

# NEW YORK STATE DEPARTMENT OF HEALTH

## An Invitation to Bid for

Staffing Services to Perform Centralized Complaint Intake, Triage, and  
Supplementary Surveillance and Quality Assurance Reviews for Nursing  
Homes

IFB No. 17817

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### Schedule of Key Events

IFB Release Date	April 20, 2018
Written Questions Due	April 26, 2018
Response to Written Questions on or about	May 3, 2018
Bid Due Date (no later than 4 P.M. E.S.T.)	May 16 2018
Anticipated Start Date	October 1, 2018

Contacts Pursuant to State Finance Law § 139-j and 139-k

**DESIGNATED CONTACTS:** Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contacts to whom all communications attempting to influence this procurement must be made:

Suzanne Mantica  
Bureau of Contracts  
New York State Department of Health  
Empire State Plaza  
Corning Tower, Room 2827  
Albany, NY 12237  
Telephone: 518-474-7896  
E-mail: [Sue.Mantica@health.ny.gov](mailto:Sue.Mantica@health.ny.gov)

**Permissible Subject Matter Contacts:**

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

- **Submission of Written Questions and Submission of Written Bids:**

Elizabeth Wood  
Director, Bureau of Contracts  
New York State Department of Health  
Empire State Plaza Corning Tower Rm 2827  
Albany New York 12237  
Telephone: 518-473-6175  
Email Address: [dohmisc@health.ny.gov](mailto:dohmisc@health.ny.gov)

- **Debriefings:**

Mark Hennessey, Director  
Center for Healthcare Provider Services and Oversight  
New York State Department of Health  
875 Central Avenue  
Albany New York 12206  
Telephone: 518-402-1004  
Email Address: [hospinfo@health.ny.gov](mailto:hospinfo@health.ny.gov)

- **Negotiation of Contract Terms after Award:**

Mark Hennessey, Director  
Center for Healthcare Provider Services and Oversight  
New York State Department of Health  
875 Central Avenue  
Albany New York 12206  
Telephone: 518-402-1004  
Email Address: [hospinfo@health.ny.gov](mailto:hospinfo@health.ny.gov)

*For further information regarding these statutory provisions, see the Lobbying Statute summary in Section F.12 of this solicitation.*

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## **A. INTRODUCTION**

Through this Invitation for Bid (IFB), the New York State Department of Health (NYSDOH), Center for Healthcare Provider Services and Oversight (CHPSO) will accept bids from qualified contractors for the provision of staffing services to place high level professional medical staff including registered nurses, social workers, and dietitians in two NYSDOH regional offices (Metropolitan Area and Albany, NY) to support CHPSO complaint intake activities for Nursing Homes and quality assurance and survey activities for Nursing Homes(NH). Up to 8 contract staff will be placed in these NYSDOH offices over the five-year period. NYSDOH will contract with one qualified primary contractor for each region and a secondary contractor for each region to ensure coverage. The term of this contract(s) is a maximum of five (5) years with an anticipated contract period from October 1, 2018 – September 30, 2023, and is subject to NYSDOH's need for services, the availability of funds, approvals from the New York State Attorney General (AG) and the Office of the State Comptroller (OSC), and acceptable performance by the contractor. The activities of contracted staff as described in this IFB are essential for protecting the health of NYS patients and residents and are supported by several State and federal laws and regulations, as described for each of the individual programs in Section B, Background.

## **B. BACKGROUND**

State and federal laws and regulations impose a variety of standards on how the State assures quality care and outcomes for residents of Nursing Homes. The contractor will assist the Department in assessing compliance through the intake and review of complaints from the public, a review of the circumstances of the complaint to analyze whether the complaint represents a potential violation of any applicable laws, regulations or standards of care, and a determination as to whether an onsite sreview of the facility should be conducted. In addition, the contractor will assist the Department by supplying qualified supplemental staff (social workers and dietitians) to perform surveys of nursing homes and to perform quality assurance reviews of survey findings.

A nursing home, also referred to as a residential health care facility, is a facility that provides twenty-four-hour nursing care and supervision outside of a hospital. All nursing homes must provide certain basic services and some homes provide special care for certain types of clients. Although most nursing home residents are age 65 and over, these facilities are increasingly being used to care for younger individuals who require a nursing home level of care than may not be available elsewhere. Nursing homes now care for individuals with aggressive or threatening behaviors, HIV/AIDS, substance abuse problems, conditions that require the use of a ventilator, traumatic brain injuries (TBI) and other conditions. In addition, most nursing homes now provide some level of short-term rehabilitation services for individuals who have recently had surgery in a hospital or have experienced a health episode that requires rehabilitation within a 21-day timeframe. Some facilities have implemented specialized programs and units to address specific populations and may also provide services to pediatric individuals (age 21 and under). There are currently 626 licensed nursing homes in NYS. The governing statutory and regulatory authority for nursing homes is Public Health Law Article 28 and 10 NYCRR Part 415 as well as federal regulations at 42 CFR.

## **C. DETAILED SPECIFICATIONS**

### **1. Eligibility Requirements for Bidders**

Bidders must meet the following minimum eligibility requirements for their bid to be considered for an award:

- a) Bidders must have a minimum of three (3) years of experience as an employer (hiring and placement) of 4 or more professional level health care and human service staff such as registered nurses, dieticians or social workers.
- b) Bidder must be able to demonstrate an average annual volume of sales equaling a minimum of \$750,000 within the last three (3) years.

### **2. Location of Work**

Staff will be assigned to work full time in either a Metropolitan Area regional office, or the Albany Regional office, as described in Section 4a. The Metropolitan Area regional office includes two possible locations for staff:

- New York City Office  
90 Church Street - 14th Floor  
Between Barclay and Vesey Streets  
New York, NY 10007-2919
- New Rochelle Office  
145 Huguenot Street, 6th floor  
New Rochelle, NY 10801-5291

The Albany regional office has one possible location for staff:

- New York State Department of Health  
875 Central Avenue  
Albany New York 12206

### 3. Scope of Work

All employees of the contractor, who shall perform consulting services under the resulting contract(s), shall possess the necessary qualifications, training, and licenses that are required within NYS where the services specified are to be provided or performed, and shall be legally entitled to work in NYS. All persons that perform services under the contract on behalf of NYSDOH shall, in performing these services, comply with all applicable Federal, State, and local laws concerning employment in the United States.

It is understood and agreed that the contractor, and employees under this contract, are independently employed, and in no manner, shall they be deemed employees of NYSDOH, and therefore are not entitled to any of the benefits associated with such employment.

- a) **Staffing:** When the contract is awarded, the primary regional contractor will have up to 90 days for initial placement of staff. NYSDOH will use the following procedures when engaging a contractor for hiring initial and replacement staff:
  - i. NYSDOH will offer the work to the primary regional contractor;
  - ii. The primary regional contractor will pre-screen all candidates and identify candidates that meet the staff qualifications outlined in Section C-4, Contracted Staff Qualifications and Duties;
  - iii. Contractor will supply a minimum of two (2) or more resume(s) per vacancy within 10 business days after DOH's initial request. CHPSO staff will review resumes and choose the candidate(s) for interview;
  - iv. In the event the primary regional contractor's candidates are not approved by NYSDOH, the primary regional contractor will be given 15 additional business days to pre-screen, and supply a minimum of one (1) or more resume(s) per vacancy for review and approval. NYSDOH reserves the right to concurrently engage the secondary regional contractor based on the Department's needs and urgency in filling these positions;
  - v. If after these two (2) attempts (not to exceed a total of 25 business days) the primary regional contractor cannot supply candidates that meet the approval of NYSDOH, the secondary regional contractor will be used to identify candidates requested for said region;
  - vi. Steps C-3 (a), (i-v) will continue with both primary and secondary regional contractors until all DOH required positions are filled.
  
- b) **Changes in Staffing:** It is anticipated that all staff hired for this contract will be employed for the entire duration of the assignment per the contract. However, if staff voluntarily or involuntarily leave their assignment, the contractor will replace staff as described in Section C-3 (a), (i-v). If either the contractor, or NYSDOH, for any reason deems that a contracted staff must be removed from their assignment prior to the completion of this contract, each party shall mutually agree that such removal shall take place.

#### 4. Contracted Staff Qualifications and Duties

**a) Contracted staff will be required to meet the following minimum qualifications:**

**Nursing Home Centralized Complaint Intake and Triage (2 positions).** The contractor will provide 2 Nurse Reviewers for the Nursing Home Centralized Complaint Intake Unit (NH CCIU) based in Albany, New York. The NH CCIU receives approximately 12,300 complaints and incident reports requiring review for possible regulatory noncompliance annually. Staff are expected to work 7.5 hours a day, and staff the program from 8:30 AM – 4:45 PM. Mon- Fri. In addition, staff will be required to be on a rotational team providing weekend and holiday on-call coverage. Rotational schedule is determined by a team of 4 total CCIP staff.

Nurse Reviewer (2). Due to the need to assess clinical information, nurses will be required to perform the receipt, review, assign and referral of complaints. Qualifications include:

- Registered Professional Nurse currently licensed in New York
- Two (2) years' experience performing utilization review, medical review, fraud investigations, surveillance or monitoring activities at the facility level;
- Three (3) years of clinical experience in a medical facility, preferably a nursing home;
- Excellent telephone and written communication skills;
- Basic computer skills; including working knowledge of all Microsoft Office products;
- Preference will be given to candidates with experience using the Federal CMS ASPEN software suite,

**Nursing Home Supplementary Surveillance Staff (4 positions).** The contractor will provide the following complement of staff for the Nursing Home Supplementary Surveillance team, which provides staff with specialized knowledge and experience (social workers and dieticians) to supplement the registered nurses (RNs) performing nursing home surveys and reviewing and assigning staff to complaint surveys. One of these staff (a Social Worker) will be based in the New Rochelle office and the three others will be placed in the New York City Regional Office. Staff are expected to work full-time, 8-4 or 9-5 Monday-Friday. The surveyor staff can expect to be in travel status 80% of the time performing on-site surveys of nursing homes. The supplementary surveillance staff in the New York City office will cover the nursing homes in the five boroughs of New York and the supplementary surveillance staff for New Rochelle will cover the nursing homes in Westchester, Putnam, Rockland, Dutchess, Orange, Ulster and Sullivan Counties For all positions, preference would be given to candidates with experience using the Federal CMS ASPEN software suite.

Surveyor-Dietician (2). Due to the need to assess the adequacy of dietetic and nutritional services provided to nursing home residents, a registered dietician must accompany RNs as an integral part of the recertification survey team. Qualifications include:

- Registered Dietician currently licensed in New York;
- Two years of experience performing surveillance activities, preferably in a nursing home;
- Two years of clinical experience in a medical facility, preferably a nursing home;
- Surveyor Minimum Qualifications Test (SMQT) qualified;
- Ability to travel extensively to nursing homes within the five boroughs of New York.
- Basic computer skills; including working knowledge of all Microsoft Office products;
- Excellent written and verbal communication skills.

Surveyor-Social Worker (2). Due to the need to assess the adequacy of social and behavioral care for nursing home residents, a qualified Social Worker must accompany RNs as an integral part of the recertification survey team. One Surveyor Social Worker will be assigned to the MARO NYC team and the other Surveyor Social Worker will be assigned to the MARO New Rochelle. Qualifications include:

- Social Worker currently licensed in New York;
- Two years of experience performing nursing home surveillance activities;
- Surveyor Minimum Qualifications Test (SMQT) qualified;
- Ability to travel extensively to nursing homes within the five boroughs of New York for one Surveyor Social Worker assigned to the MARO NYC office and the ability to travel extensively to nursing homes in Westchester, Putnam, Rockland, Dutchess, Orange, Ulster and Sullivan Counties for the Surveyor Social Worker assigned to the MARO New Rochelle office.
- Two years of clinical experience in a medical facility, preferably a nursing home;
- Basic computer skills; including working knowledge of all Microsoft Office products; and
- Excellent written and verbal communication skills.

**Nursing Home Bureau of Quality Assurance (2 positions):** The contractor will provide 2 staff for the Nursing Home Bureau of Quality Assurance based in the Albany, New York office. Staff are expected to work full-time, 8-4 or 9-5, Monday through Friday.

Nurse Reviewer-Quality Assurance (2): Due to the need to assess clinical information, a nurse will be required to perform survey-related quality assurance activities. Qualifications include:

- Registered Professional Nurse currently licensed in New York;
- 3 years of post-licensure professional nursing experience, at least two years of which must have been professional clinical experience in a licensed health care facility, preferably a nursing home.

- SMQT qualified; excellent telephone and written communication skills;
- Comprehensive computer skills; including working knowledge of all Microsoft Office products and experience with the federal CMS ASPEN Suite;
- Excellent written and verbal communication skills.

## **b) Contracted Staff Duties**

1) Nurse Reviewer-Complaint Intake: Perform a clinical review of complaints submitted by email, telephone or in writing, triage complaints by severity, identify the appropriate actions. Duties include:

- Provide a clinical complaint intake interview, for complaints made by telephone;
- Review complaints submitted by email or in writing;
- Contact complainants if additional information is needed to clarify their concerns;
- Write a concise and accurate summary of the complaint, including all pertinent clinical details, for entry into the federal ASPEN database;
- Access the applicable federal and state statutes and regulations for the nursing home program described in Section 4a to determine if the complaint is within NYSDOH jurisdiction;
- Determine if complaints are possible regulatory noncompliance issues;
- Make referrals to other agencies/bureaus as appropriate, if the complaint is not within the jurisdiction of program;
- Identify those complaints that may represent immediate jeopardy or immediate threat to life or are otherwise urgent and bring these to the attention of the Supervisor/designee or other staff as appropriate and consistent with program policies and procedures;
- Identify those complaints that can be resolved by contacting the facility or complainant directly and make the required contacts by telephone and/or email as necessary and close the complaint if indicated.;
- Participate in clinical case review meetings to triage and assess the priority and disposition of each complaint and update ASPEN and other required databases as needed;
- Maintain log of all non-regulatory contacts with complainants and the disposition of each in the Department database;
- Prepare individual written correspondence to complainants regarding the disposition of their complaints;
- Respond to general inquiries regarding the complaint process from NYSDOH staff and the public;
- Participate in training and process improvement activities.

2) Nurse Reviewer-Quality Assurance: Perform quality assurance reviews and other related activities to support the nursing home surveillance program.

- Perform quality assurance reviews of statements of deficiencies;

- Prepare character and competency reports of potential nursing home operators;
  - Prepare and evaluate various reports for quality assurance and monitoring of surveillance activities;
  - Prepare enforcement packets and legal referrals;
  - Facilitate dispute resolution process review;
  - Assist in developing policies and procedures;
  - Assist in answering questions from providers and the public;
  - Review and revise State regulations;
  - Perform any additional assignments as deemed necessary
- 3) Surveyor Dietician/Surveyor Social Worker: conduct and/or facilitate on-site surveys of nursing homes independently or as part of an interdisciplinary survey team. Duties include:
- Observe and evaluate resident care;
  - Evaluating nursing homes' compliance with federal and State regulations;
  - Serve as the nutritional expert or social services expert for other survey staff;
  - Meet with clinical staff in nursing facilities concerning the quality of existing programs;
  - Participate in the investigation of incidents or complaints regarding nutritional or social services issues in nursing homes;
  - Participate in medical reviews and other audit mechanisms to determine the adequacy and suitability of services in meeting the needs and problems of residents.
  - Participate in other program-related activities as needed.

## **5. Contractor and NYSDOH Responsibilities:**

### **a) Contractor Responsibilities:**

- i. The contractor will ensure that contracted staff are appropriately licensed and credentialed as specified in Section C-4, Contracted Staff Qualifications and Duties.
- ii. Contractor will ensure that staff undergo orientation, confidentiality, and surveillance and investigation training given by NYSDOH staff and any federal training required by the Centers for Medicare and Medicaid Service (CMS). Trainings will be held at locations where staff are assigned and may include on-line training.
- iii. The contractor will cover the cost of all staff travel including travel to attend applicable trainings and/or meetings and will be reimbursed as described in Section F.5, Payment. NYSDOH will identify applicable trainings and/or meetings, and provide cost information to the contractor.
- iv. Contractor will provide NYSDOH monthly invoices that detail staff hours worked along with documentation to verify staff hours worked. Invoices must be accompanied by a monthly report, which will include, but will not be limited to, a summary of assigned tasks, status of progress, details regarding

barriers or concerns of meeting goals, and anticipated completion date(s). Each month, the assigned NYSDOH supervisor will review staff reports, and acknowledge time and attendance.

- v. NYSDOH requires background checks which must be conducted at the expense of the contractor, including, but not limited to:
  - Any loyalty or terrorism issue;
  - Patterns of conduct (e.g., alcoholism/drug addiction, financial irresponsibility/major liabilities, dishonesty, employability for negligence or misconduct, criminal conduct);
  - Dishonorable military discharge;
  - Felony and misdemeanor offenses;
  - Drug manufacturing/trafficking/sale;
  - Criminal sexual misconduct;
  - Employment related misconduct involving dishonesty, criminal or violent behavior; and
  - Misrepresentation of information including educational and professional background, legal status or valid licensure.
- vi. In making a suitability determination, the Contractor shall consider the information obtained through the federal and State background checks and evaluate them against the work to be performed, the performance location, and the degree of risk to the organization in accordance with NYS Correction Law §752.
- vii. Contractor will ensure that all contracted staff abide by confidentiality requirements specified in Section C-4 (b), (ii), Confidentiality Requirements.

**b) NYSDOH Responsibilities:**

- i. NYSDOH will provide direction and supervision over contracted staff activities, including any recommendations that may be developed for contract activities. If staff issues or discrepancies are identified, (e.g., time and attendance, work performance, etc.), NYSDOH will notify the contractor and a mutually agreed upon corrective action plan will be implemented.
- ii. To facilitate the provision of the services purchased under this IFB, NYSDOH will provide the following at no charge to the successful Contractor: Office space for contract staff at NYSDOH's appropriate Central or Regional Offices; Office furniture and supplies; Communications equipment and services including workstation telephones, fax machines, personal computers and computer support services as required;
- iii. NYSDOH will provide any specialty training for experience not otherwise specified under Section C-4, Contracted Staff Qualifications and Duties.

## **D. BID PROPOSAL**

### **1. Bid Format and Content**

In order for the State to evaluate bids fairly and completely, bidders should follow the format set forth herein and must provide all of the information requested. All items identified in the following list must be addressed as concisely as possible in order for a bid to be considered complete. Failure to conform to the stated requirements may necessitate rejection of the bid.

- a) **Cover Letter.** The cover letter must confirm the bidder understands all the terms and conditions contained in this IFB and will comply with all the provisions of this IFB. Further, the bidder confirms it is prepared to begin services on October 1, 2018. The cover letter must include the full contact information of the person(s) NYSDOH shall contact regarding the bid. A bidder representative authorized to make contractual obligations must sign the cover letter.
- b) **Minimum Qualifications.** The bidder is required to submit information to confirm their ability to meet the minimum qualifications to provide services requested.
  - Information that Bidder has a minimum of three (3) years of experience as an employer (hiring and placement) of 4 or more professional level health care and human service staff such as registered nurses, dieticians or social workers.
  - Information supporting that the Bidder has had an average annual volume of sales equaling a minimum of \$750,000 within the last three (3) years.
- c) **Pricing.** Bidders must submit their cost proposal on the applicable “Cost Proposal Form(s)” (Attachment 10 and/or 10-A). Bidders shall not deviate from or alter the bid proposal. Please note that a separate Cost Proposal Form is provided for each region. A bidder proposing for both regions must complete and submit both cost proposal forms with their bid. The Cost Proposal Form must clearly reflect the annual hourly rates the bidder is proposing, considering the following information:
  - i. An hourly staff rate must be proposed for each title on the Cost Proposal Form(s), for each year of the contract period (5 years). Reimbursement for services will be on an hourly basis. Hourly rates must be inclusive of all costs including salaries, fringe benefits, administrative costs, overhead.
  - ii. The estimated number of hours per staff required by NYSDOH for each contract year is) based on a 37.5-hour work week and 52 weeks per year and calculated using the formula 1,950 hrs. per staff, per year. This estimate is

provided to potential Bidders solely for constructing their hourly rate, and does not guarantee that the projected number of staff or number of hours will be billable by the successful Bidder. Payments will be based on the actual number of staff and hours worked.

- iii. Different hourly rates per region may be proposed if the contractor is submitting a bid for both regions.

d) Administrative Submission

- New York State DOH Lobbying Form ([Attachment 1](#))
- Vendor Responsibility Attestation ([Attachment 3](#))
- Vendor Assurance of No Conflict of Interest or Detrimental Effect ([Attachment 4](#))
- 
- M/WBE Procurement Forms ([Attachment 5](#))
- Encouraging Use of New York Businesses in Contract Performances ([Attachment 6](#))
- Two (2) references to NYSDOH verifying the bidders' experience. ([Attachment 9](#))

## **E. METHOD OF AWARD**

The Department will award one (1) primary regional contract in each region described in this IFB to the responsible and responsive bidder who offers the lowest total bid per region. The Department will also award one (1) secondary regional contract in each region to the responsible and responsive bidder who offers the second lowest total bid per region. The secondary regional contractor will only be used if the primary regional contractor cannot meet the contract deliverables in the required timeframes as described in Sections C-3 (a-b).

At the discretion of NYSDOH, any or all bids received in response to the IFB, may be rejected. As described above, NYSDOH will issue primary and secondary contract awards per region.

In the event of a tie, the tied bidders will be given the opportunity to provide their best and final bid price to the department, and after evaluation of these revised bids, the award will then be made to the lowest bidder.

## **F. ADMINISTRATIVE**

### **1. Issuing Agency:**

This IFB is a solicitation issued by NYSDOH which is responsible for the requirements specified herein and for the evaluation of all bid proposals.

## 2. Inquiries:

Any questions concerning this solicitation must be submitted no later than date and time listed in the Schedule of Key Events on the cover of this IFB #17817 via an email to: or by delivery to the following address:

Elizabeth Wood, Director Bureau of Contracts  
New York State Department of Health  
Empire State Plaza Corning Tower Rm 2827  
Albany New York 12237  
Telephone: 518-473-6175  
Email Address: [dohmisc@health.ny.gov](mailto:dohmisc@health.ny.gov)

Prospective Bidders shall note that all clarifications and exceptions, including those relating to the terms and conditions of the contract, must be raised prior to the submission of a proposal. Each question raised shall cite the IFB section, paragraph and page number to which it refers.

Questions and answers, as well as any IFB updates and/or modifications, will be posted on the Department of Health's website at <http://www.health.ny.gov/funding/> on or about the date indicated in the Schedule of Key Events on the cover of this IFB.

## 3. Submission of Bids

Interested Contractors should submit three (3) handwritten signed originals and three (2) copies of their Bid Proposal. The Bid Proposal must be received no later than the date and time noted in the Schedule of Key Events to be accepted.

Responses to this solicitation must be in a sealed envelope that is clearly marked “**IFB # 17817 Staffing Services to Perform Health Care Centralized Complaint Intake and Supplementary Surveillance and Quality Assurance Reviews**” and received no later than the due date and time indicated in the Schedule of Key Events at the following address:

Elizabeth Wood  
Director, Bureau of Contracts  
Empire State Plaza Corning Tower Rm 2827  
New York State Department of Health  
Albany New York 12237  
Telephone: 518-473-6175  
Email Address: [dohmisc@health.ny.gov](mailto:dohmisc@health.ny.gov)

It is the bidders' responsibility to see that bids are delivered to the address above prior to the date and time of the bid due date. Arrangements shall be made at least 24 hours in advance of the due date and time to ensure persons are available to receive hand delivered bids. Contact Elizabeth Wood at [dohmisc@health.ny.gov](mailto:dohmisc@health.ny.gov) or call 518-473-6175 to make arrangements.

**Late bids due to delay by the common carrier or not received at the address above by the bid due date will not be considered. E-mail bid submissions are not acceptable and will not be considered.**

**Bid Proposal Packages must include all forms as indicated in Section D1., Bid Format and Content.**

**4. The Department of Health Reserves the Right to:**

- a) Reject any or all proposals received in response to the IFB;
- b) Withdraw the IFB at any time, at the agency's sole discretion;
- c) Make an award under the IFB in whole or in part;
- d) Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;
- e) Seek clarifications and revisions of proposals;
- f) Use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information during evaluation and/or selection under the IFB;
- g) Prior to the bid opening, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- h) Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent IFB amendments;
- i) Change any of the scheduled dates;
- j) Eliminate any mandatory, non-material specifications that cannot be complied with by all the prospective bidders;
- k) Waive any requirements that are not material;
- l) Negotiate with the successful bidder within the scope of the IFB in the best interests of the state;
- m) Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
- n) Utilize all ideas submitted in the proposals received;
- o) Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 365 days from the bid opening; and,

p) Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation.

## 5. Payment

If awarded a contract, the contractor shall submit invoices and/or claims to the State's designated payment office:

a) Preferred Method: Email a pdf copy of your signed claim to the NYS Business Services Center (BSC) at: [AccountsPayable@ogs.ny.gov](mailto:AccountsPayable@ogs.ny.gov) with a subject field as follows: Subject: **Unit ID: 3450467-Contract # XXXXXX**

b) Alternate Method: Mail claims to BSC at the following U.S. postal address:

**NYS Department of Health  
Unit ID 3450467  
PO Box 2093  
Albany, NY 12220-0093**

c) Payment for invoices and/or claims submitted by the contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm) or by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us) or by telephone at 518-474-6019. Contractor acknowledges that it will not receive payment on any invoices and/or claims submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9 must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us/epay>.

Completed W-9 forms shall be submitted to the following address:

**NYS Office of the State Comptroller  
Bureau of Accounting Operations  
Warrant & Payment Control Unit  
110 State Street, 9<sup>th</sup> Floor**

d) Payment of such invoices and/or claims by the State (NYSDOH) shall be made in accordance with Article XI-A of the New York State Finance Law. Payment terms will be as follows: :

The contractor will submit monthly invoices for expenses that have been incurred, due 30 days after the end of each month, and must be accompanied by a New York State Claim for Payment (form AC3253-S) to ensure payment. The Claim for Payment must include a time sheet signed by the NYSDOH supervisor depicting the number of hours worked by contracted staff, along with the detailed activity reporting template, for the same time period.

Claims for Payment received without the required documents will be held for payment until the documents are received, and reviewed for accuracy and completeness. The contractor will be reimbursed on an hourly rate for the number of hours worked on conducting project activities/contract deliverables, not to exceed the total number of hours outlined in the agreed upon contract.

Time spent in travel status to an off-site survey location and time spent in training with DOH staff is considered billable time. Travel related to the surveys and/or training will be reimbursed directly to the contractor for actual expenses which cannot exceed the amount allowed for state employee travel as outlined by the NYS Office for the State Comptroller. Additional information is available at: <http://www.osc.state.ny.us/agencies/travel/travel.htm>. Expenses incurred, but disallowed, will be subtracted from the amount claimed.

## 6. Penalties

The contracts awarded from this IFB are subject to a variety of penalties based on performance standards as determined by NYSDOH. The Bidder must take these penalties into account and understand that there will be no exceptions to the enforcement of these penalties if the performance standards are not met. Penalties described in this section are cumulative unless they are described below as being alternative.

### a) **Failure to provide, maintain or replace terminated staff.**

The contractor must have a plan in place for providing and maintaining qualified staff to perform the deliverable activities as described in Section C-4. Failure to be able to consistently provide, maintain or replace terminated staff could result in termination of the contract.

### b) **Violations of HIPAA or Medicaid confidentiality or privacy; breach of information security; breach of any other confidentiality or privacy requirement of law or regulation.**

Any violation by a contractor of these requirements for which violation results in a fine or penalty being imposed on the State of New York, will subject the contractor to a penalty equal to twice the amount of the fine imposed on the State. In addition, the contractor will hold the State harmless and reimburse the State for any damages or other costs to which the State may be subject as a result of the contractor's violation of these requirements.

c) **Failure to maintain “Responsible Vendor” status.**

The contractor must maintain “Responsible Vendor” status throughout the entire contract period. Any adverse change to the Contractor’s Responsible Vendor status to Non-Responsible could result in termination of the contract.

## **7. Terms of Contract**

This agreement shall be effective upon approval of the NYS Office of the State Comptroller. The contract period will be multi-year for five years beginning October 1, 2018 through September 30, 2023, subject to the availability of funding and the contractor’s successful completion of deliverables in the prior year’s contract period. Annual contract renewals are not required, however any significant changes to the budget or scope of work is subject to the prior approval of NYSDOH and the Office of the State Comptroller.

This agreement may be canceled at any time by NYSDOH 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.

If State fiscal or other issues result in a reduction of the contract amount, NYSDOH reserves the right to distribute that reduction in the way that will result in the maintenance of the highest number of contract staff positions possible.

## **8. Debriefing**

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder’s proposal, and will not include any discussion of other proposals. Requests must be received no later than ten (10) business days from date of award or non-award announcement.

## **9. Protest Procedures**

In the event unsuccessful bidders wish to protest the award resulting from this IFB, bidders shall follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the Guide to Financial Operations (GFO). Available on-line at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>

## **10. 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](http://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 [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@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](http://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. Winning Bidders must also complete and submit the Vendor Responsibility Attestation ([Attachment 3](#)).

## **11. 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.

State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment Report may be accessed electronically at: <http://www.osc.ny.gov/procurement/>.

## **12. 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 offerers 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 obligation 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 Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

Please note 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 shall be directed to the New York State Commission on Public Integrity.

### **13. 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 New York State Enterprise IT Policy NYS-P08-005, “Accessibility Web-based Information and Applications”, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-based Information Applications, 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 New York State Enterprise IT Standard NYS-S08-005, 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.

### **14. 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/>

## **15. 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 offerer 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 Offerer non-responsive and non-responsible. Offerers shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Forms ST-220-TD and ST-220-CA may be accessed electronically at:  
ST-220-TD: [www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)  
ST-220-CA: [www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)

## **16. 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.

## **17. Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority and Women Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women**

### **NEW YORK STATE LAW:**

Pursuant to New York State Executive Law Article 15-A, the New York State Department of Health recognizes its obligation to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of New York State Department of Health contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study").

The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that New York State Department of Health establish goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

### **Business Participation Opportunities for MWBEs**

For purposes of this solicitation, New York State Department of Health hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation.

## **18. Equal Employment Opportunity Requirements**

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities

without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a M/WBE staffing plan ([Attachment 5](#), Form #4) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the New York State Department of Health, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

## **19. Iran Divestment Act**

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should the Department of Health receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the Department of Health will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the Department of Health shall take such action as may be appropriate and provided for by law, rule, or contract,

including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

The Department of Health reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

## **20. Encouraging Use of New York Business in Contract Performance**

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All bidders shall complete [Attachment 6](#) to indicate their intent to use/not use New York Businesses in the performance of this contract.

## **21. Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Businesses**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. DOH recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DOH contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, DOH conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be

viewed at: <https://ogs.ny.gov/veterans/>

Bidders are encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

## **22. Vendor Assurance of No Conflict of Interest or Detrimental Effect**

All bidders responding to this solicitation should submit [Attachment 4](#) to attest that their performance of the services outlined in this IFB does not create a conflict of interest and that the bidder will not act in any manner that is detrimental to any other State project on which they are rendering services.

## **G. LIST OF ATTACHMENTS**

1. Bidder's Disclosure of Prior Non-Responsibility Determinations ([Attachment 1](#))
2. No Bid Form ([Attachment 2](#))
3. Vendor Responsibility Attestation ([Attachment 3](#))
4. Vendor Assurance of No Conflict of Interest or Detrimental Effect ([Attachment 4](#))
5. M/WBE Procurement Forms ([Attachment 5](#))
6. Encouraging Use of New York Businesses in Contract Performance ([Attachment 6](#))
7. NYSDOH Regional Map (Attachment 7)
8. Sample Standard New York State Contract Language and Appendices ([Attachment 8](#))
9. References ([Attachment 9](#))
10. Cost Proposal Form (Albany Region) & 4A. Cost Proposal Form (Metropolitan Area) (Attachment 10 and 10a)