

BIDDING REQUIREMENTS for PURCHASING

NOTICE AND INFORMATION FOR BIDDERS

The DORMITORY AUTHORITY OF THE STATE OF NEW YORK
("DASNY")

Project Number 727

Bid Title Provide CommVault Master Certified Consulting

Notice and Information to Bidders

Attachment A: Bid Breakdown and Schedule

Attachment B: Scope of Work

Attachment C: Qualifications

This Notice and Information to Bidders, Attachment A: Bid Breakdown and Schedule, Attachment B: Detailed Specifications and Attachment C: Scope of Work and Site Logistics shall collectively be referred to herein as the "**Purchase Order Documents.**"

Section 1.0 – Notice to Bidders & Bid Opening

Sealed bids for the above referenced Bid/Project will be received by DASNY at its office located at 515 Broadway, Albany, NY 12207. Bids are due by 2:30 p.m. on 6/28/22 (the "Bid Opening Date"). Only those bids in the hands of DASNY on or prior to the Bid Opening Date will be considered.

Each bid must be identified, on the outside of the envelope, with the name and address of the bidder and designated a bid for the Project titled above. When a sealed bid is placed inside another delivery jacket, the bid delivery jacket must be clearly marked on the outside "**BID ENCLOSED**" and "**ATTENTION: PURCHASING.**" DASNY will not be responsible for receipt of bids which do not comply with these instructions.

Individuals and entities submitting bids in person or by private delivery services should allow sufficient time for processing through building security to assure that bids are received prior to the deadline for submitting bids. A late bid will be returned to the sender unopened and will not be considered in issuing a purchase order.

Bids shall be publicly opened and read aloud. Bid results can be viewed at DASNY's website; <http://www.dasny.org>.

All bid openings will be made available for viewing live via Zoom at www.zoom.us. To enter the meeting, select "Join a Meeting" then enter Meeting Id 893 2021 5592, Password 676368. Individuals are strongly encouraged to utilize this public viewing option as an alternative to in person attendance at bid openings.

In accordance with State Finance Law § 139-j and § 139-k, this solicitation includes and imposes certain restrictions on communications between DASNY personnel and a prospective bidder during the procurement process. Designated staff for this solicitation is: Theresa Graffeo Email: tgraffeo@dasny.org and DASNY at purchasing@dasny.org. Contacts made to other DASNY personnel regarding this procurement may disqualify the prospective bidder and affect future procurements with governmental entities in the State of New York. For more information pursuant to this law, refer to DASNY's website; <http://www.dasny.org> or the OGS website: <http://www.ogs.state.ny.us>.

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Section 2.0 - Preparation of Bids

- A. Bids must be submitted on the Bid Breakdown and Schedule attached hereto as **Attachment A** in the Bidder's full legal name or the Bidder's full legal name plus any registered assumed name (the "Bidder"). Bids shall be enclosed in a sealed envelope, addressed to DASNY, and marked with the name and address of the Bidder and the Bid Number. All blank spaces for bid prices must be filled in. Conditional bids shall not be accepted. Bids shall not contain any recapitulation of the Work to be done. No oral, facsimile transmittal, electronic or telephonic bids or modifications of bids shall be considered. Bids shall contain an original signature of the Bidder in the space provided on the Bid Breakdown and Schedule.
- B. Unless otherwise noted, Bidder shall provide in the Bid Breakdown and Schedule the following information:
- a. Manufacturer & Model Number
 - b. Manufacturer's cut sheets
 - c. Construction specifications, (note Marketing materials are not specifications)
 - d. Installation specifications (if applicable)
 - e. Attachment Details (if applicable)
 - f. Warranty Information
 - g. Listing of deviations for each item, including sizes, dimensions, profiles, materials, finishes,
 - h. Construction methods and functions, on company letterhead. (if applicable)
 - i. Samples, if Requested
- C. Basis for Award: The basis for award is "GRAND TOTAL" lump sum price. Bidder shall be responsible for the complete scope of work at the "GRAND TOTAL" lump sum price.
- D. Bids that are illegible or that contain omissions, alterations, additions, or items not called for in the bidding documents may be rejected as not responsive. Any bid which modifies, limits, or restricts all or any part of such bid, other than as expressly provided for in the Purchase Order Documents, may be rejected as not responsive.
- E. DASNY may reject any bid not prepared and submitted in accordance with the provisions of the Purchase Order Documents.
- F. Any bid may be withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof and any bid received after such time and date shall not be considered.
- G. No bidder may withdraw a bid within sixty (60) days after the actual date of the opening thereof.
- H. No action or proceeding concerning in any way any bid for the Contract or the Contract shall be brought against DASNY in any location other than Albany County unless DASNY specifically consents, in writing, to a change of venue.

Section 3.0 – Site Visit

Prospective bidders are strongly encouraged to attend. The purpose is to observe actual site conditions. A site logistics document is included in the Purchase Order Documents.

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A site visit is not scheduled. Refer to Site Logistics.

The site visit is scheduled is scheduled on

Section 4.0 - Examination of the Detailed Specifications and Scope of Work and Site Logistics

- A. Prospective bidders shall examine the Detailed Specifications set forth in **Attachment B** attached hereto and the Scope of Work and Site Logistics set forth in **Attachment C** attached hereto, carefully and, before bidding, shall make a written request to DASNY's Designated Representative for an interpretation or correction of any ambiguity, inconsistency, or error therein which should be discovered by a reasonably prudent bidder. Every request for such interpretation must be received at least ten (10) days prior to the Bid Opening Date. Such interpretation or correction, as well as additional provisions DASNY shall decide to include, shall be issued in writing by DASNY as an Addendum, which shall be posted to DASNY's website. Such Addendum shall become a part of the Purchase Order Documents and shall be binding on prospective bidders whether or not the bidder receives or acknowledges the actual notice of such Addendum. Requirements of the Purchase Order Documents shall apply to Addenda.
- B. Only interpretations, corrections or additional provisions to this Notice and Information to Bidders issued in writing by DASNY as Addenda shall be binding. No officer, agent or employee of DASNY is authorized to explain or to interpret the Purchase Order Documents by any other method and any such explanation or interpretation, if given, shall not be relied upon by the bidder.
- C. Each bid shall be construed to be completely in accordance with the Purchase Order Documents unless the bidder explains all deviations in detail on a separate letterhead attached to the bid.
- D. In the Bid Breakdown and Schedule and the Detailed Specifications, the words "or equal" are understood to appear after each reference to a commodity giving manufacturer's name or catalog reference. Should "or equal" commodities not be accepted, this will be stated clearly in the Bid Breakdown and Schedule and Detailed Specifications. If bidding or proposing commodities other than those specified, the bidder must in every instance give all information required in Section 2.0 (B) of this Notice and Information for Bidders. Products will only be considered if proof of comparability is provided to DASNY in writing. A determination that a commodity or product is an "or equal" will be determined by DASNY in its sole and absolute discretion and any such determination will be final. The burden of proof and all costs related thereto concerning the "or equal" nature of the substitute item, whether approved or disapproved, shall be borne by the Bidder. Only complete submittals, as requested, will be considered and evaluated by DASNY. Failure to comply with any or all above shall result in immediate disqualification.
- E. DASNY reserves the right to award a procurement and issue a Purchase Order and/or contract, on the basis of the lowest bid for each item set forth in this Notice and Information for Bidders, on the basis of the proposal judged to be the "best value".

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- F. When bids are requested on a by-item or by-lot basis, a Bidder must designate the item or lot cost or affirmatively indicate there is no charge. Items or lots left undesignated will be determined as not being bid and such bid shall be otherwise non-responsive.
- G. The Bidder must insert the price per unit specified, and the price extension for each item in this bid if required. In the event of a discrepancy between the unit price and the extension, the unit price will govern. Prices must be extended in decimals, not fractions.
- H. Prices must be net, including transportation, delivery charges and applicable taxes fully prepaid by Bidder to the designation(s) indicated.
- I. Prices and information required by the Bid Breakdown and Schedule except the signature of the Bidder, should be typewritten or printed legibly. Submissions written in pencil may be rejected.
- J. At the time of the opening of bids, each bidder shall be presumed to have inspected the Site and to have read and to be familiar with the Purchase Order Documents. The failure or omission of any Bidder to receive or to examine any Purchase Order Document shall in no way relieve any Bidder from any obligation in respect to the bid of such Bidder.
- K. DASNY reserves the right to make awards within one hundred twenty (120) days after the date of the bid opening or proposal due date, during which period bids or proposals shall not be withdrawn.
- L. If two or more bidders submit identical bids as to price, the decision of DASNY to issue a Purchase Order and/or contract to one or more of such identical Bidders shall be made in DASNY's sole and absolute discretion and any such determination shall be final.
- M. A Purchase Order issued and/or contract awarded by DASNY shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by DASNY beyond the moneys available therefore.
- N. Unless otherwise specified, the quantities listed in the Bid Breakdown and Schedule are subject to change to conform with DASNY requirements. The quantities listed are estimated only and the Purchase Order shall be for the quantities actually ordered.
- O. Unless terminated or cancelled by DASNY, a Purchase Order and/or contract will remain in force for the period specified or until all commodities ordered before the termination date shall have been satisfactorily delivered and accepted.
- P. Without the prior consent, in writing, of DASNY, the successful Bidder shall not assign, transfer, convey, sublet or otherwise dispose of the Purchase Order and/or contract or the right, title, duties or interest therein or the power to execute any contract to any other person, company or corporation.
- Q. It is hereby understood between the parties hereto that the relationship created by the Purchase Order Documents between DASNY and the successful Bidder is one of independent contractor and it is in no way to be construed as creating an agency relationship between said parties nor is it to be construed as in any way or under any circumstances to be creating or appointing the awarded Bidder as an agent of the

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DASNY for any purpose whatsoever.

- R. If the same or smaller quantity of a commodity is sold by a Bidder holding a contract with the State of New York for a Commodity at a price below the state contract price, the price to DASNY shall be reduced to the lower price.
- S. DASNY reserves the right to request a representative sample of a commodity or product at any time. The sample shall be furnished within a reasonable period of time as specified by DASNY. If the sample, in the judgment of DASNY, is not in accordance with the requirements of the Detailed Specifications and Scope of Work and Site Logistics, DASNY may in its sole and absolute discretion permit a period of time for a reworking of the sample or reject the bid or quote.
- T. When samples are required, failure to submit them in accordance with instructions may be sufficient cause for rejecting a bid or quote.
- U. When an accepted sample exceeds the minimum specifications set forth in the Detailed Specifications, all commodities delivered will be of same quality and identity as the sample.
- V. Samples must be submitted free of charge and be identified with the Bidder's name, address and DASNY Bid or Quote number. Detailed Specifications may indicate that the commodity to be purchased must be equal to a sample on display in a designated place. Failure on the part of the Bidder to examine such sample shall NOT entitle them to any relief from the conditions imposed in the Purchase Order Documents.
- W. Rough and shop drawings shall be furnished as deemed necessary and required by the Detailed Specifications. Such drawings shall be consistent with the Purchase Order Documents and shall be considered as forming part of the Detailed Specifications and the Purchase Order to which they relate.
- X. The successful Bidder will be required to, in all respects, guarantee the Work to the Owner. The Vendor shall forthwith repair, replace or remedy in a manner approved by the Owner, at the Vendor's expense, any Commodities, or other part of the Work found by the Owner to be defective or otherwise faulty and not in compliance with the Purchase Order Documents, which defect or fault appears during the minimum period of one (1) year, or such longer period as may be prescribed by the Purchase Order, from the date of either (1) the proper delivery of all Commodities in connection with the Purchase Order to the Site or (2) the delivery of the final invoice in connection with the Purchase Order from the Vendor to the Owner, whichever is later. The Vendor is also liable for any damage to the Work, any damage to the work of Other Vendors and Vendors, and any damage to the property of the Owner or Site resulting from said defect or fault.

Section 5.0 - Qualifications of Bidder

- A. DASNY may make such investigation as DASNY deems necessary to determine the responsibility of any Bidder or to determine the ability of any bidder to provide the commodities or otherwise provide the work set forth in the Purchase Order Documents. Bidders shall furnish to DASNY all information and data required by DASNY, within the time and in the form and manner required by DASNY. DASNY reserves the right to reject any bid if the evidence required by DASNY is not submitted as required or if the evidence submitted by or the investigation of any bidder fails to satisfy DASNY that the bidder is responsible, or is able or

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qualified to carry out the obligations of contained in the Purchase Order Documents or to complete the work as contemplated.

- B. DASNY reserves the right before making an award to make investigations as to whether or not the commodities, qualifications or facilities offered by the Bidder meet the requirements set forth in the Detailed Specifications and Scope of Work and Site Logistics are sufficient to insure the proper performance of the Purchase Order Documents.

Section 6.0 - Executive Order No. 170.1 – Uniform Guidelines for Responsibility Determinations

The criteria contained in Executive Order No. 170.1 dated June 23, 1993 (9 NYCRR § 4.170, Context and Analysis, Historical Note 32) will also be applied in the bid review process. In the event of any conflict between the criteria in Executive Order No. 170.1 and the criteria in the Purchase Order Documents, the stricter criteria shall apply.

Section 7.0 - Executive Order No. 125 – NYS Vendor Responsibility Questionnaire

- A. For any commodity Purchase Order or contract of \$100,000 or more, the New York State Vendor Responsibility Questionnaire For-Profit Construction (CCA-2) shall be submitted by the apparent low bidder to DASNY. Executive Order No. 125 dated May 22, 1989 is found at 9 NYCRR §4.125.
- B. The Bidder shall submit a New York State Vendor Responsibility Questionnaire For-Profit Construction (CCA-2) to DASNY for any subcontractor proposed for the Work upon request of DASNY.
- C. DASNY recommends that Bidders file the required Vendor Responsibility Questionnaire online via the New York State VendRep System (the “System”). To enroll in and use the System, see the System Instructions at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://onlineservices.osc.state.ny.us>. Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for System assistance, contact the Office of the State Comptroller’s (“OSC”) Help Desk at 866-370-4672 or 518- 408-4672 or email ciohelpdesk@osc.state.ny.us. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the System website www.osc.state.ny.us/vendrep or may contact DASNY (DASNY) or OSC’s Help Desk for a copy of the paper form.

Section 8.0 - Opportunity Programs Requirements

- A. Bidder agrees, in addition to any other nondiscrimination provision of the Purchase Order Documents and at no additional cost to DASNY, to fully comply and cooperate with DASNY in the implementation of NYS Executive Law ARTICLE 15-A, PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS and Article 17-B, SERVICE DISABLED VETERAN OWNED BUSINESSES. These requirements will include: equal employment opportunities for minority group members and women (EEO), plus opportunities for minority and women-owned business enterprises (M/WBE). The Vendor’s demonstration of good faith efforts shall also be a part of these requirements.

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- B. Goals have been waived for this Procurement.
- C. See 8.0 (C.) for goals.
- D. If goals have been assigned, the successful Bidder shall be required to complete a Utilization Plan or Request for Waiver, to be approved by DASNY’s Opportunity Programs Group. Where assigned, DASNY uses a goal-oriented approach to ensure employment of EEO & M/WBE at a level commensurate with their capability and availability. DASNY has determined that the goals for EEO & M/WBE participation in the Work of the Contract are follows:
Percent of Total Contract (M/WBE):

Minority Business Enterprise Goal	0	%
Women's Business Enterprise Goal	0	%
Service Disabled Veteran Owned Businesses	0	%

Section 9.0 – Issuance of Purchase Order/Award of Contract

- A. Issuance of the Purchase Order and/or contract shall be made to the successful Bidder submitting the lowest bid, if:
 - 1. In the opinion of DASNY, the bid is responsive to the bid solicitation and the requirements of the Purchase Order Documents, and such Bidder, is responsible.
 - 2. The Bidder submits required documents as described under Section 11.0 – Forms and Documents.
- B. Alternates, if included in the Bid Breakdown and Schedule, shall be selected in the sole and absolute discretion of DASNY when awarding the procurement and issuing Purchase Order and/or contract. Alternates shall be listed in their order of priority, and acceptance shall be made in the same order, except that DASNY, at its sole and exclusive discretion, may by-pass any Maintenance or Warranty Service Alternates. The lowest bid will then be determined by adding, to the Bidder's total base bid, all Alternates chosen by DASNY.
- C. DASNY reserves the sole and exclusive right to reject any bid or all bids, to waive any informalities or irregularities or omissions in any bid received or to afford any Bidder an opportunity to remedy any informality or irregularity.
- D. The issuance of the Purchase Order and/or contract shall not be construed as a guarantee by DASNY that the plant, equipment, and the general scheme of proposed operations of a Bidder is either adequate or suitable for the satisfactory performance of the Work or that other data supplied by a Bidder is accurate.
- E. Purchase Orders and Contracts more than \$1,000,000 are subject to the approval of the NYS Office of the State Comptroller (“OSC”).

Section 10.0 - Substantial Completion

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All the work of the Purchase Order Documents shall commence upon issuance by DASNY of the Purchase Order and the Vendor shall achieve Substantial Completion no later than the date set forth on the Purchase Order.

Section 11.0 – Forms and Documents

Each bidder shall complete and submit to DASNY, pursuant to provisions stated in this Notice and Information for Bidders, the following forms and documents:

Bidding Requirements: each bidder shall submit the following at time of bid:

- Bid Breakdown and Schedule
- Omnibus Procurement Certification
 - Non-Collusive Bidding;
 - Non-Segregated Facilities;
 - Non-discrimination in Employment in Northern Ireland;
 - Federal Equal Employment Opportunity Act;
 - Transfer of Offset Credits;
 - 2005 Procurement Lobbying Law;
 - Code of Business Ethics; and
 - Iran Divestment.
- Contractor ST-220 if over \$100,000.00
- W-9 Form
- EO16 Certification

Contract Forms: the successful bidder shall submit the following for issuance of the Purchase Order or execution of the contract:

- Utilization Plan, Request for Waiver documentation - within seventy-two (72) hours after low bidder notification as applicable
- Required Insurance Form – within three (3) days after low bidder notification as applicable
- New York State Vendor Responsibility Questionnaire For-Profit Construction (CCA-2) as applicable

Section 12.0 – Supplemental Requirements

Prevailing Wage

NYS Labor Law requires all wages paid by contractors and subcontractors on public work projects be paid at the prevailing wage rates. Included in the Purchase Order documents is the current rate schedule for the appropriate county. Contractors and Subcontractors are responsible for obtaining current rates throughout the course of the project. The NYS Department of Labor (NYS DOL) updates these rates on July 1st of each year. Current rates can be obtained on the NYS DOL website (www.labor.state.ny.us) or by fax at (518) 485-1870. Note that the successful Bidder will be required to submit an executed Contractor and Subcontractor Certification and certified payrolls, which include the hours and days worked by each workman, laborer or mechanic, the occupation at which he worked, the hourly wage rate paid and the supplements paid or provided, must be submitted with each and every payment requisition.

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Section 13.0 - Project Labor Agreement

DASNY has determined that its interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud and corruption, other considerations such as the impact of delay, the possibility of cost savings advantages and any local history of labor unrest are best met by use of a Project Labor Agreement (“PLA”) on this Project. The successful low bidder as a condition of this Contract award, must execute the PLA in the Purchase Order Documents following the Form of Bid. The Work undertaken in connection with this Project will be governed by, and subject to the conditions set forth in the PLA. All Subcontractors of every tier, will be required to execute a Letter of Assent, included in the enclosed PLA, agreeing to be bound by the PLA. The PLA has been approved by the Building and Construction Trades Department, AFL-CIO.

This Project is considered Excluded from the PLA.

EXCLUDED PLA PROJECTS

DASNY and the Building and Construction Trades Council of Greater New York and Vicinity (the “Council”) have entered into a Memorandum of Understanding (“MOU”) that requires the use of a Project Labor Agreement (“PLA”) on applicable covered projects within the City of New York. While this Project is considered an “Excluded Project”, under the MOU and therefore the use of a PLA is optional on this Project, the successful prime contractor performing work on this Project shall have the option to voluntarily execute the PLA. This is to provide potential bidders of the Project with notice of this option, consistent with the provisions of the MOU. Execution of the applicable PLA following the Information for Bidders is not a requirement to perform work on this Project.

Section 14.0 – Interim Guidance For Construction Activities During The COVID-19 Public Health Emergency

All Bidders and/or contractors at a DASNY project must comply with the “INTERIM GUIDANCE FOR CONSTRUCTION ACTIVITIES DURING THE COVID-19 PUBLIC HEALTH EMERGENCY” issued by the New York State Department of Health and located at: [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ConstructionMasterGuidance .pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ConstructionMasterGuidance.pdf).