Statement of Non-Collusion in bids to the State:

BY SUBMISSION OF THIS BID, BIDDER AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

[3] No attempt has been made or will be made by bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], AND [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day of _____, 20____ as the act and deed of said corporation or partnership.

Exhibit 1 Non-Collusive Bidding Certification - 2

IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:

NAMES OF PARTNERS OR PRINCIPALS

LEGAL RESIDENCE

IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:

NAME

LEGAL RESIDENCE

President:

Secretary:

Treasurer:

President:

Secretary:

Treasurer:

Exhibit 1 Non-Collusive Bidding Certification - 3

Identifying Data

Potential Contractor _____

Address _____

Street

City, Town, etc.

Telephone _____ Title _____

If applicable, Responsible Corporate Officer

Name _____ Title _____

Signature _____

Joint or combined bids by companies or firms must be certified on behalf of each participant.

Legal name of person, firm or corporation

Legal name of person, firm or corporation

By _____

Name

Name

Title

Title

Title

Title

Address _____

Street

Address _____

Street

City State

City

State

City State

City

State

Exhibit 2 Non-Discrimination in Employment in Northern Ireland

NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:

MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with section 165 of the State Finance Law, the bidder, by submission of this bid certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership in the bidder, either: (answer yes or no to one or both of the following, as applicable),

(1) has business operations in Northern Ireland;

Yes _____ or No _____

if yes:

(2) shall take lawful steps in good faith to conduct any business operations that it has in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

Yes _____ or No _____

By: _____
Signature

Name of Business

Name: _____

Date: _____

Exhibit 3 Minority And Women-Owned Business Enterprise (MWBE) and Equal Employment Opportunities Requirements – page 1

**CONTRACTOR REQUIREMENTS AND OBLIGATIONS UNDER NEW YORK STATE EXECUTIVE LAW,
ARTICLE 15-A (Participation by Minority Group Members and Women With Respect to State Contracts)**

In an effort to eradicate barriers that have historically impeded access by minority group members and women in State contracting activities, Article 15-A, of the New York State Executive Law §310-318, (Participation By Minority Group Members and Women With Respect To State Contracts) was enacted to promote equality of economic opportunities for minority group members and women.

In keeping with the intent of the Law, it is the expectation of DPCA and the responsibility of all contractors participating in and/or selected for procurement opportunities with DPCA to fulfill their obligations to comply with the requirements of the Article and its implementing regulations.

In accordance with these requirements, the contractor hereby agrees to make every good faith effort to promote and assist the participation of certified Minority and Woman-owned Business Enterprises (“M/WBE”) as suppliers on this project for the provision of services and materials. In addition, the contractor shall ensure the following:

1. All state contracts, and all documents soliciting bids or proposals for state contracts contain or make reference to the following provisions:
 - a. The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

For purposes of the Article, affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation.
 - b. The contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor’s obligations herein.
 - c. The contractor shall state in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex age, disability, or marital status.
2. The contractor will include the provisions of subdivision one of this section in every subcontract as defined under §310.14, except as provided under §312.6 of the Article, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the State contract.
3. Contractors or subcontractors shall comply with the requirements of any federal law concerning equal employment opportunity, which effectuates the purpose of this section.

Exhibit 3 Minority And Women-Owned Business Enterprise (MWBE) and Equal Employment Opportunities Requirements – page 2

4. Contractors and subcontractors shall undertake programs of affirmative action and equal employment opportunity as required by this section¹. In accordance with the provisions of the Article, the proposer will submit, with their proposal, Workforce Composition (Attachment B1).
5. Certified businesses (as defined under Article 15-A, sections 310.1 means a business verified as a minority or women-owned business enterprise pursuant to section three hundred fourteen of the article.) shall be given the opportunity for meaningful participation in the performance of this contract, to actively and affirmatively promote and assist their participation in the performance of this contract, so as to facilitate the award of a fair share of this contract to such businesses.
6. Contractor shall make a good faith effort to solicit active participation by enterprises identified in the Empire State Development (“ESD”) directory of certified businesses, which can be viewed at: http://www.empire.state.ny.us/Small_and_Growing_Businesses/mwbe.asp.
7. Contractor shall agree, as a condition of entering into said contract, to be bound by the provisions of Article 15-A, §316.
8. Contractor shall Include the provisions set forth in paragraphs (6) and (7) above, in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with this contract.
9. Contractor shall comply with the requirements of any federal law concerning opportunities for M/WBEs, which effectuates the purpose of this section.

All required Affirmative Action, Equal Employment Opportunities (EEO), and/or M/WBE forms to be submitted along with bids and/or proposals for DPCA procurements are included herein. All M/WBE firms are required to be certified by Empire State Development (ESD) or must be in the process of obtaining certification from ESD.

Failure to comply with the requirements of Article 15-A, as set forth under this procurement and in conjunction with the corresponding contract, will result in the withholding of associated funds and other enforcement proceedings set forth under Article 15-A.

¹ Notice – Contractors are provided with notice herein, DPCA may require a contractor to submit proof of an equal opportunity program after the proposal opening and prior to the award of any contract. In accordance with regulations set forth under Article 15-A, §312.5, contractors and/or subcontractors will be required to submit compliance reports relating to the contractor’s and/or subcontractor’s program in effect as of the date the contract is executed.

WORKFORCE COMPOSITION FORM

INSTRUCTIONS: All proposers submitting responses to this procurement must complete and submit this Workforce Composition Form as part of their proposal.

Proposer Name: _____ Federal Identification No.: _____

Address: _____ Procurement No.: _____

City, State, Zip Code: _____

Description of Work: _____

Enter the total number of incumbents by race, sex, and ethnic group status in each of the EEO – Job Categories identified. See Page 2 for information regarding race/ethnicity identification and protected class group members.

EEO – JOB CATEGORY	TOTAL	MALE (M)	FEMALE (F)	WHITE		BLACK		HISPANIC		ASIAN		NATIVE AMERICAN		DISABLED		VETERAN	
				M	F	M	F	M	F	M	F	M	F	M	F	M	F
Officials/Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	

PREPARED BY (Signature) _____ **Date** _____

PRINTED OR TYPED NAME AND TITLE OF PREPARER _____ **TELEPHONE NO.** _____ **EMAIL ADDRESS** _____

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

White (Not of Hispanic origin)-All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Black (Not of Hispanic origin)-All persons having origins in any of the Black racial groups of Africa.

Hispanic - All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Asian or Pacific Islander - All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

American Indian or Alaskan Native - All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

PROTECTED CLASS DEFINITIONS: (These groups are identified as victims of past unlawful discrimination on the basis of race, color, sex, disability, or national origin, who are therefore targeted for affirmative action initiatives to address their under representation in the total work force).

- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North American, and who maintain cultural identification through tribal affiliation or community recognition.
- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **WOMEN**

NEW YORK STATE
DIVISION OF CRIMINAL JUSTICE SERVICES
OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES
VENDOR RESPONSIBILITY QUESTIONNAIRE
COMPLETED BY THE VENDOR

The NYS Office of the State Comptroller provides vendors with the convenience of filing the *Vendor Responsibility Questionnaire* online. OPCA encourages the use of online filing as it offers many benefits such as ease of completion, filing, and updating of previously saved questionnaires. Questionnaire information is secure and accessible online only to authorized vendor users. Please read the following information from the State Comptroller's office regarding online filing:

“Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or 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.state.ny.us/vendrep/systeminit.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the Office of the State Comptroller's Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the DCJS' Office of Probation & Correctional Alternatives or the Office of the State Comptroller's Help Desk for a copy of the paper form.”

Please indicate below the method for filing the *Vendor Responsibility Questionnaire* whether online or paper:

Vendor Responsibility Form Filed on-line via Vendor Rep System: Yes No

Also, a copy of the most recent annual financial audit for your organization should be forwarded to OPCA as supporting documentation of your organization's vendor responsibility.

VENDOR RESPONSIBILITY SUMMARY

Procurement laws and guidelines require the award of State contracts to responsible vendors. Vendor responsibility generally means that a vendor has the integrity to justify the award of public dollars and the capacity to fully perform the requirements of the contract. It is the State agency's responsibility to evaluate the responsibility of a prospective contract/vendor. A responsibility determination, wherein the State determines that it has reasonable assurances that a contractor/vendor is responsible, is an important part of the procurement process, promoting fairness in contracting and protecting a contracting agency and the State against failed contracts.

The following factors are considered in making a responsibility determination:

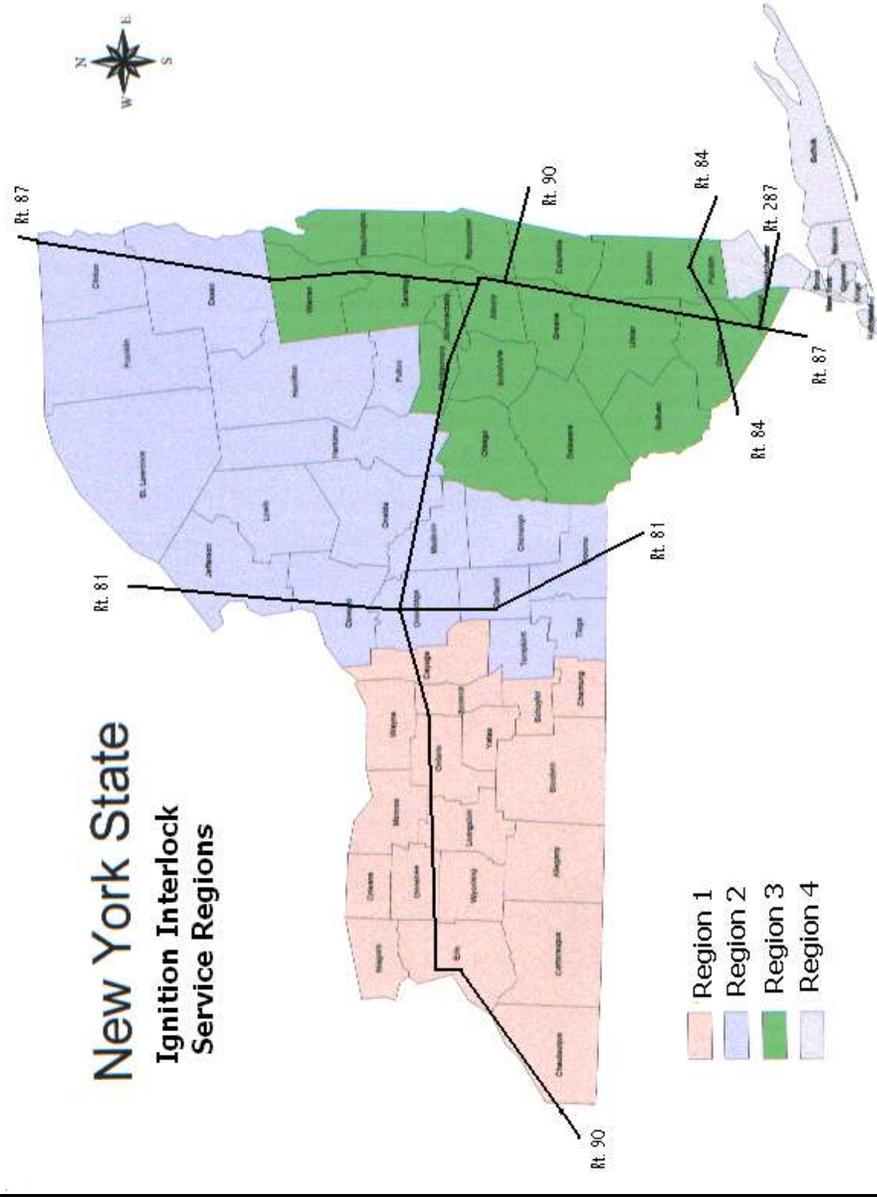
- Legal Authority to do business in New York State
- Integrity
- Capacity – both organizational and financial
- Previous performance

A contracting agency is required to conduct a review of a prospective contractor to provide reasonable assurances that the vendor is responsible. The questionnaire is designed to provide information to assist a contracting agency in assessing a vendor's responsibility prior to entering into a contract with the vendor.

Prospective contractors must answer every question contained in the questionnaire.

It is imperative that the person completing the vendor responsibility questionnaire be knowledgeable about the proposing contractor's business and operations as the questionnaire information must be attested to by an owner or officer of the vendor.

APPENDIX C IGNITION
INTERLOCK SERVICE
REGIONS



The four ignition interlock service regions of the state by counties are as follows:

- (i) Region 1: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates;
- (ii) Region 2: Broome, Chenango, Clinton, Cortland, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, and Tompkins;
- (iii) Region 3: Albany, Columbia, Delaware, Dutchess, Greene, Montgomery, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Sullivan, Ulster, Warren, and Washington; and
- (iv) Region 4: Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk, and Westchester.

END OF REQUEST FOR APPLICATIONS