

NEW YORK STATE DEPARTMENT OF HEALTH
OFFICE OF HEALTH INSURANCE PROGRAMS

A Request for Proposal for

NEW YORK STATE
OFFICE OF HEALTH INSURANCE PROGRAMS
ACTUARIAL AND CONSULTING SERVICES

FAU #0902131116

Proposal Due Date:
April 30, 2009

New York State Department of Health
Division of Managed Care
Bureau of Managed Care Financing
Empire State Plaza
Corning Tower – Room 1970
Albany, NY 12237-0063

Schedule of Key Events

RFP Issued	March 19, 2009
Written Questions Due	April 3, 2009
Response to Written Questions	April 10, 2009
Proposal Due Date	April 30, 2009
Contract Start Date (Estimated)	October 28, 2009

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Pursuant to State Finance Law § 139-j(3)(a), the Department of Health also identifies the following allowable contact(s) for communications related to the following subjects:

RFP Release Date: 3/19/09

- 1) Submission of written proposals or bids
- 2) Submission of Written Questions
- 3) Debriefings
- 4) Negotiation of Contract Terms consistent with the scope of the RFP after Award

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For further information regarding these statutory provisions, see the Lobbying Statute summary in Section E, 10 of this solicitation.

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A. INTRODUCTION

1. General Information for Prospective Offerors

This Request for Proposals (RFP) is issued by the New York State Department of Health (DOH). The DOH is responsible for the requirements specified herein and for the evaluation of all proposals. This RFP is to secure actuarial and consulting services assistance (Services) for DOH in support of New York State's (NYS) Office of Health Insurance Programs (OHIP) including, but not limited to, its existing Medicaid managed care programs including Medicaid Managed Care, Family Health Plus, Program for All Inclusive Care for the Elderly (PACE), Managed Long Term Care Partial Capitation, Medicaid Advantage, Medicaid Advantage Plus and Medicaid Primary Care Partial Capitation Provider Program and any new managed care programs or proposed program and/or federal and/or state legislative initiatives during the term of the Agreement resulting from this RFP.

The New York State Department of Health is the single state agency for administration of the New York State Medicaid program. Within DOH, the Division of Managed Care (DMC) has responsibility for oversight of the managed care programs described in this RFP. The Bureau of Managed Care Financing (BMCF) is responsible for all financial and rate-setting activities within DMC. The BMCF is responsible for ensuring the adequacy, reasonableness and cost effectiveness of managed care rates for designated programs.

In addition to rate-setting responsibilities, BMCF is responsible for monitoring the fiscal soundness of Prepaid Health Service Plans (PHSPs) which are licensed in NYS to serve government programs, and is jointly responsible with the State Insurance Department (SID) for monitoring Health Maintenance Organizations (HMOs) operating in NYS. In support of these activities, BMCF has developed a longitudinal plan specific cost and utilization database that now includes eleven (11) years of financial statements and utilization information reported by plans.

The successful Offeror will provide actuarial support, technical assistance and consulting services related to OHIP programs including, but not limited to:

- activities within the context of the work performed by BMCF, which include certifying that premium rates developed by the State for existing and new programs are actuarially sound and meet requirements of the Balanced Budget Act (BBA) or any successor federal requirements;
- supporting rate development and certification activities for each of the existing managed care programs as well as any new managed care initiatives;
- analysis of state and federal legislation related to public health insurance programs; the impact of federal rules, regulations and administrative directives or litigation on NYS Medicaid; and the delivery and/or financing of Medicaid covered services;
- development of federal waivers and/or state plan amendments; and
- performing actuarial and other analyses of prescription drug programs including pricing and coordination with Medicare Part D

B. BACKGROUND

1. Managed Care Programs

The State operates several managed care programs. Throughout this document, Medicaid Managed Care will generally be meant to include Mainstream Medicaid Managed Care, Family Health Plus, PACE, Managed Long Term Care Partial Capitation, Medicaid Primary Care Partial Capitation Provider Program,

Medicaid Advantage and Medicaid Advantage Plus. Monthly managed care enrollment reports are available on the Department of Health website for these programs at:

http://www.nyhealth.gov/health_care/managed_care/reports/enrollment/monthly/

A brief description of each program is provided below.

a. Mainstream Medicaid Managed Care

NYS has operated a mainstream Medicaid managed care program under State law for more than fifteen years. In March 1995, the Department submitted an application under Section 1115 of the Social Security Act requesting approval of a demonstration project to implement a statewide mandatory Medicaid managed care program called the Partnership Plan. On July 15, 1997, the Health Care Financing Administration (HCFA) approved the Partnership Plan.

The Partnership Plan, referred to as “mainstream” Medicaid, covers most of the non-elderly, non-institutionalized Medicaid population in the State. The Terms and Conditions of the Partnership Plan define specific groups who are not eligible to join managed care. These “excluded” groups include, but are not limited to, residents of residential health care facilities, Medicare/Medicaid dually eligible population, individuals who become eligible for Medicaid only after spending down a portion of their income, individuals who are residents of state-operated psychiatric facilities, individuals enrolled in managed long-term care demonstrations authorized under the State’s Public Health Law, and infants weighing less than 1200 grams at birth and other infants under six months of age who meet the criteria for Social Security Insurance (SSI) or the SSI related eligibility category.

The Partnership Plan also defines groups that are eligible for an exemption from mandatory managed care. This “exempt” group includes individuals who are HIV positive or have AIDS, Temporary Assistance to Needy Families (TANF) and Safety Net Adult (SNA) individuals who are Seriously and Persistently Mentally Ill (SPMI) or Seriously Emotionally Disturbed (SED), and individuals with end stage renal disease. SSI and SSI-related beneficiaries (hereinafter referred to as SSI beneficiaries) were previously exempt, but are now approved by the Centers for Medicare and Medicaid Services (CMS) for mandatory enrollment under the Federal-State Health Reform Partnership (F-SHRP) waiver.

Implementation of the Partnership Plan began in October 1997 in five upstate counties. Since that time, the Partnership Plan has implemented mandatory enrollment in thirty-two additional upstate counties and in all five boroughs of New York City. Mandatory enrollment of SSI beneficiaries has been implemented in New York City and thirty-seven upstate counties

The Partnership Plan Medicaid Section 1115 Demonstration was amended effective October 1, 2006 to include a three year extension to the existing 1115 waiver through September 30, 2009 and the implementation of a five year 1115 demonstration waiver called the Federal-State Health Reform Partnership or F-SHRP. The F-SHRP waiver initiated a restructuring of the New York State health care industry by implementing the consolidation and resizing of its acute care infrastructure, reforming long term health care by emphasizing community based settings over institutional based settings and improving and expanding ambulatory and primary care delivery systems.

Mandatory enrollment in fourteen (14) upstate counties of their TANF and SNA recipients effective October 1, 2006 and the mandatory enrollment of SSI beneficiaries in counties with mandatory TANF/SNA managed care by the end of 2008 is included as part of the F-SHRP waiver.

As of January 2009, an estimated 2.8 million Medicaid recipients were eligible to enroll in the Partnership Plan. Of these, 2,310,516 recipients, or 82%, were enrolled in full-risk managed care plans. Of the 2.8 million Medicaid recipients eligible to enroll in the Partnership Plan, 393,000 are non-institutionalized SSI beneficiaries. As of January 2009, 250,458, or 63.7% of SSI Medicaid managed care eligible recipients were enrolled in full-risk managed care plans.

	# Eligible to Enroll in Partnership Plan		# Enrolled in Fully-Capitated MCOs	
	NYC	Rest of State	NYC	Rest of State
TANF/SNA	1,670,385	742,899	1,484,503	575,555
SSI	238,534	154,520	172,803	77,655
Combined	1,908,819	897,419	1,657,306	653,210

A total of twenty-three (23) full-risk Managed Care Organizations (MCOs) contract with one or more local social service districts to enroll Medicaid beneficiaries. The MCOs may operate in one or more of the 9 currently established rate setting regions. All MCOs that enroll the TANF/SNA population must also enroll eligible SSI beneficiaries.

The managed care benefit package includes comprehensive acute health care services, such as inpatient and outpatient hospital services, clinic services, physician services, laboratory, radiology and ambulatory surgery. Prescription drugs, over-the-counter drugs and medical supplies are covered under the Medicaid fee-for-service program for all Medicaid managed care enrollees pursuant to State statute. The managed care benefit package for SSI beneficiaries is the same as the package for the TANF/SNA population with one exception. The SSI benefit package does not include mental health and substance abuse services; these services are provided through Medicaid fee-for-service. A copy of the Medicaid model contract that describes in greater detail the Medicaid managed care benefit package is available at:

http://www.nyhealth.gov/health_care/managed_care/mamctext.htm

b. Family Health Plus (FHPlus)

Effective October 2001, the Partnership Plan was expanded to include low income adults between ages of 19 and 64, who do not have health insurance, and have incomes too high to qualify for Medicaid. Family Health Plus (FHPlus) is available to single adults, couples without children and parents. There are currently 24 plans serving FHPlus with 453,344 individuals enrolled in FHPlus as of January 2009, 118,157 enrollees Upstate and 335,187 enrollees in New York City.

FHPlus covers comprehensive health insurance, including: physician services; hospital services; prescription drugs (effective October 1, 2008 prescription drugs will be carved out of the plan rate and paid fee for service); lab tests and x-rays; vision, speech and hearing services, rehabilitative services, durable medical equipment; emergency room and emergency ambulance services; behavioral health and chemical dependency services; diabetic supplies and equipment; hospice care; radiation therapy, chemotherapy, and hemodialysis; and dental services, if offered by the plan. A copy of the FHPlus model contract that describes in greater detail the FHPlus benefit package is available at:

http://www.nyhealth.gov/health_care/managed_care/mamctext.htm

c. Medicaid Primary Care Partial Capitation Provider Program

The Medicaid Primary Care Partial Capitation Provider (PCPCP) program provides limited primary care

services and is equivalent to Primary Care Case Management (PCCM) Plans as defined by CMS. There are currently three Medicaid PCPCPs operating in Chemung, Erie, Steuben and Schuyler counties in the western part of the New York State, providing routine office visits and a limited range of ancillary services routinely performed in a doctor's office. There are 12,580 enrollees in the Medicaid PCPCP program as of January 2009.

d. Medicaid Managed Long Term Care Programs

There are three different Medicaid Managed Long Term Care (MLTC) program models; PACE, Partial Capitation and Medicaid Advantage Plus. These models provide health and long term care services to adults with chronic illness or disabilities, to better address their needs and to prevent or delay nursing home placement. The program is available to Medicaid recipients who are determined to be eligible for admission into nursing homes but are residing in the community at the time of plan enrollment.

There are currently four PACE Plans and thirteen MLTC Partial Capitation Plans. MLTC plans are available in thirteen Upstate counties (Albany, Nassau, Suffolk, Rockland, Orange, Westchester, Schenectady, Oneida, Onondaga, Erie, Herkimer, Monroe and Schoharie) and the five boroughs of New York City. The MAP program currently has three plans operating in NYC and one plan operating in five upstate counties.

(i) MLTC Partial Capitation Program

MLTC Partial Capitation plans are entities specifically licensed to offer long term care benefits and generally do not offer other lines of business. Many plans are sponsored by or related to nursing homes and/or home health agencies. These programs are not capitated for any Medicare services, which continue to be billed by providers on a fee-for-service basis.

The plans are capitated for long term care services such as personal care, home health, and nursing home, as well as services like transportation, durable medical equipment, nursing and case management. Partial Capitation plans are not responsible for physician or inpatient services.

There are 22,246 enrollees in MLTC Partial Capitation plans as of January 2009.

(ii) Program for All Inclusive Care for the Elderly (PACE)

There are currently four PACE plans operating in New York State. PACE is a federal managed care model that includes long term care services as well as acute care and physician services. The PACE program is the sole source of medical and social services for Medicaid and Medicare enrollees. PACE programs receive a capitated payment for both Medicare and Medicaid. The PACE model revolves around a care management team that works to provide social and medical services primarily at a PACE center which provides clinic and day care services.

PACE enrollees must be 55 years old or older, be able to live safely in the community and be certified as eligible for nursing home care by the state. There are 3,028 enrollees in 4 PACE plans as of January 2009.

(iii) Medicaid Advantage Plus (MAP)

A new program for dually-eligible nursing home certifiable recipients called Medicaid Advantage Plus (MAP) has been initiated with four plans currently operational. This model is for plans

approved by CMS to offer Medicare Advantage. It allows dually eligible recipients to enroll in the same health plan for Medicaid and Medicare benefits, including primary, acute, and long-term care, including nursing home, home care, and personal care support services. Enrollment is voluntary.

Plans that participate in MAP offer a uniform benefit package. The MAP covers long term care benefits not covered by Medicare and Medicaid cost sharing, i.e. co-pays and deductibles, and Part C Medicare Supplemental premiums. Plans receive both a Medicare Advantage premium from CMS and a premium from NYS to cover the MAP services provided. There are 420 enrollees in 4 MAP plans as of January 2009.

Copies of the Partial Capitation, PACE and MAP model contracts that describe in greater detail the respective program's benefit package are available at:

http://www.nyhealth.gov/health_care/managed_care/mltc/index.htm

e. Medicaid Advantage

The Medicaid Advantage program allows dual-eligible Medicaid recipients who are enrolled in Medicare Advantage plans to also enroll in the same plan for Medicaid covered copayment and certain Medicaid covered services. A specific Medicare Advantage benefit package must be offered by plans to participate in this model. Plans receive, in addition to the Medicare capitation, Medicaid capitation which covers co-payments, any supplemental Medicare premium, certain limited services covered by Medicaid but not Medicare, such as inpatient mental health in excess of the 190 day lifetime limit, non-Medicare covered home care, private duty nursing, dental (optional) and non-emergency transportation (optional).

f. Family Health Buy-in Insurance Program

Section 369-ff of Social Services Law was passed effective April 1, 2008 to allow for employer partnerships for Family Health Plus.

Under this legislation, coverage shall be community-rated, with a benefit package consistent with the existing FHPlus program that would be available for any employer choosing to participate. Employers must contribute at least 70% of the premium. The legislation allows for potential state subsidies for the employer's portion of the premium for employees who would otherwise be eligible for the FHPlus or Medicaid government programs, subject to availability of funds, if the employer has not previously offered health insurance, or is in jeopardy of not offering coverage in the future. The legislation stipulates that premiums for coverage under this program shall be established by the Commissioner of Health.

Currently the 1199 Service Employees International Union is the only participant in the program. The NYS Catholic Health plan has contracted with 1199 to serve approximately 60,000 employees. The State is currently exploring appropriate community rating policies for this program, and is seeking stakeholder input before expanding this initiative.

2. Capitation Rate Setting Methodologies and Timelines

Mainstream and Family Health Plus

Historically, rates for each participating managed care plan were negotiated individually based upon plan-submitted premium proposals. Beginning April 2008, a risk based rate setting method using Clinical Risk Groups (CRGs) has been implemented for the Mainstream and Family Health Plus

programs. Under the risk adjusted methodology, all plans are paid the same regional average premium, adjusted by a plan-specific risk factor that accounts for differences in enrollee acuity across plans. Maternity and newborn hospital costs are reimbursed using supplemental payment rates consistent with past payment methodology, except instead of plan-specific amounts, all plans within a region receive the same delivery and newborn supplemental payment.

The risk rates are being phased in over a four year period beginning April 1, 2008. The phase-in combines each plan's latest individually negotiated rate trended forward with the regional risk adjusted rate, as shown in the chart below:

Rate Year	Risk Adjusted Rate Portion	Trended Plan Specific Premium Rate Portion
April 1, 2008	25%	75%
April 1, 2009	50%	50%
April 1, 2010	75%	25%
April 1, 2011	100%	0%

Maternity and newborn supplemental payment rates are also blended at the same percents as shown above.

Risk Adjusted Rate – Regional Base Rate

All plans must offer a standard set of “core” medical services. The risk adjusted rate component for each plan reflects the regional average medical costs for the core benefits plus the regional average administrative costs.

The regional average costs described above are developed using Medicaid Managed Care Operating Reports (MMCOR) submitted by each plan participating in the Mainstream and Family Health Plus programs. The MMCOR data is reported on an aggregate basis by region, premium group and category of service and is submitted electronically as well as in hard copy on a quarterly basis.

The 2006 annual MMCOR was used to establish the 2008 regional base rates for the risk adjusted portion of the blended rate. For future rate periods, updated base data will be used maintaining a two-year lag; however, the State will use a two-year base period to establish the regional amount.

The regional average PMPM amounts derived from MMCORs are trended and adjusted by each plan's relative risk score to derive the plan specific risk adjusted rate. Dental (Medicaid and FHPlus) and/or emergency/non-emergency transportation (Medicaid only) are optional add-on benefits. The regional average PMPM for each optional benefit provided by the plan is added to the risk adjusted rate. A 3% surplus is added to arrive at final regional average risk based plan premium.

Clinical Risk Groups

Plan risk scores are developed using the Clinical Risk Groups (CRG) model developed by 3M Company. Clinical Risk Groups are one of several clinical models being used by states to recognize differences in health status of enrollees across plans. Each individual is assigned to a single risk group based on the enrollee's diagnoses (using ICD-9 codes) and demographics.

The CRG risk group assignment starts with nine core health status groups ranging from catastrophic to healthy as shown below. Assignment is done from the most serious to the least serious.

1. Catastrophic Condition
2. Metastatic Malignancy
3. Dominant Chronic Disease in 3 or more Organ Systems
4. Significant Chronic Diseases in Multiple Organ Systems
5. Significant Chronic Disease
6. Minor Chronic Disease in Multiple Organ Systems
7. Minor Chronic Diseases
8. History of Significant Acute Diseases
9. Healthy (including non-users)

Most categories are further divided into disease status at 4 to 6 severity “levels. There are 1,100 specific CRGs at the most detailed level. NYS uses the most consolidated version of the CRGs called ACRG3, which condenses these into 40 different category/severity “buckets”.

Each individual’s diagnoses are determined using plan reported encounter data augmented by fee-for-service paid pharmacy and mental health claims. Each individual is assigned to a single mutually exclusive ACRG3 risk group based on diagnostic, procedure and pharmacy data during the applicable period.

Plan encounter data is also used to determine the overall cost of services for enrollees in each ACRG3 cell. An average cost PMPM is calculated for each CRG and compared to the overall population cost PMPM to construct a set of relative weights. Some CRG cells within a health status group were too small to be actuarially sound and were combined with other cells within the group with a single cost weight. Separate sets of cost weights were developed for TANF Children, TANF Adults, SSI (Children and Adult combined) and FHPlus.

Plan specific risk scores are determined based on its CRG distribution of enrollees times the relative weight of each CRG. All plans’ scores for a particular region are combined to determine the regional average risk score, and each plan’s score is then compared to the regional average to create a “relative risk score” for each plan.

Calendar year 2006 encounters were used for the 2008 plan risk scores. The plan risk scores are expected to be updated on an annual basis; however the State will explore the possibility of quarterly or semi-annual updates to the plan risk scores in the future.

Under the risk method, premium rates are established for nine geographic rate regions for the following groupings:

- TANF/Safety Net Children (ages 6 months to 20 years old)
- TANF/Safety Net Adults (ages 21 and older)
- SSI (ages 6 months and older)
- FHPlus Adults (ages 19 – 64 years old)

In addition, for hospital deliveries and hospital births a supplemental payment is made.

Managed Long Term Care

BMCF currently negotiates Medicaid capitation rates with each participating plan for PACE, Partial Cap and Medicaid Advantage programs. For these MLTC programs, each plan completes a standard

premium proposal developed by BMCF, which requires the plan to justify its requested premiums by providing price and utilization assumptions for each service included in the capitated benefit package. BMCF staff review each proposal based on the plan's prior cost and utilization experience, as well as the regional average experience of plans operating within the same region. The main source of data currently used in the premium review process is the MLTC MMCOR. Medicaid fee-for-service paid claims data is used to develop a Fee-For-Service Equivalent (FFSE) for the PACE model only as required by CMS. Encounter data reported by plans will be used as another data source for future rate setting.

The BMCF is interested in pursuing a "risk" model for managed long term care programs that accounts for differences in the Activities of Daily Living (ADLS) in addition to the more typical diagnosis based risk software. However, significant improvements in MLTC plan encounter data reporting will be needed to proceed.

The following premium groups are established for three geographic rating regions for the indicated managed care programs:

MLTC Partial Capitation Plans

Dually Eligible and Medicaid Only - 18 – 64 years

Dually Eligible and Medicaid Only - 65+ years

PACE Plans

Dually Eligible and Medicaid Only - 55+ years

Medicaid Advantage and Medicaid Advantage Plus Plans

Dually Eligible - 18 – 64 years

Dually Eligible - 65+ years

Primary Care Partial Capitation Provider Program

For the Medicaid PCPCP program regional rates are established, using utilization data per PCPCP enrollee from the encounter data system. Premium rates are established for two geographic rating regions for the following groupings:

TANF/Safety Net Children (ages 6 months to 20 years old)

TANF/Safety Net Adults (ages 21 and older)

SSI (ages 6 months and older)

Timelines

For all programs except the Medicaid PCPCP program, rates are generally set for a one-year period, effective for the following timeframe:

Mainstream & FHPlus	April – March
PACE and Partial Cap	April – March
Medicaid Advantage and MAP	January – December
PCPCP	July – June (2 years)
FHPlus Buy-In	To Be Determined

The Mainstream and FHPlus base year and risk scores are expected to be updated annually. The MLTC rates are generally negotiated for one year and then trended for an additional year. The MLTC rates for April 2009 will be trended so it is expected that the April 2010 MLTC rates will be negotiated.

Based on the schedule above, actuarial work required to support each program must generally occur in a tight timeframe. The MMCOR reports are received quarterly and the annual report is due by April 1 of the following year. The BMCF rate setting schedule for the 2010 rates are as shown below.

Mainstream Medicaid & FHPlus Rates
Phase in of Risk Rates at 75% Risk/25% Current Rate Trend
Effective Date of Rate – April 1, 2010 – March 31, 2011

Task	Begin Task	Complete Task
Receive/Review/Edit of 2008 Annual MMCOR	April 1, 2009	June 30, 2009
Calculate Regional MMCOR Averages, Develop Regional Trends and Regional Rate Ranges For Risk Rate Portion and for current rate portion of blended rates	July 1, 2009	July 31, 2009
2008 Encounter Data, Grouping, Pricing and Calculation of CRG Risk Scores	August 1, 2009	August 31, 2009
Finalize Rates and CMS Certification	September 1, 2009	September 30, 2009

For MLTC PACE Model
2009 Trended Plan Specific Rates are Negotiated in 2010
Effective Date of Rate – April 1, 2010 – March 31, 2011

Task	Begin Task	Complete Task
Receive/Review/Edit 2008 Annual MMCOR	April 1, 2009	June 30, 2009
Develop Upper Payment Limits	April 15, 2009	June 30, 2009
Finalize Rates and Certification	September 1, 2009	September 30, 2009

For MLTC Partial Cap Model
2009 Trended Plan Specific Rates are Negotiated in 2010
Effective Date of Rate – April 1, 2010 – March 31, 2011

Task	Begin Task	Complete Task
Receive/Review/Edit 2008 Annual MMCOR	April 1, 2009	June 30, 2009
Develop Rate Trends and Rate Ranges	July 1, 2009	August 31, 2009
Finalize Rates and Certification	September 1, 2009	September 30, 2009

Medicaid Advantage Plus Rates
Rate Setting Method to be Determined
Effective Date of Rate – January 1, 2010 – December 31, 2010

Task	Begin Task	Completion Task
Receive/Review/Edit 2008 Annual MMCOR *	April 1, 2009	May 31, 2009
Medicaid Premium Proposals Sent to Plans	April 1, 2009	
Develop Rate Trends and Rate Ranges	April 1, 2009	May 31, 2009
Medicaid Premium Proposals Received from Plans; Individual Plan Negotiations w/Plans	June 1, 2009	July 31, 2009
Finalize Rates and Certification	August 1, 2009	August 31, 2009

* The 2008 MMCOR will not reflect a full year of cost and utilization since this MLTC model did not begin operating until 2008. There will be a need to use alternate data sources such as Medicaid FFS data to develop rate ranges.

3. Other Public Health Insurance Programs

The Department of Health is also responsible for the administration and implementation of other public health insurance programs including the Medicaid fee for service, Child Health Plus and Elderly Pharmaceutical Insurance Coverage (EPIC) programs.

The Child Health Plus program offers health insurance to children who are under age 19 and NYS residents who are not eligible for Medicaid or do not have other insurance coverage.

The Elderly Pharmaceutical Insurance Coverage (EPIC) program is a New York State program that helps seniors pay for their prescription drugs. More than a quarter million EPIC enrollees are saving an average of 90 percent of the cost of their medicines. Most enrollees have Medicare Part D or other drug coverage, and use EPIC to lower their drug costs even more by helping them pay the deductibles and co-payments required by their other drug plan. EPIC also helps members pay for Medicare Part D premiums.

In addition to providing actuarial services related to the Medicaid and Family Health Plus managed care programs, Child Health Plus and the EPIC programs, as described above, the successful vendor may be required to provide consulting services related to any of the NYS public health insurance programs.

Types of consulting services may include, but not be limited to:

- analysis of state and federal legislation related to public health insurance programs; the impact of federal rules, regulations and administrative directives or litigation on NYS Medicaid; and the delivery and/or financing of Medicaid covered services;
- development of federal waivers and/or state plan amendments; and
- performing actuarial and other analyses of prescription drug programs including pricing and coordination with Medicare Part D

C. Detailed Specifications

1. Minimum Requirements of Offerors

In order for their proposal to be reviewed, the Offeror must complete the Transmittal Letter described in Section D and the Offerors Assurances described in Attachment I. Proposals that do not address each issue required in the Transmittal Letter will be rejected.

In addition, a qualified Offeror must have experience in the proposed tasks listed below, or demonstrate the capacity to establish a contractual relationship(s) with a subcontractor(s) having such experience.

2. Proposed Tasks

The core tasks related to this RFP are listed here. For a more detailed description of Offeror qualifications and information required in the Offeror's Technical Proposal, refer to Attachment III, Offeror's Questionnaire.

a. Core tasks related to this RFP will include:

- 1) Develop or assist in development of rate-setting methodologies for new or existing managed care programs within the context of applicable state and federal laws and regulations, including the Balanced Budget Act.
- 2) Assist in meeting the requirements of the Balanced Budget Act, including attestations of actuarial soundness and certification of plan rates in accordance to the BBA.
- 3) Develop or assist in development of Fee-For-Service Equivalents for some or all of the programs listed in Section B.1 and any new program(s) that may be implemented during the contract period.
- 4) Assist in the development of the Family Health Plus Buy-in Insurance program initiated in 2008.

b. Other tasks related to this RFP may also include, but are not limited to the following:

- 1) Provide technical assistance regarding use of risk adjusted rate setting techniques.
- 2) Provide technical assistance regarding use of risk adjusted rate setting techniques for the Nursing Home Certifiable population.
- 3) Assist in refinement of existing financial monitoring tools and on-site monitoring techniques.
- 4) Provide technical assistance in evaluating individual plans, including areas such as incurred but not reported (IBNR), administrative overhead, and appropriateness of medical costs incurred.
- 5) Provide technical assistance in evaluating management agreements, contracts between related parties, and cost sharing and cost allocation methods as they impact on managed care plans.
- 6) Other ad hoc actuarial, consulting and financial/accounting technical assistance, as required. Include but do not limit your response to the following types of activities: comparative analyses of state Medicaid managed care and FFS programs, analysis of federal legislation and regulation affecting the Medicaid managed care and FFS programs, design of benefit packages for new

managed care initiatives, consulting services for government programs and consulting on federal Medicaid waivers and budget neutrality.

3. Task Specifications

Prior to starting a task under the contract, the Contractor may be asked by a designated OHIP representative to submit, within three business days of the request, a detailed, written workplan for completing the task. Such workplan shall include a description of how the task will be completed, the anticipated timeframe for completion of the task, the staff to be assigned to the task by title and level (as delineated in the cost proposal), the number of hours by staff level required to complete the task and the total cost for completion of the task. The plan and any subsequent modification(s), as may be requested by DOH, shall be subject to approval by the Department. The requirement for submission of a written workplan may be waived at the Department's sole discretion where time is of the essence for immediate turnaround.

4. Conflict of Interest

a) As part of its bid submission, the offeror (and /or any subcontractor) must disclose all business relationships with and/or ownership interests in any managed care plan and/or health insurance program operating in New York State. In cases where such relationship(s) and/or interests exist, Offeror must describe how an actual or potential conflict of interest and/or disclosure of confidential information relating to this contract will be avoided.

The Department reserves the right to reject bids, at its sole discretion, based on any actual or perceived Conflict of Interest.

- b) Each offeror and the successful contractor shall ensure that its officers, employees, agents, consultants and/or sub-contractors comply with the requirements of the New York State Public Officers Law ("POL"), as amended, including but not limited to Sections 73 and 74, as amended, with regard to ethical standards applicable to State employees.
- c) In signing its Proposal, each offeror guarantees knowledge and full compliance with the provisions of the POL for purposes of this RFP and procurement. Failure to comply with these provisions may result in disqualification from the procurement process, or withdrawal of a proposed contract award, and criminal proceedings as may be required by law.
- d) If, during the term of a resulting contract, the successful contractor becomes aware of a relationship, actual or potential, which may be considered a violation of the POL, or which may otherwise be considered a conflict of interest, the Contractor shall notify the Department in writing immediately. Failure to comply with these provisions may result in termination or cancellation of the resulting contract and criminal proceedings as may be required by law.

5. Professional Standards

The successful contractor represents that (a) it possesses and that it shall, during the term of the Contract, continue to possess, the experience, expertise and licensing necessary to perform the services described herein, and (b) it shall comply with the provisions of the Labor Law and all State, Federal and local laws, statutes, ordinances and regulations that are applicable to the performance of the Contract, including but not limited to, those set forth in Appendix A of the resultant contract.

Successful contractor warrants for the term of the contract that any Services provided under the Contract, regardless of whether performed by the successful contractor or a subcontractor, shall be performed in a professional, technically competent and timely manner. Successful contractor further warrants that any personnel, including any subcontractor(s), providing Services under the Contract shall possess the required professional licensure, certification, training or skill sets appropriate to the specific Services to be provided.

Any reports, information or material which is provided as a result of performance of Services under the Contract, regardless of the medium by which it is made available, shall be warranted by the successful contractor to reflect the appropriate level of licensure, certification, training and/or skill sets and shall be rendered in a manner which is clear, concise and comprehensive.

6. Documents Available on the DOH Website

The NYS DOH website listed below offers a number of documents related to the Partnership Plan and NYS public health insurance programs that may be of interest to potential Offerors. These documents include but are not limited to Medicaid Managed Care Enrollment Reports, the NYS Operational Protocol for the Partnership Program and Managed Care Model Contracts for the Mainstream Medicaid Managed Care Program, Family Health Plus Program and Medicaid Managed Long Term Care Program and the monthly Medicaid newsletter.

http://www.nyhealth.gov/health_care/managed_care/index.htm

http://www.nyhealth.gov/health_care/medicaid/program/update/main.htm

D. PROPOSAL REQUIREMENTS

1. Information Required From Offerors

Offerors are responsible for carefully reading the RFP and responding to all requirements. **Failure to provide all required information may result in rejection of the Proposal.**

a. Format for Required Information

Proposals shall be prepared in the format described in Sections b. Technical Proposal and c. Cost Proposal below. The format of the proposal must follow, in sequence, each of the sections outlined below.

Appendices should be similarly sequential. Proposals must be signed by an official authorized to bind the Offeror to its provisions. Proposals which do not conform to the specified format or do not address all requirements of this RFP may be considered non-responsive, at the Department's sole discretion, and the Department may reject such proposals.

b. Technical Proposal

The Technical Proposal will contribute 70% toward the Offeror's overall score for each Proposal submitted. No financial information is to be included in the Technical Proposal. The Technical Proposal must be submitted separately from the Cost Proposal, as described in Section E.3.

Proposals that do not include all the requirements listed in sections 1) through 5), below, may be considered non-responsive, resulting in rejection of the Proposal.

The Technical Proposal must consist of the following:

1) **Transmittal Letter**

The Transmittal Letter must be signed in ink by an official authorized to bind the organization to the provisions of the RFP and Proposal.

The Transmittal Letter must include:

- a) Identification of the person who will serve as primary contact for the State's Issuing Officer and that person's address, e-mail address, telephone and fax numbers.
- b) Identification of the person assigned to this project who is a Fellow or Associate of the Society of Actuaries or a member of the American Academy of Actuaries.
- c) Identification of the Certified Public Accountant assigned to the project.
- d) A statement of disclosure, in accordance with section C.4.a., for the offeror and/or any subcontractor, of all business relationships with and/or ownership interests in any managed care plan and/or health insurance program operating in New York State. In cases where such relationship(s) and/or interests exist, Offeror must describe how an actual or potential conflict of interest and/or disclosure of confidential information relating to this contract will be avoided.
- e) A statement in accordance with Section C.4.c., that the offeror guarantees knowledge and full compliance with the provisions of the Public Officers Law for purposes of this RFP and procurement. Failure to comply with these provisions may result in disqualification from the procurement process, or withdrawal of a proposed contract award, and criminal proceedings as may be required by law.
- f) The name, title and responsibilities of all officers, identifying those who are authorized to negotiate a contract with the Department consistent with the terms and conditions of the RFP and who will have ultimate responsibility and accountability for this contract.
- g) A description of any relevant litigation, charges, convictions, investigations and/or disciplinary actions in which the Offeror is presently involved, that may affect the ability to perform with regard to this project.

2) **Required Forms**

In addition to the Transmittal Letter, the Offeror must complete the following Required Forms, which can be found in the Attachments referenced below:

- Attachment II - Offeror's Assurances
- Attachment III - Offeror's Questionnaire
- Attachment VI - Vendor Responsibility Attestation
- Attachment XI - NYS Taxation and Finance Form St-220-CA

3) Subcontractors

For each proposed subcontractor:

- a) Provide the full name and address of any organization with which the Offeror will subcontract for any services under the project.
- b) Describe the services the subcontractor will provide and how such services will be coordinated and managed by the Offeror. Describe the existing business relationship between the Offeror and the proposed subcontractor(s), including a brief description of the projects on which the Offeror and subcontractor are currently working. Also include how core services, such as actuarial consulting and certification of rates, will be coordinated and provided in a timely way.
- c) List responsible officers of each subcontractor, including those individuals authorized to negotiate for subcontractors.
- d) List any financial interest and/or control which the Offeror has in proposed subcontractors.
- e) Provide evidence of all potential subcontractor willingness to participate or enter into sub-contractual arrangements.
- f) Provide a description of any relevant litigation (pending or final), judgments, convictions and pending or final disciplinary actions for the subcontractor that may affect the ability to perform with regard to this project if a contract award is made as a result of this RFP.
- g) Provide a Vendor Responsibility Questionnaire and a Vendor Responsibility Attestation for any subcontractor that is known at the time of the proposal submission and whose subcontract will equal or exceed \$100,000 in any year during the contract period (See Attachment VI).

4) New York State Contract Work

List any New York State contract work within the previous five years for the Offeror and any of its proposed subcontractors. Include the following:

- a) State contracting agency
- b) Contact person
- c) Telephone number of contact person
- d) Project dollar amount
- e) Time frame
- f) Brief statement of the work performed

5) Response to Offeror's Questionnaire

Provide a response to the Offeror's Questionnaire included in Attachment III to this RFP.

c. Cost Proposal

This is a competitive procurement, which will result in a fixed hourly rate contract with a maximum amount payable under the contract. The maximum amount for the agreement will be determined based upon the approved budgeted amount.

The Cost Proposal will contribute 30% toward the Offeror's overall score.

Proposals that do not include all the requirements listed in sections 1) through 3), below, may be considered non-responsive, resulting in rejection of the Proposal(s).

The Cost Proposal must consist of the following:

1) Cost Transmittal Letter

The Cost Transmittal Letter must be signed in ink by an individual authorized to bind the Offeror to its provisions. It must include a statement of assurance that the offer will remain valid and not subject to change for a minimum of 270 days from the Proposal Due Date shown in the Schedule of Key Events, page i of this RFP.

2) Cost Proposal Form

a) The following assumptions must be used by the Offeror in completing this Form:

- (1) Hourly rates must be inclusive of all costs including salaries, fringe benefits, administrative costs, overhead, travel, presentation costs and profit. Note: travel reimbursement rates should not exceed the rates established by the NYS Comptroller for state employees. For more information on the current travel reimbursement rates, visit <http://osc.state.ny.us/agencies/travel/reimbrate.htm>.
- (2) Hourly rates will be established for contract years one (1) and two (2), three (3) and four (4), and year five (5). The Offeror shall propose hourly rates for the initial two years of the contract. The pricing for contract years three (3) and four (4), and year five (5) will be subject to an hourly rate increase of the lesser of three percent (3%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C., 20212 for the 12 month period ending ninety (90) days prior to beginning of contract year three (3) and contract year five (5).
- (3) Hourly rates must be separately proposed for each level of staff described in Attachment VII – Cost Proposal. Based on Department experience with its actuarial consultant, the ratio of staff hours for tasks should be assumed to be 30% Level 1 Staff, 45% Level 2 Staff and 25% Level 3 Staff as described.
- (4) The estimated ratio of staff hours is provided to potential Offerors solely for the purpose of constructing the proposal. The actual ratio of staff utilized may be different than this estimate.
- (5) The estimated number of hours to be required by the Department for the contract is 6,000 hours per year. This estimate is provided to potential Offerors solely for

the purpose of constructing the proposal. It is not a guarantee of the number of hours that can be billed by the successful Offeror should a contract award be made as a result of this RFP. The actual number of hours paid under the contract may be higher or lower than this estimate.

(6) The Task Specifications described in Section C.3. should be considered when developing cost proposal.

b) A completed Cost Proposal Form, Attachment VII, must be submitted. The Cost Proposal Form consists of the hourly rates for each of the staff levels listed on the form, the Offeror's proposed contract cost based on the above assumptions, and the staff titles included in each staff level.

3) Bid Form – Attachment IV

4) State Consultant Services Form A, Contractor's Planned Employment from Contract Start Date through End of Contract Term – Attachment VIII

2. METHOD OF AWARD

a. Vendor Selection

At the discretion of the Department of Health, all bids may be rejected. The evaluation of the bids will include, but not be limited to the following considerations:

1) Evaluation and Selection Committees

The Technical and Cost Proposals will be evaluated separately by a Technical Evaluation Committee and a Financial Evaluation Committee, respectively. These committees will report to a Selection Committee who will select the proposal which best meets the requirements of the Department.

2) Evaluation Criteria

All proposals received shall be subject to an evaluation, for the purposes of selecting the Offeror with whom a contract will be signed. The review will include, but not be limited to, the proposal's compliance with the terms, conditions, and other provisions contained in this RFP; the Offeror's responsiveness of the technical proposal to the requirements of the Department specified in this RFP; qualifications and experience of the Offeror's assigned personnel and prior experience of the Offeror; and total cost of the proposal.

The scoring will be performed as follows:

a) Minimum Requirements

Initially, all proposals will be screened to determine adherence to RFP requirements as contained in the Transmittal Letter, Offeror's Assurances (Attachment I) and the submission requirements contained in Sections E.3.a. and E.3.b. Proposals found to be non-responsive will be eliminated from further consideration.

Proposals passing the initial screen will be evaluated for technical content.

b) Technical Score

Proposals passing the minimum requirements responsiveness screen will be evaluated and scored by the Technical Evaluation Committee using a weighted point system. The evaluation of the Offeror's Technical Proposal will be based on the written Proposal and information obtained through reference checks.

The following formula will be used to determine each bidder's final technical proposal score:

$t = (x / y) * 70$ where:
x = technical score of proposal being scored,
y = technical score of highest technical scoring proposal,
70 = total technical points available, and
t = normalized technical score for bidder being scored

The Technical Proposal maximum score of 70 will be awarded to the bidder with the highest scoring technical proposal.

c) Cost Score

The evaluation team for the Financial Proposal will use the OHIP projected work volume level of **6,000 hours** in the first year of the contract for the purposes of comparing and scoring the Financial Proposal bids. The Financial Proposal maximum score of 30 will be awarded to the bidder with the lowest total annual cost.

Scores ranging up to 30 will be awarded to bidders by calculating the percentage that the lowest monthly cost is of the other bidders' monthly cost, and then multiplying that percentage times the maximum score of 30.

The following formula will be used to determine each bidder's final financial proposal score:

$t = (y / x) 30$ where:
x = monthly cost of bid being scored,
y = monthly cost of lowest bid,
30 = maximum total Financial Proposal score, and
t = final normalized Financial Proposal score for bidder being scored

d) Total Combined Score

There is a maximum achievable total score of 100 (Technical Proposal score 70 plus Financial Proposal score 30). Bidders will be ranked from high to low according to their total combined Technical Proposal and Financial Proposal score. **The bidder with the highest total combined Technical Proposal score and Financial Proposal score and who is deemed to be a responsible vendor and reflects the best value to the State of New York will be selected.**

b. Notification of Award

After evaluation and selection of the contractor, all Offerors will be notified in writing of the acceptance or non-selection of their proposals. The name of the successful Offeror may be disclosed. Press releases pertaining to this project shall not be made by the successful bidder without prior written approval by the Department and then only in conjunction with the Issuing Agency identified in this RFP.

c. Acceptance of Deliverables and Payments

E. ADMINISTRATIVE

1. Issuing Agency

This RFP is issued by the NYS Department of Health. The Department is responsible for the requirements specified herein and for the evaluation of all proposals.

2. Inquiries

Any questions concerning this proposal should be directed to the person and address listed as the Mailing Address under the Department of Health Contact Information, page i.

The DOH encourages prospective Offerors to submit questions relating to the RFP in writing. Each question must cite the particular RFP section to which it refers. Questions must be received by the Department on or before 5:00 pm, Albany, New York time, at the mailing address and on the date specified as the dead line for Written Questions Due in the Schedule of Key Events on page i.

From the date of issue of this RFP until the execution of a contract through the Office of the State Comptroller, all contacts concerning the contents of this RFP must be made through the designated contact or permissible subject matter contacts listed on page ii via fax or e-mail addresses listed.

Questions and answers, as well as any RFP updates and/or modifications, will be posted on the Department of Health's website at <http://www.nyhealth.gov/funding/> by the date indicated in the Schedule of Key Events, page i.

Offerors must provide written affirmation that they understand and agree to comply with the procedures of the Department relative to permissible contacts, as required by §§ 139-j(3) and 139-j(6)(b) of the State Finance Law, by completing the Bid Form (see Section D.1.c.3 of this RFP and Attachment IV).

3. Submission of Proposals

a. Submission Summary

Interested Offerors should submit an original and five signed copies plus one unbound copy of their Bid Proposal not later than 5:00 P.M., Albany, New York time on the Proposal Due Date listed on Schedule of Key Events, page i. For further details regarding the submission, see Section E.3.b., Requirements for Submission of Proposal, below.

Responses to the proposal should be clearly marked as described in Section E.3.b., Requirements for Submission of Proposal, below and directed to

Division of Managed Care
Bureau of Program Planning and Implementation
Empire State Plaza
Corning Tower - Room 1927
Albany, NY 12237-0063
Attention: Vida Wehren

It is the Offerors' responsibility to see that bids are delivered to the Empire State Plaza, Corning Tower, Room 1927 prior to the date and time of the bid due date. Late bids due to delay by the carrier or not received in the Department's mail room in time for transmission to room 1927 will not be considered.

- ❑ The Bid Form must be filled out in its entirety.
- ❑ The responsible corporate officer for contract negotiation, consistent with the scope of this RFP, must be listed and the list must be signed by the responsible officer.
- ❑ All evidence and documentation requested under Proposal Requirements must be provided at the time the proposal is submitted.

b. Requirements for Submission of Proposal

The following are general requirements to which an Offeror must adhere in submitting a proposal in response to the RFP:

- 1) The Offeror must submit its proposal in two parts: Technical and Cost. Information required from Offerors and a detailed explanation of the required format for the technical and financial proposals are contained in Section D, Proposal Requirements;
- 2) To facilitate the evaluation process, the Offeror is required to submit one original, 5 bound copies, and one unbound copy of both the Technical and Cost proposal (7 complete signed sets in all); and one (1) electronic copy of the complete Bidder's Proposal must be submitted in a standard searchable PDF format on a closed session CD-R (not CD-RW), with copy/read permissions. The CD must be clearly labeled.
- 3) The Technical and Cost portions of the proposal must be separately bound, placed in separately sealed envelopes and labeled as either Technical or Cost. No cost information should be in the Technical Proposal. Both sealed envelopes, however, should be submitted in the same package. The package(s) must indicate the following on the outside:

- ✓ Offeror's Name and Address
NYS DOH Response to OFFICE OF HEALTH INSURANCE PROGRAMS
NEW YORK STATE MEDICAID ACTUARIAL AND CONSULTING SERVICES
- ✓ Proposal Due Date

All copies of the proposal must be properly identified and mailed or hand delivered to the person and address listed as the Mailing Address in the DOH Contact Information, page i.

- 4) Proposals must be received by the Department on or before 5:00 P.M., Albany, New York time on the Proposal Due Date in the Schedule of Key Events at the Mailing Address set forth in the DOH

Contact Information, on page i of this RFP. Any Offeror's proposal made in response to this RFP not received by 5:00 P.M. on the closing date for receipt of proposals will not be accepted.

- 5) The Offeror must allow sufficient time for mail delivery to ensure receipt of its proposal by the specified time and should utilize certified or registered mail with return receipt requested. NO FAX OR E-MAIL COPIES WILL BE ACCEPTED.

c. Requests for Supplemental Information Regarding Proposals

During the evaluation period, Offerors may be requested by the Department to present supplemental information clarifying their proposal. This information must be in writing and will be included as a formal part of the Offeror's proposal.

d. Disclosure of Proposal Contents

To the extent permitted by law, an Offeror's proposal will not be disclosed, except for purposes of evaluation, prior to approval by the Comptroller of the resulting contract. All material submitted becomes the property of the Department and may be returned at the Department's discretion. Submitted proposals may be reviewed and evaluated by any person, other than one associated with a competing Offeror, designated by the Department. If an Offeror believes that any information in its proposal constitutes a trade secret and wishes such information not to be disclosed if requested by a member of the public pursuant to the State Freedom Of Information Law, Article 6, of the Public Officers Law, the Offeror shall submit with its proposal a letter specifically identifying by page number, line or other appropriate designation that information which is a trade secret and explaining in detail why such information is a trade secret. Failure by an Offeror to submit such a letter with its offer identifying trade secrets shall constitute a waiver by the Offeror of any rights it may have under Section 89, Subdivision 5, of the Public Officers Law relating to protection of trade secrets.

4. Department of Health Rights

The Department of Health Reserves the Right to:

- a. Reject any or all proposals received in response to this RFP.
- b. Waive or modify minor irregularities in proposals received after prior notification to the Offeror.
- c. Adjust or correct cost or cost figures with the concurrence of Offeror if errors exist and can be documented to the satisfaction of DOH and the State Comptroller.
- d. Negotiate with vendors responding to this RFP within the requirements to serve the best interests of the State.
- e. Eliminate mandatory requirements unmet by all Offerors.
- f. If the Department of Health is unsuccessful in negotiating a contract with the selected vendor within an acceptable time frame, the Department of Health may begin contract negotiations with the next qualified vendor(s) in order to serve and realize the best interests of the State.

5. Payment

If awarded a contract, the Contractor shall submit invoices to the State's designated payment office:

New York State Department of Health
Division of Managed Care
Bureau of Managed Care Financing
Empire State Plaza
Corning Tower - Room 1970
Albany, NY 12237 - 0063
Attention: Nicholas Cioffi

Payment of such invoices by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law. Payment terms will be:

- a. In consideration of the Contractor's satisfactory performance of the services described in the Agreement, the Department agrees to pay the Contractor in accordance with the rate schedule for the provision of actuarial and other consulting services, based on actual hours spent, up to the maximum amount payable under the contract.
- b. The Contractor represents and agrees to submit all claims for payment in a form satisfactory to the Department and the Comptroller of the State of New York on a monthly basis.
- c. The Department shall not be liable for the payment of any taxes under the Agreement, however designated, levied or imposed.

The State of New York is not liable for any cost incurred by prospective Offerors prior to the approval of an executed contract by the Comptroller of the State of New York. Additionally, no cost will be incurred by the State for any activity by the selected Contractor prior to the contract award.

6. Term of Contract

The agreement will be for a five-year period.

This agreement shall be effective upon approval of the NYS Office of the State Comptroller. The anticipated contract period is 10/28/09 – 10/27/14.

This agreement may be canceled at any time by the Department of Health giving to the contractor not less than thirty (30) days written notice that on or after a date therein specified this agreement shall be deemed terminated and cancelled.

7. Debriefing

Once an award has been made, Offerors may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the Offeror's proposal, and will not include any discussion of other proposals. Requests must be received no later than three months from date of award announcement.

8. Vendor Responsibility Questionnaire

New York State Procurement Law requires that state agencies award contracts only to responsible vendors. 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 www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC 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 Department of Health or the Office of the State Comptroller for a copy of the paper form. Bidders must also complete and submit the Vendor Responsibility Attestation (Attachment XIII).

While not required as part of the proposal, bidders may also be asked to provide documentation to aid in the review of vendor responsibility, including but not limited to:

- Proof of financial stability in the form of audited financial statements, Dunn & Bradstreet Reports, or, if these are not available, unaudited or pro-forma statements.
- Department of State Registration.
- Certificate of Incorporation, together with any and all amendments thereto; Partnership Agreement; or other relevant business organizational documents, as applicable.

9. State Consultant Services Reporting

Chapter 10 of the Laws of 2006 amended certain sections of State Finance Law and Civil Service Law to require disclosure of information regarding contracts for consulting services in New York State.

The winning bidders for procurements involving consultant services must complete a "State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term" in order to be eligible for a contract.

Winning bidders must also agree to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" for each state fiscal year included in the resulting contract. This report must be submitted annually to the Department of Health, the Office of the State Comptroller, and Department of Civil Service.

Both of these forms are included as attachments to this document.

10. Lobbying Statute

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, provides, among other things, the following as pertains to development of procurement contracts with governmental entities:

- a. makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b. requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;

- d. authorizes the New York State Commission on Public Integrity to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e. directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- f. requires the timely disclosure of accurate and complete information from Offerors with respect to determinations of non-responsibility and debarment;
- g. expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts;
- h. modifies the governance of the New York State Commission on Public Integrity;
- i. provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
- j. increases the monetary threshold which triggers a lobbyist’s obligations under the Lobbying Act from \$2,000 to \$5,000; and
- k. establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii) activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new section 1-t was added to the Legislative Law establishing an Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerors. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York State Commission on Public Integrity regarding procurement lobbying, the Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Commission on Public Integrity.

11. Accessibility of State Agency Web-based Intranet and Internet Information and Applications

Any web-based intranet and internet information and applications development, or programming delivered pursuant to the contract or procurement will comply with NYS Office for Technology Policy P04-002, “Accessibility of New York State Web-based Intranet and Internet Information and Applications”, and NYS Mandatory Technology Standard S04-001, as such policy or standard may be amended, modified or superseded, which requires that state agency web-based intranet and internet information and applications are accessible to persons with disabilities. Web content must conform to NYS Mandatory Technology Standard S04-00, as determined by quality assurance testing. Such quality assurance testing will be conducted by Department of Health, contractor or other, and the results of such testing must be satisfactory to the Department of Health before web content will be considered a qualified deliverable under the

contract or procurement.

12. Information Security Breach and Notification Act

Section 208 of the State Technology Law (STL) and Section 899-aa of the General Business Law (GBL) require that State entities and persons or businesses conducting business in New York who own or license computerized data which includes private information including an individual's unencrypted personal information plus one or more of the following: social security number, driver's license number or non-driver ID, account number, credit or debit card number plus security code, access code or password which permits access to an individual's financial account, must disclose to a New York resident when their private information was, or is reasonably believed to have been, acquired by a person without valid authorization. Notification of breach of that private information to all individuals affected or potentially affected must occur in the most expedient time possible without unreasonable delay, after measures are taken to determine the scope of the breach and to restore integrity; provided, however, that notification may be delayed if law enforcement determines that expedient notification would impede a criminal investigation. When notification is necessary, the State entity or person or business conducting business in New York must also notify the following New York State agencies: the Attorney General, the Office of Cyber Security & Critical Infrastructure Coordination (CSCIC) and the Consumer Protection Board (CPB). Information relative to the law and the notification process is available at:

<http://www.cscic.state.ny.us/security/securitybreach/>

13. New York State Tax Law Section 5-a

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Tax and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an Offeror meeting the registration requirements but who is not so registered in accordance with the law.

Contractor must complete and submit directly to the New York State Taxation and Finance, Contractor Certification Form ST-220-TD attached hereto. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s), a new form (ST-220-TD) must be filed with DTF. Contractor must complete and submit to the Department of Health the form ST-220-CA attached hereto, certifying that the contractor filed the ST-220-TD with DTF. Failure to make either of these filings may render an Offeror non-responsive and non-responsible. Offerors shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

14. Piggybacking

New York State Finance Law section 163(10)(e) (see also <http://www.ogs.state.ny.us/procurecounc/pgbguidelines.asp>) allows the Commissioner of the NYS Office of General Services to consent to the use of this contract by other New York State Agencies, and other authorized purchasers, subject to conditions and the Contractor's consent.

15. M/WBE Utilization Plan for Subcontracting and Purchasing

The Department of Health (DOH) encourages the use of Minority and/or Women Owned Business Enterprises (M/WBE's) for any subcontracting or purchasing related to this contract. Offerors who are not currently a New York State certified M/WBE must define the portion of all consumable products and personnel required for this proposal that will be sourced from a M/WBE. The amount must be state in total dollars and as a percent of the total cost necessary to fulfill the RFP requirement. Supportive documentation must include a detail description of work that is required including products and services.

The goal for usage of M/WBE's is at least 10% of monies used for contract activities (Minority-owned – 5%; Women-owned – 5%). In order to assure a good-faith effort to attain this goal, the DOH requires that bidders complete the M/WBE Utilization Plan (Attachment XII) and submit this Plan with their bid documents.

Offerors that are New York State certified MBE's or WBE's are not required to complete this form. Instead, such offerors must simply provide evidence of their certified status.

Failure to submit the above referenced Plan (or evidence of certified M/WBE status) may result in disqualification of the vendor from consideration for award.

F. APPENDICES

The following will be incorporated as appendices into any contracts resulting from this Request for Proposal. This Request for Proposal will, itself, be referenced as an appendix of the contract.

APPENDIX A - Standard Clauses for All New York State Contracts

APPENDIX B - Request for Proposal

APPENDIX C - Proposal

The Offeror's proposal (if selected for award), including the Bid Form and all proposal requirements.

APPENDIX D - General Specifications

APPENDIX E

Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

Workers' Compensation, for which one of the following is incorporated into this contract as Appendix E-1:

- **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- **C-105.2** – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
- **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.
- Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2**:
 - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - **DB-120.1** – Certificate of Disability Benefits Insurance; OR
 - **DB-155** – Certificate of Disability Benefits Self-Insurance.
- APPENDIX H – Health Insurance Portability and Accountability Act (HIPAA) (if applicable)

G. LIST OF ATTACHMENTS

- I. Offeror's Assurances
- II. Offeror's Questionnaire
- III. Bid Form
- IV. No Bid Form
- V. Vendor Responsibility Attestation
- VI. Cost Proposal Form
- VII. State Consultant Services Form A
- VIII. State Consultant Services Form B
- IX. NYS Taxation and Finance Form ST-220-TD
- X. NYS Taxation and Finance Form ST-220-CA
- XI. Miscellaneous/Consultant Services Contact Boilerplate and Contract
- XII. M/WBE Utilization Plan
- Appendices
 - Appendix A - Standard Clauses for NYS Contracts
 - Appendix D - General Specifications
 - Appendix H - Federal Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement

ATTACHMENT I
Offeror's Assurances

Offeror Corporate Name: _____

Corporate Address: _____

FEIN: _____

The Offeror's Assurances form **MUST** be signed in ink by an official authorized to bind the organization to the provisions of the RFP and Proposal. **Proposals that do not include this signed form will be considered non-responsive, resulting in rejection of the Proposal.**

- a) The Offeror is willing and ready to provide the services defined in the RFP in a timely manner.
- b) The Offeror is financially able to perform the tasks related to this project.
- c) The Offeror agrees to the proposed contract language, as defined in the RFP and all appendices, except to the extent that the Offeror sets forth, within the Transmittal Letter, explicit exceptions or modifications that are clearly identified as such. The Offeror understands that any such exceptions or modifications are not binding until agreed to by the Department and approved by the Office of the State Comptroller and the Attorney General. The Offeror further understands that, depending on the nature of the exceptions or requested modifications, such exceptions or requested modifications may render the Offeror's proposal non-responsive and, hence, lead to its rejection.
- d) The Offeror assures that the proposal will remain valid and not subject to change for a minimum period of 270 days from the proposal due date.
- e) The Offeror assures its ability to perform all services required under the contract, or, if the Offeror intends to subcontract, the Offeror assures that it will perform the majority of services under the contract and will retain all management and oversight responsibilities.
- f) The Offeror agrees to meet the criteria for the Federal Health Insurance Portability and Accountability Act (HIPAA) as found in the Business Associate Agreement found in Appendix H of Attachment XVI.
- g) The Offeror agrees to comply with the requirements of the Procurement Lobbying Statute. The Offeror has also completed, and returned with the proposal, the "Bid Form" included in Attachment IV of this RFP.
- h) The Offeror agrees to disclose information as required by the Consultant Disclosure Legislation. The Offeror has also completed, and returned with the proposal, "State Consultant Services Form A, Contractor's Planned Employment from Contract Start Date through End of Contract Term", included in this RFP as Attachment VIII.
- i) The Offeror assures that it conforms to vendor responsibility requirements of State Finance Law. The Offeror has also completed, and returned with the proposal, the "Vendor Responsibility Questionnaire" (Attachment VI) and all other related documentation listed in Section E.8. of this RFP.

Signature of Authorized Official

Date

Name/Title of Authorized Official: _____

Phone/Fax/Email of Authorized Official: _____

ATTACHMENT II
Offeror's Questionnaire

A. Core tasks related to this RFP include:

Task 1: Develop or assist in development of rate-setting methodologies for new or existing managed care programs within the context of applicable state and federal laws and regulations including the Balanced Budget Act.

1. Describe your company's experience in assisting States in the development of new and/or existing Medicaid capitation programs for the following types of Medicaid recipients and specify the experience of the staff you are proposing to assign for each activity:

- Non-disabled Medicaid population.
- Medicaid disabled and elderly populations, including SSI and SSI-like recipients.
- Nursing Home Certifiable population, including the PACE model and other long term care models.
- Dually Eligible Population.
- Expansion of Medicaid coverage to uninsured populations.

Include any experience with the development of Medicare Advantage rate setting.

For each of the above populations, describe methodologies used to establish appropriate Medicaid capitation rates, both for initial rates, and for more mature programs. Include your experience using various data sources such as Medicaid encounter data, plan operating reports, historical fee for service data, etc. to establish Medicaid capitation rates.

Describe your company's experience in developing Fee-For-Service Equivalents (FFSE) and working with large Medicaid fee-for-service paid claims and eligibility data. Assume that State staff will prepare data summary files of historical fee-for-service claims aggregated by premium group, region, etc. Describe the methods that you would use to calculate the FFSE based on these data. Include in your description the data and methods that you would use to develop trend, program adjustments and any other factors that would impact fee-for-service equivalent costs or be used to determine the FFSE.

2. Provide the information shown below for as many as three (3) current or former clients that can provide references for similar rate setting activities. This should include references for work performed by a subcontractor for this task if applicable.

- Name and telephone number of contact
- Organization name and address

- Description of services performed
- Dates when services were performed
- Staff assigned to this proposal, who worked on the referenced project and a description of their role on the referenced project.

Task 2: Assist in meeting the requirements of the Balanced Budget Act including attestation of actuarial soundness and certification of plan rates in accordance to the BBA.

1. Describe your company's experience in certifying to the actuarial soundness of State developed capitation rates for Medicaid managed care programs. Describe the methods used in determining actuarial soundness for particular programs in NYS and/or other states (i.e., rate ranges, FFSEs, etc.). Indicate the specific relevant experience of the staff that you will assign to this contract. Specify in your response the data sources and methodology used to determine actuarial soundness.
2. Describe your company's experience in working with CMS, whether CMS accepted the actuarial soundness methodology utilized, and describe any questions or issues raised by CMS.
3. As described in Section B2, New York State Mainstream and FHPlus rates are based on a risk adjustment methodology using encounter data for development of a relative risk score and the plan reported costs from its annual MMCOR for development of a regional base rate. MLTC rates are generally negotiated with each plan using historical plan reported data and regional norms. Plans submit detailed premium proposals as the starting point for individual plan negotiations. Approved plan rates may be trended forward an additional year by applying a uniform trend factor every other year. Given these two distinct rate setting methods, provide a detailed description of how the Offeror will determine New York State plan rates as actuarially sound for each program and meeting the requirements of the Balanced Budget Act. Include any work with other States that employ a similar rate setting method if applicable.
4. Provide the information shown below for as many as three (3) current or former clients that can provide references activities related to the certification of rates. This should include references for work performed by a subcontractor for this task if applicable.
 - Name and telephone number of contact
 - Organization name and address
 - Description of services performed
 - Dates when services were performed
 - Staff assigned to this proposal, who worked on the referenced project and a description of their role on the referenced project.

Task 3: Assist in the development of the Family Health Plus “BUY IN” Insurance Program.

1. Describe your company’s experience working with other states to develop similar programs which may incorporate community rates, uniform benefit package and premiums intended to provide affordable coverage for employers. Describe any specific program aspects that effectively deal with underinsured and uninsured employer groups. Specify in your response the experience of the staff that you will assign to this contract.
2. Provide the information shown below for as many as three (3) current or former clients that can provide references for similar program initiatives. This should include references for work performed by a subcontractor for this task if applicable.
 - Name and telephone number of contact
 - Organization name and address
 - Description of services performed
 - Dates when services were performed
 - Staff assigned to this proposal, who worked on the referenced project, including a description of their role on the referenced project.

B. Other Tasks related to this RFP may also include, but are not limited to the following:

Task 1: Provide technical assistance regarding use of risk adjusted rate setting techniques for Medicaid and other managed care programs.

1. Describe your company’s experience with risk adjusted rate setting techniques in general and specifically your experience with various risk group models such as the Clinical Risk Group (CRG), Adjusted Clinical Group (ACG), Diagnostic Cost Group (DCG), Chronic Illness and Disability Payment System (CDPS), etc.
2. Describe your company’s experience in evaluating plan encounter data including what tools have been used to assess the completeness and accuracy of the data.
3. Describe the experience of the staff to be assigned for providing technical assistance regarding these techniques. Include a description of the technique(s) used, applicable Medicaid populations and an assessment of the effectiveness of the risk adjusted methodology.
4. Provide the information shown below for as many as three (3) current or former clients that can provide references for activities related to risk adjusted rate setting techniques. This should include references for work performed by a subcontractor for this task if applicable.
 - Name and telephone number of contact
 - Organization name and address

- Description of services performed
- Dates when services were performed
- Staff assigned to this proposal, who worked on the referenced project, including a description of their role on the referenced project.

Task 2: Provide technical assistance regarding use of risk adjusted rate setting techniques for the Nursing Home Certifiable population.

1. Describe your company's experience working with risk adjustment models for such a population including any methods for recognizing differences in the Activities of Daily Living (ADL) in addition to the more typical diagnosis based risk software described above in Task 1 of Section 2A. Discuss which if any of these methods would be relevant to New York State's MLTC program taking into account the rate setting methodology currently employed, the number of plans, any MIS implications, or other relevant factors. Include data you would use to measure the frailty of the MLTC population for setting a risk rate.
2. New York State does not have a uniform definition of Nursing Home Certifiable across its fee for service and managed care programs. Describe your company's experience identifying/defining a Nursing Home Certifiable population. Identify the methods used to identify this population including data sources, distinguishing criteria and the technique used to identify this population.
3. Describe which staff would be assigned to this project, including any subcontractor's staff, if applicable. Specify in your response the experience of the staff and/or subcontractor's staff that you have proposed to assign to this contract.
4. Provide the information shown below for as many as three (3) current or former clients that can provide references for activities related to risk adjusted rate setting techniques for a Nursing Home Certifiable population. This should include references for work performed by a subcontractor for this task if applicable.
 - Name and telephone number of contact
 - Organization name and address
 - Description of services performed
 - Dates when services were performed
 - Staff assigned to this proposal, who worked on the referenced project and a description of their role on the referenced project

Task 3: Assist in refinement of existing financial monitoring tools and on-site monitoring techniques.

1. Describe the following:
 - a. Your company's experience in evaluating the financial performance, financial condition and efficiency of managed care plans.

- b. Describe the monitoring methods and tools that you would suggest to the Department, including IBNR, administrative overhead, appropriateness of medical costs and methods used to evaluate plan performance.
 - c. Describe which staff would be assigned to this project, including any subcontractor's staff, if applicable.
 - d. Specify in your response the experience of the staff and/or subcontractor's staff that you have proposed to assign to this contract.
2. Provide the information shown below for as many as three (3) current or former clients that can provide references for activities related to monitoring plan financial performance. This should include references for work performed by a subcontractor for this task if applicable.
 - Name and telephone number of contact
 - Organization name and address
 - Description of services performed
 - Dates when services were performed
 - Staff assigned to this proposal, who worked on the referenced project and a description of their role on the referenced project.

Task 4: Provide technical assistance in evaluating management agreements, contracts between related parties, and cost sharing and cost allocation methods as they impact on managed care plans.

1. Describe your company's experience in evaluating the appropriateness and cost effectiveness of the above types of agreements, including the experience of staff to be assigned to this task.

Task 5: Provide actuarial assistance and financial/accounting technical assistance, as required.

1. Describe the types of that you have provided to clients other than those described above. Include but do not limit your response to the following types of activities: comparative analyses of state Medicaid managed care and fee-for-service programs, analysis of federal legislation and regulation affecting Medicaid managed care and fee-for-service programs, design of benefit packages for new managed care initiatives, consulting services provided to government programs and consulting on federal Medicaid waivers and budget neutrality.
2. Describe the Offeror's access to various sources of expertise that may be needed to complete ad hoc assignments such as access to expertise in Medicaid rules and regulations, access to clinical expertise, etc. Describe how quickly this expertise can be made available to your company.
3. Provide the information shown below for as many as three (3) current or former clients that can provide references for the types of activities specified in item 1

above. This should include references for work performed by a subcontractor for this task if applicable.

- Name and telephone number of contact
- Organization name and address
- Description of services performed
- Dates when services were performed
- Staff assigned to this proposal, who worked on the referenced project and a description of their role on the referenced project.

Task 6: Provide a full range of consulting services. The Offeror shall:

- A. Make available to DOH a full breadth of consulting services based on the most current and comprehensive information available, including but not limited to such areas as:
- Plan design consulting
 - Consulting on vendor selection
 - Regulatory and compliance
 - Risk management
- B. Assist DOH with the development, analysis, design and/or review of solicitation instruments (e.g., requests for proposals) and their associated evaluation criteria developed by DOH for any of the benefit programs administered by the Office of Health Insurance Programs; and
- C. At the request of OHIP, put forward recommendations regarding proposed benefit/plan design changes

Provide information regarding prior consulting projects you have undertaken with other governmental organizations administering public health benefit programs. Describe the types of analyses you have provided that make use of the most current employee benefit data and information in the marketplace. Services may include, but not be limited to the analyses of state and federal legislation related to public health insurance programs; the impact of federal rules, regulations and administrative directives on NYS Medicaid; the delivery and/or financing of Medicaid covered services; and development of federal waivers and/or state plan amendments.

Provide the information below for as many as three (3) current or former clients that can provide references for analyses described in item 1 above and include references for work performed by subcontractors where applicable, in the following format:

- Name and telephone number of contact
- Organization name and address
- Description of services performed
- Dates when services were performed
- Staff assigned to this proposal, who worked on the referenced project and a description of their role on the referenced project.

No

Yes

1c. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

(Add additional pages as necessary)

2a. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No

Yes

2b. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding:

(Add additional pages as necessary)

C. Offeror/Bidder certifies that all information provided to the Department of Health with respect to State Finance Law §139-k is complete, true and accurate.

D. Offeror/Bidder agrees to provide the following documentation *with their submitted bid/proposal* as indicated below:

1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220.

2. A completed N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire (for procurements greater than or equal to \$100,000)

3. A completed State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(e-mail Address)

ATTACHMENT IV
NEW YORK STATE
DEPARTMENT OF HEALTH

NO-BID FORM

PROCUREMENT TITLE: _____ FAU # _____

Bidders choosing not to bid are requested to complete the portion of the form below:

- We do not provide the requested services. Please remove our firm from your mailing list
- We are unable to bid at this time because:

- Please retain our firm on your mailing list.

_____ (Firm Name)

_____ (Officer Signature) _____ (Date)

_____ (Officer Title) _____ (Telephone)

_____ (e-mail Address)

FAILURE TO RESPOND TO BID INVITATIONS MAY RESULT IN YOUR FIRM BEING REMOVED FROM OUR MAILING LIST FOR THIS SERVICE.

ATTACHMENT V
Vendor Responsibility Attestation

To comply with the Vendor Responsibility Requirements outlined in Section E, Administrative, 8. Vendor Responsibility Questionnaire, I hereby certify:

Choose one:

- An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: <https://portal.osc.state.ny.us> within the last six months.

- A hard copy Vendor Responsibility Questionnaire is included with this proposal/bid and is dated within the last six months.

- A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations.

Signature of Organization Official: _____

Print/type Name: _____

Title: _____

Organization: _____

Date Signed: _____

ATTACHMENT VI Cost Proposal

Complete the information below based on the assumptions contained in Section D.1.c. – Cost Proposal section of the RFP and the information provided below.

For purposes of this proposal, use the following guidelines in assigning staff to one of the three levels listed below, provide one hourly rate for each Staff Level, and list the titles within your organization as they relate to each Staff Level. Using the proposed hourly rate, compute the Total Cost of the proposal based on the Total Hours provided. The Department reserves the right to require the reassignment of the level of staff so that all bids are evaluated on equal terms.

Level 1 Staff:

- Staff Types:** Principals, Project Leaders, Lead Consultants, or other staff with similar responsibilities.
- Experience:** These staff have extensive experience and knowledge of actuarial activities related to setting rates, developing FFSEs and evaluating methodologies. These upper level staff are seasoned professionals with generally 10-15 years of experience, and may be an actuary, accountant or a Fellow of the Society of Actuaries (FSA).
- General Duties:** Project oversight, management of Contractor's team, liaison with DOH, client relationships, and global policy development.

Level 2 Staff:

- Staff Types:** Associates, Consultants, Senior Analysts, or other staff with similar responsibilities.
- Experience:** These staff are mid-level professionals with generally 5-10 years of increasing responsibility and independent analysis work and experience, require little supervision, and generally have made progress toward achieving FSA or other relevant academic or professional affiliations.
- General Duties:** Analyze data and form preliminary conclusions and/or recommendations, but report to Level 1 staff for overall direction on project, specific policy interpretation, and may supervise lower level staff.

Level 3 Staff:

- Staff Types:** Analysts, Consulting Assistants, or other staff with similar responsibilities.
- Experience:** These staff are entry level professionals with less than 5 years experience. They work under direct supervision of mid-level staff and are generally working toward an ASA or other relevant academic or professional affiliations.
- General Duties:** Technical support and data manipulation, but not necessarily drawing conclusions or making recommendations.

Cost Proposal Form

<u>Level of Staff</u>	<u>Proposed Hourly Rate Per Staff Level</u>	x	<u>Total Hours*</u>	=	<u>Total Cost Per Staff Level</u>	<u>List Titles Assigned to Each Level</u>
Level 1	_____		1,800		_____	
Level 2	_____		2,700		_____	
Level 3	_____		<u>1,500</u>		_____	
Total			6,000		\$_____	

* For purposes of evaluation, an estimated 6,000 billable hours were assumed for the initial contract year, which have been divided among the three Staff Levels as 30% for Level 1, 45% for Level 2 and 25% for Level 3. Percent of billable hours is based on past experience and both the proportions of hours and actual hours will likely vary from these estimates. Actual payment may be higher or lower, based on the actual hours worked.

ATTACHMENT VII

State Consultant Services FORM A
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OSC Use Only Reporting Code: Category Code: Date Contract Approved:
--

Contractor's Planned Employment
From Contract Start Date through End of Contract Term

New York State Department of Health Contractor Name:	Agency Code 12000 Contract Number:
Contract Start Date: / /	Contract End Date: / /

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
Totals this page:	0	0	\$ 0.00
Grand Total:	0	0	\$ 0.00

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared: / /

Page of
(use additional pages if necessary)

Instructions

State Consultant Services
Form A: Contractor's Planned Employment
And
Form B: Contractor's Annual Employment Report

Form A: This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.

Form B: This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15th of each year to the following three addresses:

1. the designated payment office (DPO) outlined in the consulting contract.
2. NYS Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, NY 12236
Attn: Consultant Reporting
or via fax to -
(518) 474-8030 or (518) 473-8808
3. NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239
Attn: Consultant Reporting

Completing the Reports:

Scope of Contract (Form B only): a general classification of the single category that best fits the predominate nature of the services provided under the contract.

Employment Category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract. Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

Number of Employees: the total number of employees in the employment category employed to provide services under the contract during the Report Period, including part time employees and employees of subcontractors.

Number of hours (to be) worked: for Form A, the total number of hours to be worked, and for Form B, the total number of hours worked during the Report Period by the employees in the employment category.

Amount Payable under the Contract: the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.

ATTACHMENT VIII

State Consultant Services FORM B
--

OSC Use Only Reporting Code: Category Code:

Contractor's Annual Employment Report
 Report Period: April 1, ____ to March 31, ____

New York State Department of Health Contract Number: Contract Start Date: / / / Contractor Name: Contractor Address: Description of Services Being Provided:	Agency Code 12000 Contract End Date: / /
--	---

Scope of Contract (Chose one that best fits):

Analysis	Evaluation	Research
Training	Data Processing	Computer Programming
Other IT Consulting	Engineering	Architect Services
Surveying	Environmental Services	Health Services
Mental Health Services	Accounting	Auditing
Paralegal	Legal	Other Consulting

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
Totals this page:	0	0	\$ 0.00
Grand Total:	0	0	\$ 0.00

Name of person who prepared this report:
 Title:

Phone #:

Preparer's signature:
 Date Prepared: / /

Page of
 (use additional pages if necessary)

Instructions

State Consultant Services
Form A: Contractor's Planned Employment
And
Form B: Contractor's Annual Employment Report

Form A: This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.

Form B: This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15th of each year to the following three addresses:

4. the designated payment office (DPO) outlined in the consulting contract.
5. NYS Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, NY 12236
Attn: Consultant Reporting
or via fax to -
(518) 474-8030 or (518) 473-8808
6. NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239
Attn: Consultant Reporting

Completing the Reports:

Scope of Contract (Form B only): a general classification of the single category that best fits the predominate nature of the services provided under the contract.

Employment Category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract. Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

Number of Employees: the total number of employees in the employment category employed to provide services under the contract during the Report Period, including part time employees and employees of subcontractors.

Number of hours (to be) worked: for Form A, the total number of hours to be worked, and for Form B, the total number of hours worked during the Report Period by the employees in the employment category.

Amount Payable under the Contract: the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.

ATTACHMENT IX

NYS Taxation and Finance Form ST-220-TD

This form may be accessed electronically at:

http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td_606_fill_in.pdf

ATTACHMENT X

NYS Taxation and Finance Form ST-220-CA

This form may be accessed electronically at:

http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf

**ATTACHMENT XI – CONTRACT BOILERPLATE
MISCELLANEOUS / CONSULTANT SERVICES**

STATE AGENCY (Name and Address): _____ _____ _____	NYS COMPTROLLER'S NUMBER: ORIGINATING AGENCY CODE:12000 _____ TYPE OF PROGRAM(S): _____ CONTRACT TERM FROM: TO: FUNDING AMOUNT FOR CONTRACT TERM:
CONTRACTOR (Name and Address): _____ _____ _____	CHARITIES REGISTRATION NUMBER: CONTRACTOR HAS () HAS NOT () TIMELY FILED WITH THE ATTORNEY GENERAL'S CHARITIES BUREAU ALL REQUIRED PERIODIC OR ANNUAL WRITTEN REPORTS FEDERAL TAX IDENTIFICATION NUMBER: MUNICIPALITY NO. (if applicable): STATUS: CONTRACTOR IS () IS NOT () A SECTARIAN ENTITY CONTRACTOR IS () IS NOT () A NOT-FOR-PROFIT ORGANIZATION CONTRACTOR IS () IS NOT () A N Y STATE BUSINESS ENTERPRISE
_____ _____ _____	() IF MARKED HERE, THIS CONTRACT'S RENEWABLE FOR ___ ADDITIONAL ONE-YEAR PERIOD(S) AT THE SOLE OPTION OF THE STATE AND SUBJECT TO APPROVAL OF THE OFFICE OF THE STATE COMPTROLLER.

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT
 Precedence shall be given to these documents in the order listed below.

- APPENDIX A Standard Clauses as required by the Attorney General for all State Contracts.
- APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)
- APPENDIX Q Modification of Standard Department of Health Contract Language
- STATE OF NEW YORK AGREEMENT
- APPENDIX D General Specifications
- APPENDIX B Request For Proposal (RFP)
- APPENDIX C Proposal

Title: _____ . Title: _____
Date: _____ . Date: _____

STATE OF NEW YORK
AGREEMENT

This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

WHEREAS, the STATE has formally requested contractors to submit bid proposals for the project described in Appendix B for which bids were opened on the date noted on the face pages of this AGREEMENT; and

WHEREAS, the STATE has determined that the CONTRACTOR is the successful bidder, and the CONTRACTOR covenants that it is willing and able to undertake the services and provide the necessary materials, labor and equipment in connection therewith;

NOW THEREFORE, in consideration of the terms hereinafter mentioned and also the covenants and obligations moving to each party hereto from the other, the parties hereto do hereby agree as follows:

I. Conditions of Agreement

- A. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.
- B. The maximum compensation for the contract term of this AGREEMENT shall not *exceed the amount specified on the face page hereof.*
- C. This AGREEMENT may be renewed for additional periods (PERIOD), as specified on the face page hereof.
- D. To exercise any renewal option of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (the attached Appendix X is the blank form to be used). Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT. The modification agreement is subject to the approval of the Office of the State Comptroller.
- E. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.
- F. For the purposes of this AGREEMENT, the terms "Request For Proposal" and "RFP" *include all Appendix B documents as marked on the face page hereof.*
- G. For the purposes of this AGREEMENT, the term "Proposal" includes all Appendix C documents as marked on the face page hereof.

II. Payment and Reporting

- A. The CONTRACTOR shall submit invoices to the STATE's designated payment office:

- B. Payment of such invoices by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

III. Term of Contract

- A. Upon approval of the NYS Office of the State Comptroller, this AGREEMENT shall be effective for the term as specified on the cover page.
- B. This Agreement may be terminated by mutual written agreement of the contracting parties.
- C. This Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including the attachments hereto, provided that the Department shall give the contractor written notice via registered or certified mail, return receipt requested, or shall deliver same by hand-receiving Contractor's receipt therefor, such written notice to specify the Contractor's failure and the termination of this Agreement. Termination shall be effective ten (10) business days from receipt of such notice, established by the receipt returned to the Department. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.
- D. This Agreement may be deemed terminated immediately at the option of the Department upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligations by the Department to the Contractor.
- E. This agreement may be canceled at any time by the Department of Health giving to the contractor not less than thirty (30) days written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

IV. Proof of Coverage

Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

- A. Workers' Compensation, for which one of the following is incorporated into this contract as Appendix E-1:
 - 1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - 2. C-105.2 – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR

3. SI-12 – Certificate of Workers’ Compensation Self-Insurance, OR GSI-105.2 – Certificate of Participation in Workers’ Compensation Group Self-Insurance.

B. Disability Benefits coverage, for which one of the following is incorporated into this contract as Appendix E-2:

1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers’ Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
2. DB-120.1 – Certificate of Disability Benefits Insurance OR
3. DB-155 – Certificate of Disability Benefits Self-Insurance

Agency Code 12000
APPENDIX X

Contract Number: _____ Contractor: _____

Amendment Number X-_____

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through NYS Department of Health, having its principal office at Albany, New York, (hereinafter referred to as the STATE), and _____ (hereinafter referred to as the CONTRACTOR), for amendment of this contract.

This amendment makes the following changes to the contract (check all that apply):

- _____ Modifies the contract period at no additional cost
- _____ Modifies the contract period at additional cost
- _____ Modifies the budget or payment terms
- _____ Modifies the work plan or deliverables
- _____ Replaces appendix(es) _____ with the attached appendix(es) _____
- _____ Adds the attached appendix(es) _____
- _____ Other: (describe) _____

This amendment is is is not a contract renewal as allowed for in the existing contract.

All other provisions of said AGREEMENT shall remain in full force and effect.

Prior to this amendment, the contract value and period were:

\$ _____ From ____ / ____ / ____ to ____ / ____ / ____.
(Value before amendment) (Initial start date)

This amendment provides the following addition (complete only items being modified):

\$ _____ From ____ / ____ / ____ to ____ / ____ / ____.

This will result in new contract terms of:

\$ _____ From ____ / ____ / ____ to ____ / ____ / ____.
(All years thus far combined) (Initial start date) (Amendment end date)

Signature Page for:

Contract Number: _____ Contractor: _____

Amendment Number: X-_____

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR SIGNATURE:

By: _____ Date: _____
(signature)

Printed Name: _____

Title: _____

STATE OF NEW YORK)
) SS:
County of _____)

On the ___ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Signature and office of the individual taking acknowledgement)

STATE AGENCY SIGNATURE

"In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

By: _____ Date: _____
(signature)

Printed Name: _____

Title: _____

ATTORNEY GENERAL'S SIGNATURE

By: _____ Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____ Date: _____

APPENDIX A
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 setoff 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 D
GENERAL SPECIFICATIONS**

- A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:

All specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specification, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.

- B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, telegram, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.
- C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety be liable to the State of New York for any excess cost on account thereof.
- D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.
- E. The Department of Health will make no allowances or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.
- F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.
- G. The successful bidder will be required to complete the entire work, or any part thereof as the case may be, to the satisfaction of the Department of Health in strict accordance with the specifications and pursuant to a contract therefore.

- H. Contractor will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.

- I. Non-Collusive Bidding
By submission of this proposal, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - a. The prices of this bid 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 bidder or with any competitor;
 - b. 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 person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
 - c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTE: Chapter 675 of the Laws of New York for 1966 provides that every bid made to the state or any public department, agency or official thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the foregoing statement subscribed by the bidder and affirmed by such bidder as true under penalties of perjury.

A bid shall not be considered for award nor shall any award be made where (a), (b) and (c) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (b) and (c) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made or its designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder has published price lists, rates, or tariffs covering items 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 price being bid, does not constitute, without more, a disclosure within the meaning of the above quoted certification.

Any bid made to the State or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods, sold or to be sold, where competitive bidding is required by statute, rule or regulation and where such bid contains the certification set forth above shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

- J. A bidder may be disqualified from receiving awards if such bidder or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its or its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
- K. The Department reserves the right to make awards within ninety (90) days after the date of the bid opening, during which period bids shall not be withdrawn unless the bidder distinctly states in the bid that acceptance thereof must be made within a shorter specified time.
- L. Work for Hire Contract
Any contract entered into resultant from this request for proposal will be considered a "Work for Hire Contract." The Department will be the sole owner of all source code and any software which is developed or included in the application software provided to the Department as a part of this contract.
- M. Technology Purchases Notification -- The following provisions apply if this Request for Proposal (RFP) seeks proposals for "Technology"
 - 1. For the purposes of this policy, "technology" applies to all services and commodities, voice/data/video and/or any related requirement, major software acquisitions, systems modifications or upgrades, etc., that result in a technical method of achieving a practical purpose or in improvements of productivity. The purchase can be as simple as an order for new or replacement personal computers, or for a consultant to design a new system, or as complex as a major systems improvement or innovation that changes how an agency conducts its business practices.
 - 2. If this RFP results in procurement of software over \$20,000, or of other technology over \$50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.
 - 3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.

4. The responses to this RFP must include a solution to effectively handle the turn of the century issues related to the change from the year 1999 to 2000.

N. YEAR 2000 WARRANTY

1. Definitions

For purposes of this warranty, the following definitions shall apply:

- a. Product shall include, without limitation: any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein which perform any date/time data recognition function, calculation, comparing or sequencing. Where services are being furnished, e.g. consulting, systems integration, code or data conversion or data entry, the term Product shall include resulting deliverables.
- b. Vendor's Product shall include all Product delivered under this Agreement by Vendor other than Third Party Product.
- c. Third Party Product shall include products manufactured or developed by a corporate entity independent from Vendor and provided by Vendor on a non-exclusive licensing or other distribution Agreement with the third party manufacturer. Third Party Product does not include product where Vendor is: a) corporate subsidiary or affiliate of the third party manufacturer/developer; and/or b) the exclusive re-seller or distributor of product manufactured or developed by said corporate entity.

2. Warranty Disclosure

At the time of bid, Product order or Product quote, Vendor is required to disclose the following information in writing to Authorized User:

- a. For Vendor Product and for Products (including, but not limited to, Vendor and/or Third Party Products and/or Authorized User's Installed Product) which have been specified to perform as a system: Compliance or non-compliance of the Products individually or as a system with the Warranty Statement set forth below; and
- b. For Third Party Product Not Specified as Part of a System: Third Party Manufacturer's statement of compliance or non-compliance of any Third Party Product being delivered with Third Party Manufacturer/Developer's Year 2000 warranty. If such Third Party Product is represented by Third Party Manufacturer/Developer as compliant with Third Party Manufacturer/Developer's Year 2000 Warranty, Vendor shall pass through said third party warranty from the third party manufacturer to the Authorized User but shall not be liable for the testing or verification of Third Party's compliance statement.

An absence or failure to furnish the required written warranty disclosure shall be deemed a statement of compliance of the product(s) or system(s) in question with the year 2000 warranty statement set forth below.

3. Warranty Statement

Year 2000 warranty compliance shall be defined in accordance with the following warranty statement:

Vendor warrants that Product(s) furnished pursuant to this Agreement shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, including leap year calculations. Where a purchase requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

In the event of any breach of this warranty, Vendor shall restore the Product to the same level of performance as warranted herein, or repair or replace the Product with conforming Product so as to minimize interruption to Authorized User's ongoing business processes, time being of the essence, at Vendor's sole cost and expense. This warranty does not extend to correction of Authorized User's errors in data entry or data conversion.

This warranty shall survive beyond termination or expiration of the Agreement.

Nothing in this warranty shall be construed to limit any rights or remedies otherwise available under this Agreement.

O. No Subcontracting

Subcontracting by the contractor shall not be permitted except by prior written approval and knowledge of the Department of Health.

P. Superintendence by Contractor

The Contractor shall have a representative to provide supervision of the work which Contractor employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the Contractor.

Q. Sufficiency of Personnel and Equipment

If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the Contractor to use such additional

personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.

R. Experience Requirements

The Contractor shall submit evidence to the satisfaction of the Department that it possesses the necessary experience and qualifications to perform the type of services required under this contract and must show that it is currently performing similar services. The Contractor shall submit at least two references to substantiate these qualifications.

S. Contract Amendments

This agreement may be amended by written agreement signed by the parties and subject to the laws and regulations of the State pertaining to contract amendments. This agreement may not be amended orally.

The contractor shall not make any changes in the scope of work as outlined herein at any time without prior authorization in writing from the Department of Health and without prior approval in writing of the amount of compensation for such changes.

T. Provisions Upon Default

1. In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor
2. If, in the judgment of the Department of Health, the Contractor acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor. In such case the Contractor shall receive equitable compensation for such services as shall, in the judgment of the State Comptroller, have been satisfactorily performed by the Contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work which the Contractor was engaged in at the time of such termination, subject to audit by the State Comptroller.

U. Termination Provision

Upon termination of this agreement, the following shall occur:

1. Contractor shall make available to the State for examination all data, records and reports relating to this Contract; and
2. Except as otherwise provided in the Contract, the liability of the State for payments to the Contractor and the liability of the Contractor for services hereunder shall cease.

V. Conflicts

If, in the opinion of the Department of Health, (1) the specifications conflict, or (2) if the specifications are not clear as to (a) the method of performing any part of the work, or as to (b) the types of materials or equipment necessary, or as to (c) the work required to be done in every such situation, the Contractor shall be deemed to have based his bid upon performing the work and furnishing materials or equipment in the most inexpensive and efficient manner. If such conflicts and/or ambiguities arise, the Department of Health will furnish the Contractor supplementary information showing the manner in which the work is to be performed and the type or types of material or equipment that shall be used.

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT

The New York State Department of Health recognizes the need to take affirmative action to ensure that Minority and Women Owned Business Enterprises are given the opportunity to participate in the performance of the Department of Health's contracting program. This opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons is essential to obtain social and economic equality and improve the functioning of the State economy.

It is the intention of the New York State Department of Health to fully execute the mandate of Executive Law, Article 15-A and provide Minority and Women Owned Business Enterprises with equal opportunity to bid on contracts awarded by this agency in accordance with the State Finance Law.

To implement this affirmative action policy statement, the contractor agrees to file with the Department of Health within 10 days of notice of award, a staffing plan of the anticipated work force to be utilized on this contract or, where required, information on the contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Department. The form of the staffing plan shall be supplied by the Department.

After an award of this contract, the contractor agrees to submit to the Department a work force utilization report, in a form and manner required by the Department, of the work force actually utilized on this contract, broken down by specified ethnic background, gender and Federal occupational categories or other appropriate categories specified by the Department.

X. Contract Insurance Requirements

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the

policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:

- a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).
- b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.
 - i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
 - ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
 - iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

Y. Certification Regarding Debarment and Suspension

Regulations of the Department of Health and Human Services, located at Part 76 of Title 45 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for nonprocurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and benefits under federal programs and activities,

both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

1. APPENDIX B TO PART 76-CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
 - g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Nonprocurement Programs.
 - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
 - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Z. Confidentiality Clauses

- 1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any

such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.

2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.
3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.
4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.
5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.
6. All subcontracts shall contain provisions specifying:
 - a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and

- b. that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

AA. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15th following the end of each state fiscal year included in this contract term. This report must be submitted to:
 - a. The NYS Department of Health, at the STATE's designated payment office address included in this AGREEMENT; and
 - b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany NY 12236 ATTN: Consultant Reporting - or via fax at (518) 474-8030 or (518) 473-8808; and
 - c. The NYS Department of Civil Service, Alfred E. Smith Office Building, Albany NY 12239, ATTN: Consultant Reporting.

BB. Provisions Related to New York State Procurement Lobbying Law

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

CC. Provisions Related to New York State Information Security Breach and Notification Act

1. CONTRACTOR shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). 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.

DD. Lead Guidelines

All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

APPENDIX H
Federal Health Insurance Portability and Accountability Act ("HIPAA")
Business Associate Agreement ("Agreement") Governing Privacy and Security

I. Definitions:

- (a) Business Associate shall mean the CONTRACTOR.
- (b) Covered Program shall mean the STATE.
- (c) Other terms used, but not otherwise defined, in this agreement shall have the same meaning as those terms in the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations, including those at 45 CFR Parts 160 and 164.

II. Obligations and Activities of the Business Associate:

- (a) The Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as required by law.
- (b) The Business Associate agrees to use the appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any electronic Protected Health Information that it creates receives, maintains or transmits on behalf of the Covered Entity pursuant to this Agreement.
- (c) The Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Agreement.
- (d) The Business Associate agrees to report to the Covered Program, any use or disclosure of the Protected Health Information not provided for by this Agreement, as soon as reasonably practicable of which it becomes aware. The Business Associate also agrees to report to the Covered Entity any security incident of which it becomes aware.
- (e) The Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Program agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.
- (f) The Business Associate agrees to provide access, at the request of the Covered Program, and in the time and manner designated by the Covered Program, to Protected Health Information in a Designated Record Set, to the Covered Program or, as directed by the Covered Program, to an Individual in order to meet the requirements under 45 CFR 164.524, if the business associate has protected health information in a designated record set.
- (g) The Business Associate agrees to make any amendment(s) to Protected Health Information in a designated record set that the Covered Program directs or agrees to pursuant to 45 CFR 164.526 at the request of the Covered Program or an Individual, and in the time and manner designated by Covered Program, if the business associate has protected health information in a designated record set.
- (h) The Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of, the Covered Program available to the Covered Program, or to the Secretary of Health and Human Services, in a time and manner designated by the Covered Program or the Secretary, for purposes of the Secretary determining the Covered Program's compliance with the Privacy Rule.
- (i) The Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(j) The Business Associate agrees to provide to the Covered Program or an Individual, in time and manner designated by Covered Program, information collected in accordance with this Agreement, to permit Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

III. Permitted Uses and Disclosures by Business Associate

(a) General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Program as specified in the Agreement to which this is an addendum, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Program.

(b) Specific Use and Disclosure Provisions:

(1) Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(2) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the business associate or to carry out its legal responsibilities and to provide Data Aggregation services to Covered Program as permitted by 45 CFR 164.504(e)(2)(i)(B). Data Aggregation includes the combining of protected information created or received by a business associate through its activities under this contract with other information gained from other sources.

(3) The Business Associate may use Protected Health Information to report violations of law to appropriate federal and State authorities, consistent with 45 CFR '164.502(j)(1).

IV. Obligations of Covered Program

Provisions for the Covered Program To Inform the Business Associate of Privacy Practices and Restrictions

(a) The Covered Program shall notify the Business Associate of any limitation(s) in its notice of privacy practices of the Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.

(b) The Covered Program shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.

(c) The Covered Program shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Program has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

V. Permissible Requests by Covered Program

The Covered Program shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Program, except if the Business Associate will use or disclose protected health information for, and the contract includes provisions for, data aggregation or management and administrative activities of Business Associate.

VI. Term and Termination

(a) *Term.* The Term of this Agreement shall be effective during the dates noted on page one of this agreement, after which time all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in The Agreement.

(b) *Termination for Cause.* Upon the Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for the Business Associate to cure the breach and end the violation or may terminate this Agreement and the master Agreement if the Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or the Covered Program may immediately terminate this Agreement and the master Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible.

(c) *Effect of Termination.*

(1) Except as provided in paragraph (c)(2) below, upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Program, or created or received by the Business Associate on behalf of the Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, the Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

VII. Violations

(a) It is further agreed that any violation of this agreement may cause irreparable harm to the State, therefore the State may seek any other remedy, including an injunction or specific performance for such harm, without bond, security or necessity of demonstrating actual damages.

(b) The business associate shall indemnify and hold the State harmless against all claims and costs resulting from acts/omissions of the business associate in connection with the business associate's obligations under this agreement.

Miscellaneous

(a) *Regulatory References.* A reference in this Agreement to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.

(b) *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Program to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.

(c) *Survival.* The respective rights and obligations of the Business Associate under Section VI of this Agreement shall survive the termination of this Agreement.

(d) *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Covered Program to comply with the HIPAA Privacy Rule.

(e) If anything in this agreement conflicts with a provision of any other agreement on this matter, this agreement is controlling.

(f) *HIV/AIDS.* If HIV/AIDS information is to be disclosed under this agreement, the business associate acknowledges that it has been informed of the confidentiality requirements of Public Health Law Article 27-F.

Attachment XII
New York State Department of Health
M/WBE Procurement Forms

The following forms are required to maintain maximum participation in M/WBE procurement and contracting:

1. Bidders Proposed M/WBE Utilization Form
2. Minority Owned Business Enterprise Information
3. Women Owned Business Enterprise Information
4. Subcontracting Utilization Form
5. M/WBE Letter of Intent to Participate
6. M/WBE Staffing Plan

New York State Department of Health

BIDDERS PROPOSED M/WBE UTILIZATION PLAN

Bidder Name:	
RFP Title:	RFP Number

Description of Plan to Meet M/WBE Goals

PROJECTED M/WBE USAGE

	%	Amount
1. Total Dollar Value of Proposal Bid	100	\$
2. MBE Goal Applied to the Contract		\$
3. WBE Goal Applied to the Contract		\$
4. M/WBE Combined Totals		\$

New York State Department of Health

**MINORITY OWNED BUSINESS ENTERPRISE (MBE)
INFORMATION**

In order to achieve the MBE Goals, bidder expects to subcontract with New York State certified MINORITY-OWNED entities as follows:

MBE Firm (Exactly as Registered)	Description of Work (Products/Services) [MBE]	Projected MBE Dollar Amount
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____

New York State Department of Health

WOMEN OWNED BUSINESS ENTERPRISE (WBE) INFORMATION

In order to achieve the WBE Goals, bidder expects to subcontract with New York State certified WOMEN-OWNED entities as follows:

WBE Firm (Exactly as Registered)	Description of Work (Products/Services) [WBE]	Projected WBE Dollar Amount
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____

**New York State Department of Health
SUBCONTRACTING UTILIZATION FORM**

Agency Contract: _____
 Telephone: _____
 Contract Number: _____ Dollar
 Value: _____
 Date Bid: _____ Date Let: _____ Completion
 Date: _____

Contract Awardee/Recipient: _____
 Name

 Address

 Telephone

Description of Contract/Project
 Location: _____

Subcontractors Purchase with Majority Vendors:

Participation Goals Anticipated: _____ % MBE _____ % WBE
 Participation Goals Achieved: _____ % MBE _____ % WBE

Subcontractors/Suppliers:

Firm Name and City	Description of Work	Dollar Value	Date of Subcontract	Identify if MBE or WBE or NYS Certified

Contractor's Agreement: My firm proposes to use the MBEs listed on this form			
Prepared By: (Signature of Contractor)	Print Contractor's Name:	Telephone #:	Date:
Grant Recipient Affirmative Action Officer Signature (If applicable):			

FOR OFFICE USE ONLY	
Reviewed: By:	Date:

M/WBE Firms Certified: _____	Not
Certified: _____	
CBO: _____	MCBO: _____

New York State Department of Health

MWBE ONLY

MWBE SUBCONTRACTORS AND SUPPLIERS
LETTER OF INTENT TO PARTICIPATE

To: _____ Federal ID Number: _____
(Name of Contractor)

Proposal/ Contract Number: _____

Contract Scope of Work: _____

The undersigned intends to perform services or provide material, supplies or equipment
as: _____

Name of MWBE: _____

Address: _____

Federal ID Number: _____

Telephone Number: _____

Designation:

MBE - Subcontractor

WBE - Subcontractor

MBE - Supplier

WBE - Supplier

Joint venture with:

Name: _____

Address: _____

Fed ID Number: _____

MBE

WBE

Are you New York State Certified MWBE? _____ Yes _____ No

The undersigned is prepared to perform the following work or services or supply the following materials, supplies or equipment in connection with the above proposal/contract. (Specify in detail the particular items of work or services to be performed or the materials to be supplied): _____

at the following price: \$ _____

The contractor proposes, and the undersigned agrees to, the following beginning and completion dates for such work.

Date Proposal/ Contract to be started: _____

Date Proposal/ Contract to be Completed: _____

Date Supplies ordered: _____ Delivery Date: _____

The above work will not further subcontracted without the express written permission of the contractor and notification of the Office. The undersigned will enter into a formal agreement for the above work with the contractor ONLY upon the Contractor's execution of a contract with the Office.

Date

Signature of M/WBE Contractor

Printed/Typed Name of M/WBE Contractor

INSTRUCTIONS FOR M/WBE SUBCONTRACTORS AND SUPPLIERS LETTER OF INTENT TO PARTICIPATE

This form is to be submitted with bid attached to the Subcontractor's Information Form in a sealed envelope for each certified Minority or Women-Owned Business enterprise the Bidder/Awardee/Contractor proposes to utilize as subcontractors, service providers or suppliers.

If the MBE or WBE proposed for portion of this proposal/contract is part of a joint or other temporarily-formed business entity of independent business entities, the name and address of the joint venture or temporarily-formed business should be indicated.

New York State Department of Health M/WBE STAFFING PLAN

Check applicable categories: Project Staff Consultants
 Subcontractors

Contractor Name _____

Address _____

	Total	Male	Female	Black	Hispanic	Asian/ Pacific Islander	Other
STAFF							
Administrators							
Managers/Supervisors							
Professionals							
Technicians							
Clerical							
Craft/Maintenance							
Operatives							
Laborers							
Public Assistance Recipients							
TOTAL							

(Name and Title)

Date