

NEW YORK STATE DEPARTMENT OF HEALTH

A Request for Proposal for
Assistance with Administration of New York's
Nurse Aide Testing and Certification Program

Bureau of Professional Credentialing
Office of Long Term Care
RFP # 0704190747
Task ID: 4495

Schedule of Key Events

RFP Release Date	February 13, 2009
Registration for Bidders Conference Requested by	February 20, 2009
Bidders Conference	February 27, 2009
Written Questions Due	March 4, 2009
Response to Written Questions and Questions Received at Bidders Conference (anticipated)	March 20, 2009
Letter of Intent to Submit Proposal (optional)	March 27, 2009
Proposal Due Date	April 10, 2009

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: Bonnie DeGennaro, Bureau of Accounts Management, 518-474-7896

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 proposals or bids: (a) profcred@health.state.ny.us; (b) Brian Morris or Beth Dichter, Bureau of Professional Credentialing, NYS Department of Health, 161 Delaware Avenue, Delmar, NY 12054, 518-408-1297; or (c) Jackie Pappalardi, Director, Division of Residential Services, Office of Long Term Care, 518-408-1267.

Submission of written questions: profcred@health.state.ny.us or Bureau of Professional Credentialing, NYS Department of Health, 161 Delaware Avenue, Delmar, NY 12054

Participation in the Pre-Bid Conference: profcred@health.state.ny.us or Karen Hitchcock, Division of Residential Services, Office of Long Term Care, 518-408-1297.

Debriefings: profcred@health.state.ny.us or Brian Morris, Division of Residential Services, Office of Long Term Care, 518-408-1297.

Negotiation of Contract Terms after Award: Brian Morris, Division of Residential Services, Office of Long Term Care, 518-408-1297.

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

This RFP may be downloaded from: <http://www.health.state.ny.us/funding/>

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**NEW YORK STATE DEPARTMENT OF HEALTH
Residential Health Care Facility
Nurse Aide Certification and Registry Program**

A. INTRODUCTION

The New York State Department of Health (DOH) is issuing this Request for Proposal (RFP) to obtain the services of a contractor to:

1. Establish a standardized competency evaluation program (CEP), based on the Federal Omnibus Budget Reconciliation Act (OBRA 1987) and New York State Department of Health requirements and curriculum for nurse aides in residential health care facilities, which reflects the knowledge, skills and competencies included in that curriculum.
2. Administer the CEP, i.e., the clinical skills examination (CSE), the written examination (WE) and oral examination (OE), to eligible candidates by qualified nurse aide evaluators (NAEs); score each examination; process and record the scores; distribute the score reports; protect the confidentiality and security of the examination; and process and issue New York State RHCF nurse aide certificates, pocket cards and re-certification cards to eligible individuals.
3. Establish and maintain an examination database containing descriptive information on each individual candidate and the performance of each nurse aide training program (NATP), nurse aide evaluator and individual candidates. Prepare and distribute reports as requested by DOH.
4. Establish, operate and maintain the New York State RHCF Nurse Aide Registry (an interactive database), input information on each individual who has successfully achieved New York State RHCF nurse aide certification; update the information on each individual in the registry as necessary, respond to verification requests about RHCF nurse aides from potential nurse aide employers, other State and local government agencies and the public; respond to informational requests from the public and DOH; and respond to requests from CNAs for assistance with certification and recertification.

The contract has an anticipated start date of July 15, 2009 and a term of five years. It is anticipated that the current contract for these services will expire on September 30, 2009. It is anticipated that these start and end dates will provide a ten-week transition period from the current contractor to the contractor awarded the bid under this RFP. The new contractor, if other than the current contractor, will not deliver any billable or reimbursable services during the transition period. As the actual start date for the new contractor, and the length of the transition period, is not known at this time, all dates in this RFP that are dependent upon the start date of the contract may be shifted to take account of the actual start date once it has been determined.

Eligibility to bid on this contract is limited to bidders that own and have copyrights to the examinations comprising the CEP that the bidder proposes to use in New York State. Such CEP should meet all of the requirements specified in this RFP. Eligible bidders must document their continued right to use such examinations for the entire term of the contract. Bid proposals that fail these requirements will be rejected without review and the bidders deemed ineligible for this contract.

The acronyms used throughout this RFP are as follows:

NATP: nurse aide training program;
NAE: nurse aide evaluator;
CEP: competency evaluation program;
CSE: clinical skills examination;

WE: written examination;
OE: oral examination;
DOH: (New York State) Department of Health;
NYS: New York State;
RHCF: residential health care facility or nursing home;
CISO: chief information security officer.

B. BACKGROUND

1. Overview

The Omnibus Budget Reconciliation Acts of 1987, 1989, and 1990 amending Sections 1819 and 1919 of the Social Security Act require the State to implement an RHCF nurse aide program with the following components:

1. Curriculum for training nurse aides working in Medicare- and Medicaid-approved nursing homes in New York State;
2. State-approved facility-based and non-facility-based nurse aide training programs;
3. Competency evaluations which include skills evaluation (demonstration) and written examination (with the availability of oral administration of the written examination);
4. A registry of all nurse aides who have successfully completed training and competency evaluations; and
5. A system for adding to and removing information from a nurse aide's record in the registry related to final findings of and/or criminal convictions for resident abuse, neglect and misappropriation of residents' personal belongings.

Federal rules and regulations regarding the nurse aide competency evaluation and registry may be found at 42 CFR Subpart D §§483.150 - 483.156. New York State rules and regulations may be found at 10 NYCRR 415.

2. Statistical Information

It is not possible to predict the annual number of individuals required to take the nurse aide competency examination or apply for reciprocity or be eligible for and seek recertification. There are currently 650 residential health care facilities in New York State with 119,370 beds. As of March, 2008, there were 348,508 certified nurse aides (CNAs) listed in the New York State RHCF Nurse Aide Registry. Of these, 92,125 are active.

The following data on testing, certification and nurse aide registry activity volume is provided for informational purposes only. It is not intended to be a guarantee of future nurse aide certification program volumes or activities. The exact number of test administrations, initial certifications, reciprocity type certifications, recertification and registry inquiries during the life of this contract may be more or less than the numbers reported below.

The best estimate of the number of individuals to be examined during each year of the contract is 15,000 - 20,000. This estimate is based upon previous experience in New York State. However, it is possible that there will be fewer than 15,000 or more than 20,000 new nurse aides to be examined and placed in the registry on an annual basis during the term of the contract.

In a recent 12-month period:

- about 10,515 individuals received New York State RHCF nurse aide certification through the administration of about 15,517 clinical skills examinations and 17,744 written or oral examinations;
- about 38,234 nurse aides obtained recertification;
- about 1,509 nurse aides received New York State nurse aide certification through reciprocity from another state;
- the New York State Nurse Aide Registry received 70,049 on-line verification requests and 6,095 verification requests;
- the New York State Nurse Aide Candidate Care/Information line received, on average, about 6,016 calls per month. This total does not include the calls received at the Department of Health.

Attachment 1 to this RFP is the Nurse Aide Training Program for Nursing Homes for New York State Nursing Home Nurse Aide Certification (i.e., New York's required nurse aide training program curriculum) which must be included in all State-approved nurse aide training programs. Nurse aide training programs may be offered by nursing homes, vocational training schools (BOCES), community colleges, nursing school programs, proprietary schools, high schools, community-based organizations, federal training programs and employment organizations. As of July, 2008, there were 367 approved NATPs in NYS. 166 were approved by the Department of Health and another 201 were approved by the Department of Education.

C. DETAILED SPECIFICATIONS AND SCOPE OF WORK

The bidder awarded the contract is required to perform all of the services and activities set forth in this RFP and to meet all of the requirements of this RFP. This RFP itself will be part of the contract between the successful bidder and the State. By submitting a bid in response to this RFP, the bidder agrees that if it is awarded the contract, it will perform all of the services and activities set forth in this RFP and meet all of the requirements of this RFP, notwithstanding any provisions to the contrary in its bid proposal, unless the exception is expressly provided for in writing in the contract between the bidder and the Department.

Bid proposals will be reviewed and scored based on the responses to many of the sections (numbered paragraphs) below. Bidders should assume that those who review and score proposals on the technical criteria: (a) are not familiar with the bidder's performance in past contracts with the State of New York or with any other state; and (b) do not have access to any material other than that submitted in the bid proposal. Bidders should demonstrate how they meet the requirements of each section that is scored. *Those who merely assert that they meet the requirement but do not demonstrate and document in their responses why they believe they meet the requirement, will be given a score of zero on the section.*

Not all sections will be scored. Some sections that will not be scored, such as all of section C.1., state contractual deliverables or provide additional information about the RFPs requirements. Two sections (C. 2.1. and C.2.2.) are pass/fail requirements: bidders who do not include the requested information and/or documentation in their bid proposals will be rejected without review and are not eligible to be awarded the contract. Still other sections describe information that should be submitted as part of the bid proposal. This information is sufficiently important that point(s) will be deducted from the bidder's score if the bidder's proposal does not include the requested information or documentation. Such sections are also identified.

1. General Requirements

1.1. All contractor activities to be performed and all materials to be produced under all parts of the

contract will be accomplished in consultation with and under the direction of the Department through its Bureau of Professional Credentialing (BPC).

- 1.2.** All data collected pertaining to the New York State nurse aide certification program, including but not limited to individual candidates, certified nurse aides, training programs, nurse aide employers, nurse aide evaluators and test performance remain the property of the Department. The contractor may neither release nor use the data in any manner not specified in this RFP without the prior written approval of DOH. All materials developed and distributed to the public under the terms of the contract, other than the test forms and materials documenting the development of the test forms, are the property of the Department of Health unless otherwise agreed to by the Department of Health in writing. Security requirements regarding the handling of proprietary and confidential information are explained in Section D.
- 1.3.** The bidder will propose a unit price to be billed to the Department of Health for each service listed in Financial Plan Section E.3. The reimbursement paid by the Department to the contractor based on such bills will represent the total remuneration due to the contractor for all services rendered and performed in connection with this RFP. The Department makes no guarantees as to the volume of billable events, e.g., actual number certification tests, recertification applications, reciprocity requests, hand-scoring or duplicate certificate requests, etc.
- 1.4.** One of the services that the contractor will provide to the public is recertifying nurse aides. The regulatory requirements for recertification provide that the nurse aide's most recent employer, if a nursing home, must submit the request for recertification on the nurse aide's behalf and must pay the recertification fee. Further, the certification period, which is 24 months, must include at least one day in which the nurse aide worked in a nursing home. These requirements produce a situation in which two or more recertification fees can be paid for the same period of time. The contractor is expected to develop and implement a policy that reduces the incidence of such "duplicate" fees and returns them to the nursing home that paid them under specific circumstances to be determined by the Department of Health.
- 1.5.** The contractor will collect all fees from those to whom it provides services under the terms of the contract, e.g., CNA candidates, nursing homes, public agencies and nurse aide employers, and comply with all audit requirements relating to such fees. All fees collected by the contractor for services performed in accordance with contractual requirements will be deposited in a bank account designated and owned by New York State within no more than two business days. The contractor will reconcile the bank account on a monthly basis and provide a copy of this reconciliation to the Department within seven business days of the date of the monthly bank statement. The contractor will be responsible for collecting 100% of all fees due to the Department in accordance with the provisions of Chapter 55 of the New York State Finance Law. This includes collection activity for checks that do not clear, money orders that are worth less than their face value, and government-issued vouchers for which payment is never received. The contractor will also submit to DOH requests for reimbursement due to the contractor based upon a documented itemized voucher (bill) for the services provided and paid for in full. DOH, upon verification of the voucher, will authorize/make payment to the contractor of the monies due to the contractor for services rendered. The contractor shall remit monies and submit vouchers on forms and in a manner prescribed by DOH and in accordance with New York State policies and procedures. In no case shall the contractor bill the Department, and in no case shall the Department pay the contractor, for services that the contractor has not rendered and for which the contractor has not deposited in the State-designated bank account the total amount of the associated fee.
- 1.6.** The contractor will develop and maintain a database or other electronic tracking system that includes itemized transaction information (a transaction is the delivery or attempted billable delivery of a single unit of service, e.g., administration of a written and clinical test to a first-time

tester) for revenues, deposits, transfers if any, and reimbursement sufficient to allow Department of Health staff and/or its designees to reconcile each request for reimbursement to the associated revenues, deposits and transfers, by the specific service provided to a specific nurse aide candidate or certified nurse aide on a specific date. This level of detail will enable the Department of Health to verify that it has obtained from the contractor the full value of the fee for any service rendered by the contractor before the contractor bills the Department for the service and the Department reimburses the contractor for the service. The contractor will submit the information as determined by the Department and in such format as determined by the Department permitting such reconciliation for all requests for reimbursement.

- 1.7.** The contractor agrees to meet in person with DOH to discuss contractual and programmatic issues at least once each calendar quarter for the term of the contract, unless otherwise agreed to by DOH. Additional meetings and conference calls will be scheduled as required or needed. It is anticipated that all meetings between the contractor and DOH will be held at the offices of the Bureau of Professional Credentialing, New York State Department of Health or similar suitable space in the Albany area, unless otherwise agreed to in advance by the DOH.
- 1.8.** All procedures performed and products provided during the course of the contract period are subject to final approval by DOH and remain the property of DOH. Security requirements regarding the handling of proprietary information are explained in Section D.
- 1.9.** The contractor must consider and allow for sufficient lead-time for DOH review, and if necessary, contractor revision and DOH re-review of materials prior to DOH approval to assure contractual timeframes are met. While DOH will make every effort to review materials promptly, turnaround time for such review may require up to ten business days.
- 1.10.** A contract manager will be appointed by the contractor and approved by DOH who will have the authority to speak for the contractor. The contract manager will be the single individual that DOH contacts concerning the day-to-day activities and performance of the activities under this agreement. It is expected that the contract manager will have the authority to promptly resolve any problems or contractual failures that arise during the contract period.
- 1.11.** Quality control of all printed and electronic materials, including those distributed to candidates, NATPs, nurse aide employers, NAEs and DOH, resides with the contractor. The contractor will establish systems to ensure quality control for all deliverables specified in this RFP including without limitation materials and systems relating to administration, operation and maintenance of the competency evaluation program and the nurse aide registry.
- 1.12.** The contractor will be responsible for printing all materials. The contractor will provide camera-ready versions of all material to DOH prior to publication, fully proofed, edited and error-free. Contractor will present appropriate identification of re-edited sections to DOH prior to final publication. The DOH may, at its sole discretion, deduct from any reimbursement owed to the contractor by DOH, a fee of \$200.00/hour for each hour of DOH staff time required to proof, correct, reformat, reorganize, rewrite, etc., any materials submitted by the contractor to the DOH for approval that do not contain all required material and/or are not professionally written, organized and displayed, e.g., materials that have spelling or grammatical errors, do not follow consistent rules for capitalization, titles, sub-titles, and emphasis (e.g., use of bolded, italicized or otherwise specially designated text), are poorly organized, are incomplete or missing required material, contain incorrect information, lay out of information is confusing, inaccurate Table of Contents, etc. Alternatively, the Department may require the contractor to correct the problems and replace incorrect, inaccurate or inferior materials at its own expense within timeframes specified by the Department of Health. Such timeframes may result in the contractor incurring unanticipated costs that will not be reimbursed by the Department.

- 1.13.** The contractor will ensure that all of the services and activities required under this RFP are fully operational and implemented no later than October 1, 2009, unless otherwise stated in this RFP. The DOH may assess a penalty not to exceed \$1,500 per calendar day per service or activity for each day a service or activity's full implementation as specified in this RFP is late and/or delayed.
- 1.14.** All data processing programs and systems provided as part of this contract will be documented, and remain in operation at all times for the duration of the contract. Should systems and programs provided to DOH in-house, or in facilities rented or leased by DOH on a batch or time-sharing basis, fail, the contractor will provide the technical support necessary to restore the system to its full operational capability. This support shall be provided at no cost to DOH within one working day for the duration of the contract. Security requirements regarding back-ups, restores, disaster recovery and business continuity are outlined in Section D.
- 1.15.** The contractor agrees to assure the defensibility, job-relatedness, reliability and validity of its examinations and cut scores at all times. The contractor has sole responsibility to defend the merits of the examinations in the event of challenge, legal or otherwise by a candidate, NATP, nursing home, nurse aide employer, the state or other party.
- 1.16.** The contractor will be required to develop and implement a plan to ensure the smooth and orderly transfer of all historical and current information, records, databases, etc., excluding any social security numbers (SSN) that may be in the information, regardless of format (e.g., hardcopy or electronic files, records and data) from the current contractor to itself. This plan must be submitted to DOH for approval no later than August 7, 2009. The contractor must also develop, subject to the Department's approval, and implement a plan as necessary to ensure the smooth and orderly transition to any subsequent winning bidder following the expiration of the subject contract. This plan must be submitted to the Department no later than three months prior to the expiration of the contractor's contract. The contractor must ensure that the ongoing testing of new nurse aides, recertification of existing nurse aides, and the operation of the nurse aide registry is not disrupted during either transition period. The contractor must document and ensure that the registry continues to contain all of the information in the current NYS registry for every currently certified and lapsed nurse aide without loss of current and historic data on individual nurse aides, excluding any SSNs that may be in the information.
- 1.17.** The contractor is required to maintain the original copy of all New York State Nursing Home Nurse Aide Registry Applications, the New York State Nursing Home Nurse Aide Service Request Form, and test forms completed by those taking the test, including those that it "inherits" from the previous contractor, through the entire term of its contract. The contractor is required to securely transfer these records intact to the next contractor upon expiration of its contract. It shall have a system for easy and prompt identification and retrieval of the original application and all test forms for each person who submits one or for whom such form is submitted. It shall transfer this system and all documentation for the system to the next contractor upon expiration of its contract. It shall provide the next contractor with written instructions sufficient to enable the next contractor to use the system to identify and retrieve applications and test forms for specific individuals.
- 1.18.** The contractor must keep all records other than those specified in Section C.1.17. and C.1.19., regardless of format, for a period of seven years or until the expiration of its contract, whichever occurs first. Upon expiration of its contract, all such records that are not at least seven years old will be securely transferred to the next contractor along with an index to the records that enables the next contractor to easily identify and retrieve specific records, and to identify and destroy records when they are more than seven years old.
- 1.19.** Section C.1.18. does not apply to the databases described in Sections C.7. and C.8., which must be maintained in perpetuity unless the Department agrees to an alternative maintenance period for specific types of information in the databases.

2. Establish a Standardized Competency Evaluation Program (CEP)

- 2.1. The nursing home nurse aide competency evaluation program (CEP) is comprised of the clinical skills examination (CSE) and the written examination (WE) which may be administered orally as the oral examination (OE). The bidder must include in its bid proposal copies of all forms of both the CSE and the WE that it proposes to use in New York if it is awarded the contract. The points assigned to each item and the cut score for each test form for both the written and the clinical test must be provided. Bidders must also include a written sample of the OE and describe how it is administered. **(Pass/Fail)**
- 2.2. The bidder's proposal must include documentation concerning ownership of and copyright to the examinations comprising the CEP that it submitted to meet the requirements of Section C. 2.1. The bidder's proposal must include documentation of its continued right to use this CEP for the entire term of the contract. No modification or substitution of the CEP may be made during the contract term without the prior written approval of the DOH. **(Pass/Fail)**
- 2.3. The construction of each examination of the CEP proposed to be used in NY and each version of the examinations must meet the following requirements:
- 2.3.1. Written in English at the 4th - 6th grade reading level. The bidder's documentation that the CEP it proposes to use in New York meets this requirement should include a detailed description of each and all methods used to determine the readability of all parts of the WE and the readability estimate produced by each method. The description of each method should be sufficient to enable reviewers to ascertain the soundness of the method. **(This section will be scored.)**
- 2.3.2. Compliance with federal requirements for CEPs at 42 CFR §483.154(b)(1) – (2) and 42 CFR §483.152(b). Each federal requirement should be addressed. **(This section will be scored.)**
- 2.3.3. Developed and constructed consistent with the professional standards and educational principles pertaining to test development and construction, including the development of clinical and written test items or questions and clinical and written test equating. The bidder's documentation that its CEP meets this requirement should include the following for both the clinical test and the written test: **(This section will be scored.)**
- Regarding the experts who developed the exams (i.e., the individuals who developed test items and decided which ones should be used in each test form): the criteria for selecting the experts; whether each expert actually used met each criterion; if any expert actually used did not meet one or more criteria, the criteria not met should be specified for the expert; and the number of experts actually used. Experts need not be named: codes can be used to refer to each expert, e.g., Nurse 1 or CNA 3.
 - Regarding equating: describe the test equating methodology that was used in sufficient detail to enable reviewers to ascertain its soundness and logic.
- 2.3.4. The job analysis methodology and results used to develop the CEP should be included in the bidder's proposal. If the job analysis is not sufficient to demonstrate the job-relatedness of the CEP, i.e., relatedness to the duties and responsibilities of entry-level nursing home nurse aides in New York State, additional discussion should be included. In any event, the job analysis and discussion, if any is needed, should include the following: **(This section will be scored.)**
- Regarding the experts used in the job analysis: the criteria for selecting the experts; whether each expert actually used met each criterion; if any expert actually used did not meet one or more

criteria, the criteria not met should be specified for the expert; and the number of experts actually used.

- The job analysis should have resulted in a detailed and comprehensive list of tasks, knowledge, skills, abilities and other job-related behaviors and qualities. The experts should have assigned ratings (i.e., frequency, importance, criticality) to each behavior and quality. Include the lists of tasks, knowledge, skills, abilities and other job-related behaviors and qualities, and the frequency, importance and criticality ratings assigned to each.

2.3.5. Acceptable standards for validity and reliability of the clinical and written tests used to identify those who possess the minimum competencies required of entry level nursing home nurse aides in New York. The discussion for both the written and the clinical test should include the following: **(This section will be scored.)**

- Regarding the experts used: the criteria for selecting the experts; whether each expert actually used met each criterion; if any expert actually used did not meet one or more criteria, the criteria not met should be specified for the expert; and the number of experts actually used.
- The methodology for ensuring test validity (i.e., relatedness to on-the-job functioning of nurse aides in New York) and the validity evidence for all components of the test and the test as a whole. Any statistics that indicate low validity should be explained.
- The methodology for ensuring test reliability and the results of reliability analyses for all components of the test and the test as a whole. For the clinical test, address inter-rater reliability.
- The methodology for determining cut scores for each test and each test form and why that score identifies those who are minimally competent to be nurse aides in New York.

2.3.6. Based on a curriculum which is analogous to the curriculum required to be used in New York. The bidder's proposal should include a cross-walk between New York's curriculum and the curriculum upon which the bidder's CEP is based. For purposes of displaying or formatting the crosswalk, for New York's curriculum, use the chart in Section D of the Nurse Aide Training Program for Nursing Homes for New York State Nursing Home Nurse Aide Certification (Attachment 1), pages 12-20. For each unit (capital roman numeral), topic (capital letter), lesson (number), and sub-lesson (small roman numeral) in the New York curriculum, provide the title of the comparable unit, topic, lesson and sub-lesson (if any) as well as the classroom, laboratory and clinical minutes for each unit, topic, lesson and sub-lesson from the curriculum upon which the bidder's CEP is based. Provide a description of the content of each unit, topic, lesson and sub-lesson included in the curriculum upon which the bidder's CEP is based. Finally, state the number of items in the bidder's test item bank (this number should not include test items on test forms) that address each unit, topic, lesson and sub-lesson (if any). Bidders should take care to ensure that, when referring to NY's curriculum, the numbering, lettering and titles used in the crosswalk are identical to the those used in NY's curriculum. The level of detail in the content description of the bidder's curriculum should be comparable to the level of detail in New York's curriculum. "Mapping" of the bidder's curriculum to NY's curriculum that is unclear and/or confusing to reviewers may result reviewers assigning a lower score on this criterion to the bid. Content descriptions that are vague or ambiguous may also result in a lower score. **(This section will be scored.)**

2.4. The bidder should submit the examination blueprint for the CEP proposed to be used in NY which identifies, by examination, by content area, the actual/proposed number of questions per content area on the clinical skills examination and written examination. **(Point(s) deducted if not submitted with bid proposal.)**

- 2.5. The bidder should submit the weighted content outlines currently utilized to construct each examination in the CEP proposed to be used in NY. **(Point(s) deducted if not submitted with bid proposal.)**
- 2.6. The bidder should present the analysis and statistics used to establish the national or jurisdictional pass/fail cut score for the CSE, the WE and the OE proposed to be used in NY, including all assumptions and corroborating data for the decision process. **(Point(s) deducted if not submitted with bid proposal.)**
- 2.7. The bidder agrees to establish pass cut scores specific to New York State, subject to the approval of the DOH, for all examinations of the CEP at the time of initial implementation and prior to the introduction of any changes to the NYS examination. By submitting a bid, the bidder attests to the fact that it retains the data (answers to test questions) required to compute such cut scores.
- 2.8. The bidder should provide historical annualized data on pass/fail rates for the CSE, WE and OE for each state in which the bidder provides nursing home nurse aide competency testing. The bidder should identify the state(s) in which the CEP is the CEP it proposes to use in NY. **(Point(s) deducted if not submitted with bid proposal.)**
- 2.9. For each state included in the bidder's response to Section C.2.8. in which both annual written/oral and clinical test volume is at least 75% of the volume for each of these services in NY, and only for such states, the bidder should provide: **(Point(s) deducted if not submitted with bid proposal.)**
- 2.9.1. How many years the bidder has administered the CEP;
- 2.9.2. Number of WEs, CSEs and OEs administered in 2007 or a more recent 12-month period for which such data are available and the pass/fail rates for each test;
- 2.9.3. A description of test procedures, including how nurse aide training programs request a test date and the standard for how soon after it is requested a test date must be scheduled; test site environment requirements; how students register for the CEP; qualifications and experience requirements for those who administer the CEP; how both unused and completed test packets are handled; how test forms are scored; how students and nurse aide training programs are notified of test results; etc.
- 2.9.4. If the bidder does **not** have at least two years of experience administering the CEP proposed to be used in NYS, and the proposed CEP is not the CEP currently used in NY, the bidder should provide the location, dates, procedures and results of the field test that was conducted of the proposed test pool items.
- 2.10. The bidder should document how, throughout the life of the contract, it will generate, review and edit new test items on an ongoing basis to ensure a sufficient pool of test items at all times that accurately reflects the actual skills and knowledge required by entry-level NYS nursing home nurse aides. The test items will, at a minimum, be based on the federal and NYS curriculum and content outline for RHCF nurse aides and require recall, application, analysis and evaluation of information as a fair test of a candidate's knowledge, skills, performance, and competency in providing safe care to nursing home residents in NYS. **(Point(s) deducted if not submitted with bid proposal.)**
- 2.11. The bidder awarded the contract agrees to secure the participation of test question writers with current NYS nursing experience, especially the provision of resident care in NYS nursing homes, and will maintain a list of DOH-approved expert test question writers who have agreed to participate in the clinical skills and written examinations development process. Both nurses with current NYS nursing licenses and NYS-certified nursing home nurse aides shall participate in the

development of new test questions.

- 2.12. The bidder awarded the contract agrees to provide editorial, measurement and computer services for test development to assure that test questions are generated, entered into the question pool, edited and reviewed.
- 2.13. The bidder awarded the contract agrees to develop and maintain a database enabling easy access and retrieval of clinical skills, written and oral examination test items. The bidder should demonstrate in its bid proposal the ability to manage the database for the life of the contract. Security requirements for managing databases are explained in Section D. **(Point(s) deducted if not submitted with bid proposal.)**
- 2.14. The bidder should describe its current system for maintaining accurate records of all test items including accompanying codes for content and test blueprint component and data on item statistics and usage. The bidder should indicate how test items will be utilized and rotated to ensure applicability to current standards of care. **(Point(s) deducted if not submitted with bid proposal)**
- 2.15. The Department may during the term of the contract revise the current NYS nurse aide training program content outline. The bidder agrees that the CSE and WE/OE blueprints and examination skills/questions will be appropriately revised to the satisfaction of DOH to ensure that the subject areas covered in the examinations reflect the skills, tasks and knowledge contained in the NYS NATP curriculum and taught to entry level nursing home nurse aides in the State. Any such changes to the competency examinations blueprint, test forms and/or test items, utilized by the contractor must be made to the satisfaction of the DOH and implemented statewide within 180 calendar days of the finalization of the new NATP curriculum.
- 2.16. The bidder agrees that it will assemble and maintain separate CSE and WE/OE test booklets, with at least four different forms of each examination available and in use at all times.
- 2.17. The bidder in its bid proposal must describe how it will ensure that any breach in security with one test form does not compromise the entire CEP, and how it will handle the compromised test form(s). **(Point(s) deducted if not submitted with bid proposal.)**
- 2.18. The bidder agrees, should the Department request it, to implement at least two new written examination forms and one oral examination test form, subject to DOH approval, every twelve months.
- 2.19. The bidder in its bid proposal should describe the process used to implement new examination test forms. **(Point(s) deducted if not submitted with bid proposal.)**
- 2.20. The bidder agrees to implement procedures to ensure quality control, confidentiality and security of candidates' personal identifying information, all test questions, examinations, and materials during all stages of examination development, administration, processing and delivery to and from examination sites. These policies and procedures should be included in the bidder's proposal. **(Point(s) deducted if not submitted with bid proposal.)**
- 2.21. The contractor shall investigate all breaches of security incidents and take prompt corrective action(s) to prevent their reoccurrence. The contractor shall notify DOH immediately upon receipt of information suggesting a breach may have occurred and provide DOH with a full reporting of the incident periodically during the contractor's investigation and upon closure. Security requirements for IT security "Incident Management" are explained in Section D.
- 2.22. The bidder, if it is awarded the contract, agrees that all CEP tests used in New York, if not the

tests currently used in New York, will be in compliance with all federal requirements for such tests. This is technical sub-criteria 2.3.2. The Department will determine whether the bidder's tests are in compliance with all federal requirements.

- 2.23. The bidder, if it is awarded the contract, and if its tests are not the tests currently used in New York, agrees that if its bid proposal does not score 100% of the points available for technical sub-criteria 2.3.1, 2.3.3, 2.3.4, 2.3.5 and 2.3.6, it will develop and implement at least four new written test forms (and oral versions of each) and four new clinical tests within one year of contract start date. These written and clinical tests shall meet the requirements addressed in these five sub-criteria. Further, using items from its test item bank (item test banks are a federal requirement), the bidder agrees to improve the congruence between its tests and New York's nurse aide curriculum to the maximum extent possible in the test forms implemented after the anticipated 10-week transition period from current contractor to new contractor expires.

3. Administration of the CEP

- 3.1. The CEP will be completed in the manner described in this RFP. The contractor will have total responsibility for the administration of the CEP.
- 3.2. The contractor will comply with all existing and future federal and State statutes and regulations pertaining to the development and administration of standardized examinations in NYS including the provisions of the Americans With Disabilities Act.
- 3.3. The CEP will be managed in a manner that ensures compliance with all applicable federal and State statutes, regulations and requirements in the determination of each individual's competency to provide nursing and nursing-related services to nursing home residents. All competency testing is to be administered and conducted in English.
- 3.4. The bidder in its bid proposal should describe the process for initial and periodic statewide training and ongoing supervision of qualified nurse aide evaluators (NAEs), to guarantee there will be a sufficient pool of NAE's available to administer, in a fair, consistent, uniform and timely manner, the NYS CEP to all qualified individuals. At a minimum, NAEs must be currently licensed (in NYS) nurses with at least one year of nursing experience in an RHCF. Exceptions to the RHCF experience requirement may be made but only with Department of Health approval. **(This section will be scored)**
- 3.5. The bidder agrees to provide the initial, periodic and on-going training and performance evaluation and annual reorientation of each NAE to ensure the fair and uniform implementation and timely administration of all CEP rules and procedures across the state.
- 3.6. The contractor will notify all NAEs of record of the dates of upcoming NAE programs and supply all training materials, equipment and staff necessary for NAE training. Training must be scheduled in such a manner as to ensure that there are sufficient qualified NAEs as of October 1, 2009, and throughout the life of the contract, to meet all nurse aide trainee testing needs across NYS as specified in this RFP.
- 3.7. The contractor will maintain and make available to DOH by name, address and NAE identification number, the roster of approved, qualified NAEs. The roster will include the information required for securing the services of an approved NAE. The roster will be updated within 10 business days of the completion of each subsequent NAE training and/or reorientation program.
- 3.8. The contractor will retain sufficient administrative staff with the requisite education, training and experience in appropriate methods of statistical analysis and test development to provide psychometric and statistical consultation and specialized psychometric and/or statistical reports in

timely manner upon demand by DOH.

- 3.9. The bidder in its bid proposal should describe the process it will employ to guarantee that any individual who must retest for any reason does not receive a test form that has already been administered to that individual. **(Point(s) deducted if not submitted with bid proposal.)**
- 3.10. The bidder should present its plan to ensure that the CEP is administered in the same way at each test event across the State without variance. This plan should also address how the bidder plans to accommodate candidates who qualify for accommodation under the Americans With Disabilities Act. **(This section will be scored.)**
- 3.11. The bidder should present its plan to ensure that the quality of the test site environment is maintained for each test event regardless of test site location. **(This section will be scored.)**
- 3.12. The clinical skills examination (CSE) shall consist of a demonstration of at least five randomly selected items drawn from a pool of tasks generally performed by entry-level nurse aides in NYS nursing homes, including personal care and other tasks as specified in the federal and State curriculum. The tasks shall vary in complexity. Bidders may propose a time limit to be imposed on the test takers to complete the clinical skills examination. If a time limit is proposed, bidders should provide in their proposals the rationale for the time limit and describe in detail how it was determined and the data used to determine it. **(Point(s) deducted if bidder proposes a time limit and this information is not submitted with bid proposal)**
- 3.13. The DOH reserves the right to allow unlimited time or a different time limit than the time limit proposed by the bidder in Section C.3.12., if a limit is proposed.
- 3.14. All clinical skills must be actually performed by the candidate on living persons except as approved by DOH. No simulations of clinical skills tasks will be permitted during the examination process.
- 3.15. The bidder should include in its bid proposal its policy and procedure for stopping a clinical exam and/or a written exam before the candidate has completed it with the result that the candidate fails or is likely to fail the exam. **(Point(s) deducted if not submitted with bid proposal)**
- 3.16. While it is recognized that computer-based testing is not feasible in a proportion of testing sites, the WE should be administered electronically with a computer whenever possible and feasible. Bidders should include a detailed discussion of how a computer-based WE will be implemented statewide. Bidders should include in their plan the administration of the WE at testing sites that do not have the requisite infrastructure required for computer-based testing. The plan should provide an estimate of how many sites will require manual administration of the WE. The discussion should consider the following:
 - 3.16.1. The tutorial used to instruct candidates how to use the computer testing equipment; how the candidates will provide their responses to the questions, how candidates will change their answers; and the procedures used to ensure that any candidate who is unfamiliar with computers will not be disadvantaged by the computer-based testing; etc. **(This section will be scored.)**
 - 3.16.2. How the bidder will ensure that the different characteristics of the testing site, for example the quality of the computer equipment, the speed of the internet connections, etc., will not affect the success of the candidate. **(This section will be scored.)**
 - 3.16.3. The advantages and disadvantages of computer-based testing relative to other methods for residents, test candidates, nurse aide employers, training programs and the State. **(This section will be scored.)**

- 3.16.4. The validity and reliability of this method in comparison to traditional paper and pencil administration. **(This section will be scored.)**
- 3.17. The OE must include each of the multiple choice type questions on the WE and additional questions designed to evaluate the test takers' ability to read and understand written job-related materials.
- 3.18. There is no order to the administration of the CSE and the WE/OE nor is there a requirement that a candidate pass one test before taking the other test. Bidders should state in their proposals whether the CEP will be order specific and whether the CSE or the WE/OE must be passed before the other one can be taken. **(Point(s) deducted if not submitted with bid proposal)**
- 3.18.1. The bidder should include in its bid proposal a plan for test administration which accounts for the following: **(Sections 3.18.1 – 3.18.5 will be scored.)**
- 3.18.2. The testing program should be designed with sufficient flexibility to enable the NAE to administer and score the CSE, administer the WE/OE and forward all test materials to the contractor for further processing and verification within 24 hours of the completion of the testing event. Scoring of the WE/OE may take place at a central location.
- 3.18.3. The contractor must have sufficient proctors at each WE/OE administration to ensure the integrity and security of the testing process. Attachment 2 provides minimum acceptable ratio of proctors to candidates.
- 3.18.4. The CSE and WE/OE may be administered on consecutive days provided that the administration of the entire CEP takes place during a single testing session.
- 3.18.5. The examinations shall be administered only at approved training sites and approved regional test sites.
- 3.19. The contractor will notify in writing each nursing home, non-nursing home nurse aide employer (with facility employer code), and approved NATP, prior to September 1, 2009, of the procedures (approved by DOH) for scheduling the administration of the CSE and/or WE/OE by an approved NAE.
- 3.20. Within five business days of notification by DOH of newly approved NATPs, new nursing homes and/or new nurse aide employers, the contractor shall provide to these entities, in writing, the procedures to schedule the administration of the three examinations by an approved NAE.
- 3.21. The bidder should submit a plan in its bid proposal to ensure that no individual will wait more than ten business days following request for a test administration at a nursing home or approved NATP, or more than 20 business days following a request for test administration at a regional test site. The Department reserves the right to require the contractor to reduce the ten business day limit to 5, 6, 7, 8 or 9 business days at no additional cost to the public or to the Department. The plan must consider the following **(Point(s) deducted if not submitted with bid proposal):**
- 3.21.1. Maintenance of sufficient regional test site capacity to meet the 20-business-day requirement for test administration at a regional test site. Regional test sites are specified in Attachment 3.
- 3.21.2. A minimum number of candidates necessary for the NAE to schedule and/or administer the CSE and/or the WE/OE during any one test administration date or test session cannot be required.
- 3.21.3. A sufficient number of appropriately trained NAEs must be recruited and retained to ensure timely testing consistent with contract parameters. The plan should ensure adequate geographical

distribution of NAEs across the State during the entire contract period.

- 3.22. The contractor will be required to develop and implement a plan, subject to Department approval, for scheduling and conducting training seminars to orient NATP coordinators and primary instructors and nurse aide employers to the contractor's nurse aide certification process and procedures. Times and places for the training sessions will be mutually determined by the contractor and DOH but the training sessions must be completed no later than September 18, 2009. Materials to be used will be mutually decided by DOH and the contractor and shall include an advance copy of the materials for each participant.
- 3.23. The contractor shall assume the cost of initial and subsequent statewide training for the instruction and/or clarification of any changes or modifications to the NYS nurse aide certification program required for each nursing home, nurse aide employer, NAE and/or approved NATP, during the life of the contract.

4. Candidate Application and Eligibility Screening

- 4.1. The bidder agrees that, as contractor, it will prepare, reproduce and distribute the nurse aide candidate information handbook according to the requirements of this RFP. The handbook will contain all necessary information and application procedures specific to NYS nursing home nurse aides, including all information mandated for inclusion below. The handbook must be in compliance with all federal and state requirements including but not limited to 42 CFR Part 483 and 10 NYCRR Part 415. The current handbook can be downloaded from <http://www.prometric.com/NurseAide/NY.htm>.
- 4.2. Information included in the candidate handbook will at a minimum:
 - 4.2.1 Describe CEP evaluation requirements, necessary qualifications and certification routes, role of the nurse aide registry and acceptable documentation of identity (i.e., candidate's legal name) that must be provided prior to testing.
 - 4.2.2 Provide the testing and certification fee schedule and all other fees and charges.
 - 4.2.3 Provide a general description of WE, CSE and OE content, and sample clinical skills and WE and OE questions.
 - 4.2.4 Describe general nurse aide certification and recertification processes and requirements.
 - 4.2.5 Describe security measures.
 - 4.2.6 Describe current New York State Criminal History Record Check requirements.
 - 4.2.7 Include a self-administered reading level test for use by test candidates to assess their own ability to read the WE.
 - 4.2.8 Include a section, updated at least annually, which sets forth the inventory of currently approved DOH and SED nurse aide training programs, including their addresses and phone numbers; and, for each such training program, the number of CNAs trained and the annualized first time and all attempts pass rates for the CSE and WE/OE in the most recent 12-month period for which such data are available.
- 4.3 The handbook, subject to prior review and approval by DOH, must be released to nursing homes, nurse aide employers and approved NATPs no later than September 1, 2009.

- 4.4 The DOH may assess a penalty not to exceed \$1,000 per day for each day the candidate handbook is overdue.
- 4.5 The bidder should include in its bid proposal a copy of an existing candidate handbook it has produced for use in New York or in other states. **(Point(s) deducted if not submitted with bid proposal.)**
- 4.6 The contractor will prepare, print and distribute the official nurse aide certification registration forms. The certification registration form must be applicable for certification by each method permitted in NYS (i.e., examination, reciprocity, lapsed and licensed nurse) and will be the source of data for the examination database and the nurse aide registry. This form must be approved by the DOH and released to nursing homes, nurse aide employers and approved training programs no later than September 1, 2009.
- 4.7 Information to be collected on the certification registration form shall include but not be limited to:
1. Candidate's full name as it appears on at least two of the following, one of which must include a photo of the candidate's face: birth certificate, driver's license, passport or other government-issued documentation of identity to be agreed upon by the contractor and the DOH (see Attachment 14: Documents That Establish Identity and Employment Eligibility). The DOH may also require that the identification number on the documents used to establish identity be included on the registration form. In this regard, bidders should be aware of the requirements of the NYS Information Security Breach and Notification Act, described in review Section G 12 of this RFP.
 2. Source documents for name;
 3. Previous or other names known by, including maiden name;
 4. Source document for each previous or other name known by;
 5. Current complete home address;
 6. Date of birth;
 7. Source document for date of birth;
 8. Name of nurse aide training program, date of completion and the NY state-issued nurse aide training program seven digit identification number;
 9. Method of certification requested;
 10. Current nursing home employment (if applicable) including nursing home name (as it appears on the nursing home's operating certificate) and identification code number (if available);
 11. All previous New York State nurse aide certification numbers (if applicable);
 12. All current or previous states(s) in which the candidate has received nurse aide certification consistent with federal (OBRA) requirements;
 13. Gender, educational status, primary language spoken; and
 14. Other demographic information as determined by DOH.
- 4.8 The DOH is considering requiring that the pocket cards issued to nurse aides include a digital photograph of the aide's face. The digital photograph would become part of the individual's record on the examination and Registry databases although public access to the photo would be restricted and subject to pre-approval by the Department of Health. The bidder should provide a proposal for obtaining digital photographs of all individuals to whom it issues New York State nurse aide certificates and wallet cards regardless of certification route and whether the individual is being certified or recertified. The proposal should address how the bidder will ensure that the photo is: (a) valid (i.e., the photo is that of the individual named on the certificate and pocket cards); (b) an accurate representation of the individual's face; and (c) current. The bidder's proposal should also specify on the Bid Form (Attachment 6) the increase in the fees proposed for the services listed in Section D 3.1 – 3.5, 3.9 and 3.11 that it would charge the Department of Health if the Department required it to implement this provision. **(Point(s) deducted if not**

submitted with bid proposal.)

- 4.9 The DOH may assess a penalty not to exceed \$1,000 per day for each calendar day the nurse aide certification registration form is overdue.
- 4.10 The bidder in its bid proposal should provide a detailed description of how it will ensure that the nurse aide certification registration form is completed with true and accurate information, with special attention paid to the accuracy of candidate identifying information such as name(s), date of birth and photograph. The contractor may allow candidates to document their true names with their Social Security cards. However, under no circumstances may the contractor maintain any record of the candidate's Social Security Number. The DOH reserves the right to require the contractor to modify its procedure to ensure that only true and accurate information is recorded on this form, at no additional cost to nurse aide employers, NATPs, test candidates or the DOH. **(Point(s) deducted if not submitted with bid proposal.)**
- 4.11 The bidder in its bid proposal should provide a description of the quality assurance procedures that will be used to verify that all data keyed into the database from the nurse aide certification registration form is accurate and true. **(Points deducted if not submitted with bid proposal.)**
- 4.12 The contractor will prepare, print and distribute the information manuals containing the requirements, policies and procedures for the NYS nursing home nurse aide CEP and nurse aide registry to nursing homes, NATPs and others approved by DOH. The mechanisms for printing and distribution will assure that all NATPs, nursing homes and other nurse aide employers will have access to the materials. The materials must be error free, approved by the DOH and distributed to all parties no later than September 1, 2009. The DOH may assess a penalty not to exceed \$500 per day per manual for each day a manual is overdue. These materials must also be provided to each new nursing facility, nurse aide employer and NATP within five business days of receipt of written notification by mail, fax or e-mail from DOH or State Education Department (SED).
- 4.13 The bidder in its bid proposal should provide policies and procedures to guarantee that only eligible candidates are permitted to take NYS competency examinations, including candidates using English as their second language. Eligible candidates include only those individuals who are eligible to work in the United States and have successfully completed, within two years of the test date, a State-approved NATP or who are otherwise approved by the DOH to take the competency examinations. See Attachment 14 for a list of acceptable documents that establish employment eligibility. Approved NATPs have a valid seven-digit identification number issued by either DOH (facility-based and non-SED training programs) or SED (educational institutions under SED jurisdiction). **(Point(s) deducted if not submitted with bid proposal.)**
- 4.14 The bidder in its bid proposal should provide policies and procedures to enable previously certified NYS nurse aides to take competency examinations to regain a lapsed competency determination and active nurse aide registry listing in accordance with State requirements. The record of each nurse aide must maintain and include his/her complete training and certification history, including certification number(s) and any documentation of findings or convictions previously entered into the registry by DOH, in a single file. All relevant current and past information must be accessible and released during registry verification. **(Point(s) deducted if not submitted with bid proposal.)**
- 4.15 The contractor will issue to each candidate who passes both the CSE and the WE a certificate that states that the candidate has successfully completed the New York State nursing home nurse aide competency evaluation program and is a certified nurse aide. The contractor will also issue two pocket cards to each successful candidate that contain information regarding the individual's status as a certified nurse aide, certificate number, and other information that can be used to identify the individual on the nurse aide registry. The DOH will approve samples or mock-ups of

these materials before they are reproduced for distribution to certified nurse aides.

- 4.16** The contractor will process all requests for NYS nursing home nurse aide certification from individuals certified in other states or licensed in NYS as a registered professional nurse or practical nurse, and will grant, in accordance with DOH regulations, nurse aide certification to qualified individuals. The contractor will issue and mail to such individuals their certificate and pocket cards, or notify the individual of the reason for denial of certification, within five days of determination.

5. Examination Administration and Security

- 5.1** The contractor retains total responsibility for the administration of the CEP at acceptable test site locations across the State in accordance with all applicable federal and State requirements.
- 5.2** The contractor will establish, inspect and approve test sites across the State, subject to DOH approval, that will provide suitable accommodations for the uniform and consistent administration of the CEP, including both the CSE and the WE/OE. The contractor will maintain and periodically distribute lists of all approved test sites to the DOH.
- 5.3** The test sites must include each nursing home with or without an approved nurse aide training program and each non-nursing home facility-based state-approved NATP. All test sites must meet or exceed the criteria for suitable testing accommodations for both the clinical skills and written competency examinations under generally recognized standards. The DOH will notify the contractor of any change in status of approved training and/or test sites.
- 5.4** The contractor must also establish and maintain regional test sites in accordance with Attachment 3 that are available to test candidates regardless of the qualifying training program location. Failure to maintain the inventory of mandated regional sites may result in the imposition of fines of \$100 per day beyond a two-week period in which a regional test site is not in operation. All regional sites must meet or exceed the criteria for suitable testing accommodations for both the CSE and the WE/OE as specified in Section C 5.5. Multiple regional test sites are to be established in the more populated areas of NYS to ensure sufficient space is available to meet the volume of test takers and the requirements of this RFP. In no case should a test candidate be required to wait for more than 20 business days between the request for regional test site testing and the actual test administration at the candidate's first or second chosen test location.
- 5.5** The criteria for each test site include: a resident's room or laboratory set up with a sink and running water to simulate a complete nursing home resident's room, availability of a clinical skills test volunteer, adequate supplies and equipment required for the performance of the clinical skills examinations, good lighting and ventilation, sufficient room for spacing the test candidates for the written and/or oral examination, chairs and a flat self-supporting writing surface (no lap boards), accessibility to rest rooms, freedom from distractions that would affect the candidates' ability to perform optimally on either examination, and parking facilities and/or public transportation. Each test site and all testing supplies must be maintained in clean and working order at all times.
- 5.6** In the event that a test site does not meet these criteria, the contractor shall document the unmet criteria and immediately notify the DOH. If the site is a regional test site, the contractor shall also provide DOH with suitable alternative testing locations for the candidates assigned to that location.
- 5.7** The contractor must ensure that NAEs administer competency examinations only in facilities that meet or exceed these criteria.
- 5.8** The contractor will, within ten business days of a request by the nurse aide training program or employing facility (or within 5, 6, 7, 8 or 9 business days if the Department so decides), or within

20 business days for a request for test at a regional test center, arrange for an NAE to administer the CSE and WE/OE to each qualified candidate.

- 5.9** There will be sufficient personnel at each examination site to both administer the CEP and closely monitor the candidates in order to maintain test integrity and security. Additional personnel as specified in Attachment 2 must be present to proctor the written examination.
- 5.10** All personnel will be trained by the contractor to ensure that the testing procedures utilized in each testing location are consistent to assure a uniform examination program throughout the State. The contractor will be responsible for the training and performance of all personnel administering or proctoring the examinations.
- 5.11** The contractor will provide to the DOH in writing on a quarterly basis the current updated list of contractor-approved NAEs.
- 5.12** The contractor will provide to each NATP and nursing home nurse aide employer, in writing, the means to request and schedule an NAE to administer the CEP.
- 5.13** The contractor will monitor the performance of each NAE to ensure compliance with testing procedures, validity of written test scores and clinical test item pass/fail determinations, and the integrity, security and confidentiality of all test materials. NAEs who are not in compliance or who violate the procedures and standards will be subject to remediation or removed from the list of approved NAEs, as appropriate to the situation.
- 5.14** The contractor will ensure that all personnel administering and scoring the examinations or proctoring the examinations are insured and bonded for an amount equal to at least the determined fee for the examination multiplied by the number of candidates being tested at the testing site.
- 5.15** The contractor accepts all liability for maintenance and security of the examination, examination booklets and the examination process.
- 5.16** No individual associated with an approved nurse aide training program in any capacity, including teachers, nurse aide training program personnel, nursing home employees or employees of the parent entity or associated ownership entity, shall participate in the administration or scoring of examinations for any individual who completed the nurse aide training program, or any other training program sharing common ownership or an ownership relationship.
- 5.17** The contractor will develop and implement procedures to verify the identity of the individual taking the CEP.
- 5.18** The contractor will provide DOH with a timely informational copy of all mailings to approved training programs, nursing homes, nurse aide evaluators and/or individuals.

6. Score Reports

- 6.1.** The contractor assumes responsibility for the scoring of all answer sheets in a timely and accurate manner, and guarantees the security and quality control for all testing materials.
- 6.2.** All plans, procedures and any other arrangements concerning CEP scoring, analysis and reporting will be accomplished in consultation with, under the direction of, and subject to the prior approval of DOH.
- 6.3.** The contractor will mail to each candidate who took the CSE and/or the WE/OE verification of

his/her test result (pass/fail) within five working days of the examination administration date.

- 6.4. If the candidate has passed both the CSE and the WE/OE, the score report will notify the individual of his/her success and instruct the individual that the registry will send, to his/her home address, his/her nurse aide certificate within five days. If the examination verification notification also contains the NYS nurse aide certification certificate, the certification notice must be sent to the individual aide within five days of the examination administration date.
- 6.5. If the individual has failed either the CSE or the WE/OE, the score verification will notify the candidate of his/her test results and diagnostic information as well as procedures for retaking the examination (consistent with the rules and regulations).
- 6.6. The contractor will establish procedures to permit candidates to question the accuracy of the scoring of their tests, including a request for hand-scoring. The DOH shall be notified of any requests for and the results of the hand-scoring of a candidate's test.
- 6.7. The contractor will mail to each sponsoring training program and/or nursing home nurse aide employer test score information pertaining to its students/employees within 10 days of the examination administration date, including the performance of individual students/employees.

7. Examination Data Base

- 7.1. The contractor will establish an examination database that meets the approval of DOH for the collection and maintenance of accurate information and demographic data on state-approved NATPs, NAEs, nurse aide employers and individual nurse aide candidates. Such data will include but not be limited to:
 - 7.1.1. For NATPs, the name and full address of the organization providing the training program, name of the training program coordinator, phone number, the date of approval of the training program, unique 7-digit NATP identification number assigned by DOH or SED, and the date of termination or prohibition of the training program.
 - 7.1.2. For NAEs, the full name and address of the NAE, date of NAE orientation and subsequent re-orientations, the date the NAE was eligible to administer the CEP, the unique NAE identification number, and, if appropriate, the 7-digit NATP and/or nurse aide employer identification number(s) of any conflict(s) of interest, and the date the evaluator left or was denied the ability to administer the CEP.
 - 7.1.3. For nurse aide employers, the full name and address of the organization, the name of the contact person, phone number, unique 7-digit nurse aide employer identification number assigned by DOH, date of opening or issuance of ID number, and if appropriate, the dates of prohibition of onsite nurse aide testing and training and the date of closure.
 - 7.1.4. For nurse aide candidates, the individual's full name and address, all personal, training, employment and demographic information collected on the registry certification form and the sources of identifying information, the date(s) when the candidate passed the tests, and the ID of the NAE administering the tests. Upon certification, this information will be duplicated on the nurse aide registry.
- 7.2. The bidder should demonstrate capability and competency to develop and manage the examination database in conformance with all of the requirements specified in this RFP. Security requirements for maintenance of databases are explained in Section D. **(This section will be scored.)**

- 7.3. Among other functions, the examination database will enable the contractor to conduct periodic evaluations of components of the State's nurse aide certification program and to perform investigative and longitudinal analytical studies pertaining to the certification program and other studies as deemed necessary by the DOH.
- 7.3.1. The bidder should as part of its bid proposal include a plan to ensure that the information for all previous and current CEP candidates contained and maintained in the current contractor's examination database is transferred seamlessly and securely to its examination database in its entirety, and that constituent data is complete without omission, revision or alteration, excluding any SSNs that may be in the information. The bidder must ensure and document that there will be no loss of historical data on individual nurse aide candidates, certified nurse aides, NATPs, nurse aide employers and NAEs. **(This section will be scored.)**
- 7.3.2. The bidder should as part of its bid proposal submit a plan to ensure that the demographic information for all previous and current CEP candidates contained and maintained in its examination database will be transferred seamlessly and securely at the expiration of the contract to the subsequent contractor's examination database in its entirety, and that constituent data will be complete without omission, revision or alteration excluding any SSNs that may be in the information. The bidder must ensure and document that there will be no loss of historical data on individual nurse aide candidates, certified nurse aides, NATPs, nurse aide employers and NAEs. **(This section will be scored.)**
- 7.4. The contractor will utilize, maintain, perpetuate and continue to use in the database and the registry the existing unique 7-digit identification number assigned by DOH or SED to each NATP and nurse aide employer, and the existing 13-digit alphanumeric certification number issued to each certified nurse aide, in a manner facilitating the continuation of a single compatible data system and registry for the NYS nurse aide certification program, acceptable to DOH.
- 7.5. The contractor will assign to each NAE a unique identification number. Social Security numbers cannot be collected or used for this purpose.
- 7.6. All data contained in the examination database belongs to and remains the property of the DOH. No data from the examination database may be released by the contractor without prior written approval from DOH.
- 7.7. The contractor shall not limit DOH access to or use of the data contained in the examination database.
- 7.8. The bidder should describe how it will ensure the security of all hard copy data that is keyed into the examination database and the security of the examination database itself. **(This section will be scored.)**
- 7.9. The DOH may assess a penalty on the contractor, not to exceed \$100, for each calendar day beyond October 1, 2009 in which the examination database is not fully functional and operational.
- 8. The New York State RHC Nurse Aide Registry (NAR)**
- 8.1 The New York State RHC Nurse Aide Registry (NAR) must be developed and maintained in a manner consistent with all applicable federal and State statutes, regulations and policies.
- 8.2 DOH must approve the detailed system design, data elements and operation of the NAR prior to implementation.
- 8.3 The contractor guarantees the accuracy of all information in the NAR database. Requirements

regarding data integrity are outlined in Section D.

- 8.4. All data contained in the NAR or used to support it belongs to and remains the property of the DOH. No data may be released by the contractor from the NAR and the databases that support it without prior written approval from the DOH. Security requirements regarding the handling of proprietary information are explained in Section D.
- 8.5. The bidder should submit a plan to develop, operate and maintain the NAR interactive database and system upon which it is based. This interactive database is separate and distinct from the examination data system. Security requirements for managing databases are explained in Section D. The plan must address the following requirements **(Point(s) deducted if not submitted with bid proposal)**:
 - 8.5.1. The NAR must be implemented and fully operational, including beta testing, by 12:01 A.M, October 1, 2009.
 - 8.5.2. The NAR must, at a minimum, have the following capabilities and characteristics:
 - 8.5.2.1. Fully interactive.
 - 8.5.2.2. Integrate all existing information contained in the current New York State RHCF Nurse Aide Registry into the new registry without loss of information or function excluding any SSNs that may be in the information.
 - 8.5.2.3. Direct access to live telephone operators providing nurse aide certification verification for nurse aide employers and public inquiries.
 - 8.5.2.4. Dedicated telephone operators assigned exclusively to New York State-specific inquiries.
 - 8.5.2.5. Interactive voice response (IVR) access for 24 hours/7 days per week nurse aide verification.
 - 8.5.2.6. Fax capabilities and access for receipt of and response to nurse aide verification inquiries.
 - 8.5.2.7. Hard copy documentation verifying the individual's nurse aide certification status, sent to requestor within 24 hours of fax, telephone, US mail or IVR inquiry.
 - 8.5.2.8. Prompt data entry and error correction. The contractor will permanently enter into the NAR all required information as specified in this RFP, in a manner acceptable to and determined by the DOH, for each successful candidate within five working days of the date on which the individual has passed both tests.
 - 8.5.2.9. Prompt record updating.
 - 8.5.2.10. High speed access to the registry by DOH staff via hardware and software to be fully compatible with existing DOH hardware and software.
 - 8.6. The NAR will contain a file record for each lapsed, current and future individual who has successfully completed the RHCF nurse aide CSE and WE/OE or otherwise obtained DOH certification as a NYS nursing home nurse aide. The file record shall include, at a minimum, the following data fields:
 - 8.6.1. Candidate's full name as it appears on at least two of the following: birth certificate, driver's license, social security card, passport or other government-issued documentation to be agreed upon by the contractor and the DOH.

- 8.6.2.** Source documents for this name.
- 8.6.3.** Previous or other names known by, including maiden name.
- 8.6.4.** Source document for each previous or other name known by.
- 8.6.5.** Current complete home address.
- 8.6.6.** A record of home and/or mailing address history including each subsequent address, including effective date, since initial certification.
- 8.6.7.** Current telephone number including area code.
- 8.6.8.** Gender.
- 8.6.9.** Date of birth.
- 8.6.10.** Source document for date of birth.
- 8.6.11.** Date of original certification.
- 8.6.12.** Method of certification.
- 8.6.13.** Complete NYS DOH Nurse Aide (NA) certification number.
- 8.6.14.** The complete record of the individual's nurse aide certification history including each nurse aide certification number issued to the individual, in the case of individuals who are assigned subsequent DOH nurse aide certification numbers.
- 8.6.15.** The record of training history including the name, identification code number and the nurse aide's completion date for each completed State-approved RHCF nurse aide training program(s).
- 8.6.16.** A record of all other states in which the individual has obtained or requested nurse aide certification/registration or registry listing.
- 8.6.17.** Most recent recertification and expiration dates.
- 8.6.18.** Identification of all recertifying nurse aide employer(s) with recertification dates.
- 8.6.19.** An indication of any DOH- or state-imposed hold on the aide's ability to become recertified and the reason for the hold.
- 8.6.20.** An indication of one or more other types of health care paraprofessional or professional certification or licensure obtained in New York State. The types of certification and/or licensure must be identified, e.g., licensed practical nurse, registered nurse, home health aide, personal care aide, etc.
- 8.6.21.** An indication and documentation of conviction for patient or resident abuse, neglect, mistreatment or misappropriation of resident property investigation (documentation of this information will be provided to the contractor by the Department).
- 8.6.22.** Indication and documentation of investigations showing sustained findings of patient or resident abuse, neglect, mistreatment, or misappropriation of resident property including a

summary of the findings, and where applicable, the date and results of the hearing or the date of the waiver of the hearing and a statement by the nurse aide disputing the findings of the investigation (documentation of this information will be provided to the contractor by the DOH).

- 8.6.23.** The names and records of nurse aides who have not worked in a nursing home in twenty-four consecutive months shall not be made available to the public on the Registry, although this information must remain intact in the databases. The contractor must develop and implement systems to enable it to easily identify specific individuals in the databases whose records have been “removed” from the Registry so as to restore to the Registry the name and record of any such individual who subsequently obtains certification or recertification.
- 8.6.24.** Additional information may be required to be included in or removed from the NAR during the life of this contract due to changes in federal and State statute, regulation or policy. The contractor must be capable of promptly implementing such changes to the NAR without additional charge.
- 8.7.** The bidder should provide a description of how it will provide sufficient telephone verification procedures inclusive of the following:

 - 8.7.1.** The establishment and maintenance of toll-free (“800” -type) certification information telephone lines operated and staffed by trained individuals Monday through Friday between the hours of 8:00 AM and 5:00 PM, to respond, in an accurate and timely manner, to all inquiries from nurse aides, nursing homes, NATPs and individuals regarding the testing and certification process in NYS. **(This section will be scored.)**
 - 8.7.2.** Ensuring the accuracy of the information provided by its staff to callers. **(This section will be scored.)**
 - 8.7.3.** Separate and discrete toll free telephone numbers for nurse aide registry verification, and nurse aide training, testing and certification information. **(This section will be scored.)**
 - 8.7.4.** Ensuring that at least 80% of the calls to the certification information phone number will be answered either by live person or by an automated answering system no later than the fourth ring. The blockage rate (percent of calls that receive a busy signal) cannot exceed 10%. The automated answering system may be used for callers who merely want to request nurse aide certification applications, handbooks or manuals, but the option for a live person response must be available to all callers. **(This section will be scored.)**
 - 8.7.5.** The bidder should identify in its bid proposal any and all exceptions to the requirement of Section C.8.7.1 that a live person must be available Monday – Friday between 8:00 AM and 5:00 PM. The Department retains the right to require that the contractor maintain live coverage in conformance with the requirements of Section C.8.7.1 notwithstanding the bidder’s proposed exceptions. **(Point(s) deducted if not included in bid proposal.)**
- 8.8.** The DOH may assess a penalty not to exceed \$1,000 for each calendar day the full, timely and accurate implementation of the candidate information “800” number is delayed beyond 12:01 A.M. on October 1, 2009 and a penalty not to exceed \$500 for each calendar day that this number is not completely and accurately operational as required by this RFP.
- 8.9.** The contractor shall ensure that personal identifying information about each person listed in the registry is not released or accessible to the public under any circumstance unless so directed by the DOH. Such personal identifying information includes but is not limited to home address, home telephone number and date of birth. The contractor will ensure that the requirements of 42 CFR Part 483.156 are met.

- 8.10. The contractor will ensure that the contractor, any subcontractors and all employees maintain the confidential nature of the information contained in the NAR and the databases that support it. The contractor, any subcontractors and all employees must satisfy security requirements explained in Section D.
- 8.11. The contractor will provide a timely response (verbal and/or written) to inquiries from the public concerning individuals listed in the NAR. The information will be provided consistent with all limitations embodied in federal and State laws and regulations, including provisions to prevent the release of personal identifying information.
- 8.12. The bidder should submit a plan for providing DOH NAR staff with continuous on-line real-time access to the registry via high speed internet connection to enable such staff to access and input directly into a nurse aide's registry record any update or correction to the individual's registry information (such as name or address changes) and the appropriate information concerning sustained findings of resident abuse, neglect, mistreatment and misappropriation of resident property or convictions of the same or other information as required by federal or State statute, regulation or policy. The contractor will provide a mechanism to ensure that this information immediately becomes and remains a part of the nurse aide's registry record. **(This section will be scored.)**
- 8.13. The contractor will ensure the continuous and smooth operation of the connection between DOH registry staff and the registry. If during the life of this contract, the DOH registry staff move to new locations, the contractor will be responsible for ensuring that this high speed internet connection is relocated and maintained in a manner acceptable to DOH.
- 8.14. The bidder should include in its bid proposal documentation on the procedure to be used for Department of Health staff to generate ad hoc data and statistical reports from the information collected by or on the registry. **(This section will be scored.)**
- 8.15. The contractor will, upon request, provide the DOH Division of Legal Affairs (DLA) with a means for read-only on-line access to the registry at a DLA location.
- 8.16. The bidder should describe how it will guarantee the confidentiality of the data system, including procedures warranting that on-line access to the registry is controlled by an authentication mechanism. Account management requirements are explained in Section D. Include procedures on account management in general, e.g., password strength rules, password expiration, password reset, password distribution, etc. Include also procedures to ensure that access to the registry system is logged and includes, at a minimum, the user id, date and time of sign-on. Audit requirements and Security Assessment requirements are explained in Section D. The Department of Health reserves the right to require the contractor to use additional or other technology to ensure the confidentiality of the data system. **(This section will be scored.)**
- 8.17. The bidder should describe how it will generate and maintain a history of all changes made to the data in the data base, including procedures to log any changes made to the data in the nurse aide registry system. This log will include, at a minimum, the user id of the user making the change, the date and time of the change, and the unique identifier (i.e., key) of the record that was changed. Audit requirements and Security Assessment requirements are explained in Section D. **(This section will be scored.)**
- 8.18. The bidder should describe how it will ensure protection against interception of data in transit and modification or misappropriation of data by an unauthorized intruder. Security requirements for applications/systems that are hosted external to NYSDOH networks are explained in Section D. **(This section will be scored.)**

- 8.19. The procedures and software used to meet the requirements of Sections 8.17 – 8.19 must be acceptable to DOH.
- 8.20. Reserved.
- 8.21. The DOH may assess a penalty not to exceed \$1,500 for each calendar day the registry is not fully operational for the duration of the contract.
- 8.22. The bidder as part of its bid proposal will submit a plan to establish and maintain toll free telephone lines in sufficient number to provide multiple 24 hour/7 day a week telephone access to the NAR by nursing homes, other states and state agencies, staffing agencies providing nurse aides to nursing homes, and the public for inquiries and verification of information in the registry pertaining to specific nurse aides. This toll free number must be different from the toll free general nurse aide information telephone number required in Section C.8.7.1. The plan should encompass the requirements in Section C. 8. and the telephone system should be operated in accordance with those requirements. **(This section will be scored.)**
- 8.23. Telephone lines will be fully operational 24 hours per day, 7 days per week, commencing operation no later than 12:01 A.M. on October 1, 2009. The contractor will provide the information over the telephone (live voice and IVR) as well as in writing as required by State and federal requirements.
- 8.24. At least 80% of the calls coming into the registry must be answered either by live person or by interactive voice response no later than the fourth ring. The acceptable blockage rate (percent of calls that receive a busy signal) cannot exceed 10%.
- 8.25. The contractor shall hire and train staff to answer and respond to each telephone, IVR, or fax inquiry and written request accurately and in a timely manner as specified in this RFP and consistent with federal and State requirements.
- 8.26. The contractor shall establish and maintain a state-of-the-art interactive voice response (IVR) registry system to be operational 24 hours a day, seven days a week. The IVR system will provide each inquirer with accurate registry information regarding each NYS nurse aide's certification status (lapsed or current) and sustained findings or convictions for resident abuse, neglect, mistreatment or misappropriation of resident property.
- 8.27. Individuals making telephone inquiries to the registry must have the opportunity to speak to a live person to request the verification and receive a response when calling Monday through Friday between 8:00 am and 5:00 pm. The average wait time to transfer to a live person from the IVR must be no longer than 90 seconds.
- 8.28. The bidder should identify in its bid proposal any and all exceptions to the requirement of Section C 8.27 that a live person must be available Monday – Friday between 8:00 am and 5:00 pm. The Department retains the right to require that the contractor maintain live coverage in conformance with the requirements of Section C 7.1 notwithstanding the bidder's proposed exceptions. **(Point(s) deducted if not included in bid proposal)**
- 8.29. The contractor will notify all NY nursing homes, other states and staffing agencies of the registry inquiry telephone number and hours of operation prior to September 1, 2009. If necessary, the contractor will arrange for the orderly transition from the old registry telephone number to the new registry telephone number. Those who call the old telephone number must be informed of the new number and/or must be offered the opportunity to have their calls forwarded to the new number.
- 8.30. The contractor shall establish a system to monitor the operation of registry incoming and outgoing

telephone lines on an ongoing basis to ensure that access to the registry is operational and functioning without delay or problems.

- 8.31.** The DOH may assess a penalty not to exceed \$1,500 for each calendar day that the full, timely and accurate implementation of the registry "800" number is delayed beyond October 1, 2009 and a penalty not to exceed \$500 for each calendar day the number is not completely and accurately operational as required by this RFP.
- 8.32.** The contractor must respond to each telephone, fax, IVR and written inquiry from a federal or state governmental agency, a NYS or other nursing home, or any other NYS state-approved nurse aide employer, by supplying a written copy of the requested registry certification and verification information. The written copy must be faxed to the caller within 24 hours of the call or, if no fax is available to the caller, mailed to the caller by U.S. first class mail, within one business day of the actual inquiry.
- 8.33.** The contractor will notify the DOH of any problem(s) affecting the operation of the registry telephone lines, systems, IVR or fax which inhibit the ability of callers to successfully connect with the IVR in a timely manner and obtain real time or written verification of an individual's certification status. In all such instances where a problem exists, particularly if there is potential to exceed 90 minutes duration, the contractor will provide identification of alternate means for nursing homes to obtain verification of an individual's nurse aide certification status when the IVR nurse aide registry verification is inaccessible beyond 90 minutes.
- 8.34.** The contractor will process written requests for verification of NYS nurse aides received from other states as well as nursing homes located in other states within 10 days of receipt.
- 8.35.** The contractor, upon DOH request, will provide a copy of each nurse aide's actual registry listing to the nurse aide when any information has been entered into the registry record listing of the nurse aide pertaining to a finding or conviction of resident abuse, neglect, mistreatment or misappropriation of resident property and allow the nurse aide 30 days to provide any correction or clarification.
- 8.36.** The contractor will provide, upon request by the nurse aide or DOH, a copy of a nurse aide's registry listing to the nurse aide whenever any information on the nurse aide's registry record has been changed or updated. The nurse aide shall have the opportunity to correct errors or omissions in his/her registry listing.
- 8.37.** The contractor will ensure that all newly certified nurse aides are entered into the registry within five days of passing the both the CSE and the WE/OE or within five days of notification of NYS nursing home nurse aide reciprocity certification or certification by the DOH.
- 8.38.** The contractor will provide notice of the need for recertification to each nurse aide listed in the registry, in a form and manner approved by the DOH, no later than 45 days prior to the expiration of his/her nurse aide certification. For each nurse aide eligible for recertification, the contractor will process such recertification, including updating, as appropriate, information in the registry about the nurse aide and issuing a new updated certificate and two copies of the wallet card. Each nurse aide must be recertified every two years from the last date of paid nurse aide work, in accordance with State and federal regulations.
- 8.39.** The contractor will submit a report to the DOH on an annual basis, no later than six months following the end of the year that is the subject of the report that identifies all direct and indirect costs associated with each activity for which a unit cost is required to be specified as described in Section D.

9. Reports and Reporting

Reporting requirements include but are not limited to the reports listed in this Section. While the reports described below are monthly, quarterly and annual, the Department will require multi-year reports as well. Multi-year reports will display data and percent change in the data from the monthly, quarterly and annual reports. Security requirements for transmitting information are explained in Section D. Bidders should be aware that the Department may add to, delete from and/or modify the reports listed in this Section during the term of the contract. The contractor is required to produce the new and/or modified reports within 20 working days of the date on which the Department provides the contractor with the new or modified report specifications. Failure to furnish such reports in the designated time frames may result in a fiscal penalty up to \$100 per calendar day for each calendar day the report is overdue. Reports will be submitted in formats acceptable to DOH.

9.1. Monthly Reports. The contractor will prepare and provide the DOH with monthly reports transmitted electronically with an accompanying hard copy, including but not limited to the following. Additional monthly reports not described below may be required to enable the Department to reconcile revenues collected and deposited by the contractor and securely transferred to the Department, to payments made by the Department to the contractor.

9.1.1 Pass Rates by Training Program Type. This report displays, for each type of test, (i.e., clinical skills test, written test and oral test), by type of training program (e.g., nursing homes, secondary schools, employment organizations, post-secondary schools, proprietary schools, etc.), the following information:

- total tests administered;
- number of “no shows”;
- number and percent passed;
- number and percent failed.

State totals for each of the above items, for each type of test, should also be shown in this report.

9.1.2. Pass Rates, All Attempts. This report displays, for each type of training program (e.g., nursing homes, secondary schools, employment organizations, post-secondary schools, proprietary schools, etc.), by each type of test, (i.e., clinical skills test, written test and oral test), for each attempt and for all attempts, the following information:

- total number of test administrations;
- number and percent passed;
- number and percent failed.

Totals for each of the above items, for each type of test across all types of training programs, should also be shown in this report.

9.1.3. Nurse Aide Abuse Complaints. This report displays by nurse aide name in alphabetical order, the following information:

- Certificate number;
- Original certification date;
- Certification end date;
- Status;
- Route;
- Complaint description and complaint code;
- Record creation date.

9.1.4. In-Facility Testing Requests. This report displays for each nursing home or nurse aide training program such information as the following:

- Training program number;
- Nursing home or training program name;
- Location;
- Date request received;
- Requested testing date;
- Confirmed testing date;
- NAE name;
- Whether test was administered on confirmed testing date;
- Actual testing date;
- If testing date was cancelled, who cancelled it.

Additional data may be required in this report.

9.1.6. Recertification Activity. This report displays for each employer that has submitted a recertification request during the month:

- employer code;
- total number of recertification requests;
- total number of aides for which recertification requests were received;
- number approved;
- number denied;
- number pending;
- number held;
- number of CNAs for which more than one recertification request was submitted during the same certification period, total number of requests, and, for each request, number of days remaining in the current certification period on the date that the request is received.

9.1.7. Reciprocity Activity. This report displays, for each type of disposition of the reciprocity request (i.e., approved, denied – lapsed and denied – not found), by nurse aide name, the following information:

- certification route;
- originating state or RN/LPN Number;
- disposition of request;
- date processed.

Total number of requests by disposition, and the total number of reciprocity requests by originating state, should also be shown in this report.

9.1.8. Verification Requests. This report displays, for each inquiry route (i.e., website/internet, toll-free verification telephone number, IVR, fax'ed and written request), by source of inquiry, (i.e., nurse aide employer or general public) the following information:

- total number of calls or requests, regardless of how many verifications are requested during the transaction;
- average number of verification requests per transaction;
- total number of verification requests;
- number of confirmations (i.e., the number of requests that result in the individual being found

in the registry);

- average wait time before call is answered;
- number of calls terminated prior to completion.

9.1.9. Certification Information Toll Free Inquiries. This report displays the following information:

- total number of calls, including both those handled by an operator and those handled by the automated system;
- number of calls handled by the automated system;
- average holding time before pick up by operator;
- number of calls resolved during call;
- number of calls requiring follow-up;
- for calls requiring follow-up, the issues/questions involved;
- average talk time.

9.1.10. Recertification Applicant Listing. This report displays, for each employer, the following information for each recertification applicant:

- Name;
- Certification number;
- Status;
- Certification dates (start date and end date).

9.2. Quarterly Reports. The contractor will prepare and provide the DOH, in electronic file and hard copy, quarterly (calendar quarters) reports including but not limited to the following data. Such reports shall be due no later than the 15th of the month following the end of the calendar quarter and include the following :

9.2.1. Pass Rates by Training Program Type. This report displays, by test type (i.e., clinical examination, written examination and oral examination), by training program type, (e.g., nursing home, employment organization, adult secondary school, etc.), the following information:

- Number of “no shows”;
- Number and percent passed;
- Number and percent failed;
- Total examinations administered.

State totals for the above are also displayed.

9.2.2. Training Program Summary Report. This report displays, by training program type, by test type, for each attempt and for all attempts, the following information:

- Number and percent passed;
- Number and percent failed;
- Total exams administered.

The above information for all training programs is also displayed.

9.2.3. Pass Rates by Training Program Code. This report displays, by training program type, by individual training program code and name, by test type, the following information:

- Number of individuals tested;

- Number and percent passed;
- Number and percent failed;
- Number passed and number failed by test content category.

State totals for the above information, by test type, is also displayed.

9.2.4. Pass Rates by Testing (Certification) Route. This report displays, for each test type, by test route (i.e., Route 1, Route 3, Route 5, Route 6 and Route 7), the following information:

- Number and percent passed;
- Number and percent failed;
- Total.

Totals for the above information, by test type, are also displayed.

9.2.5. Test Route Summary Report. This report displays, by test route (i.e., Route 1, Route 3, Route 5, Route 6 and Route 7), by test type, for each attempt and for all attempts, the following information:

- Number and percent passed;
- Number and percent failed;
- Total.

Totals for the above information, for all routes, by test type, are also displayed.

9.2.6. Strengths and Weaknesses Summary. This report displays, for each training program type, for each test type and the Reading Comprehension Test, scoring statistics for each section of the test. It also displays the same statistics for all training programs. The scoring statistics may include but are not limited to the following:

- Written test—Lowest, highest and average score;
- Clinical skills test--Number and percent passed, number and percent failed, lowest score highest score, average score.

9.2.7. Pass Rates by Form. This report displays for each test type, by form code, the following information:

- Form code;
- Date first used and date last used for quarter;
- Status (active, retiring, inactive);
- Number of administrations;
- Number passed;
- Percent passed.

9.2.8. Poor Item Performance Report. This report displays, by test form number and type, by item, by training program type, statistics for each item on the written test with unusual fail rates. The following information is displayed:

- Number of candidates receiving the item;
- Number of candidates who respond correctly;
- Percent of candidates who respond correctly who pass the written examination;
- Number of candidates who respond incorrectly;

- Percent of candidates who respond incorrectly who pass the written examination.

Totals for the above information for each item are also displayed. Additional information may be required on item performance.

9.2.9. Reciprocity Activity Summary. This report displays by state of origin the following information for reciprocity requests:

- Number of applications processed;
- Number of applications approved;
- Number of applications denied by category of denial (i.e., lapsed, not found).

The total number of requests processed for all states is also displayed.

9.2.10. Verification Requests. This report displays, for each inquiry route (i.e., website/internet, toll-free verification telephone number, IVR, fax'ed and written request), by source of inquiry, (i.e., nurse aide employer or general public) the following information:

- total number of calls or requests, regardless of how many verifications are requested during the transaction;
- average number of verification requests per transaction;
- total number of verification requests;
- number of confirmations (i.e., the number of requests that result in the individual being found in the registry);
- average wait time before call is answered;
- number of calls terminated prior to completion.

9.2.11. Certification Information Toll Free Inquiries. This report displays the following information:

- total number of calls, including both those handled by an operator and those handled by the automated system;
- number of calls handled by the automated system;
- average holding time before pick up by operator;
- number of calls resolved during call;
- number of calls requiring follow-up;
- for calls requiring follow-up, the issues/questions involved;
- average talk time.

9.2.12. Employers With No Registry Verifications. This report lists each employer and associated employer code with no registry verifications during the quarter.

9.2.13. Employers With No Applications Processed. This report lists each employer and associated employer code with no nurse aide applications processed during the quarter.

9.2.14. Employers With No Registry Verifications or Applications Processed. This report lists each employer and associated employer code with no registry verifications and no nurse aide applications processed during the quarter.

9.2.15. Nurse Aide Evaluator (NAE) Pass Rates Comparisons By Training Program. This report lists, for each NAE, the NAEs name and the sites at which the NAE administered clinical exams during the quarter. It also displays, for each training program whose students took the clinical exams administered by the NAE, the following information:

- Training program name and code;
- Number of candidates who took the exam;
- Number and percent passed;
- Number and percent failed.

Each NAE report also displays totals for the above information.

9.2.16. In-Facility Testing Request Tracking Report. This report has a summary page and back-up detail. The summary page displays such information as:

- Total in-facility requests received;
- Number of requests cancelled before being confirmed;
- Number of requests confirmed for requested date;
- Number of requests confirmed for a date other than that requested;
- Number of requests confirmed within 7 days of request date;
- Number of requests confirmed 8 or more days after request date;
- Number of test events administered on confirmed date;
- Number of test events cancelled by facility;
- Number of test events cancelled by contractor.

The back-up detail displays such information for each individual request as:

- Training program name and code;
- Location (city or town);
- Number of candidates;
- Date request received;
- Requested date;
- Confirmed date;
- NAE name;
- Whether test date was cancelled and, if so, who cancelled it.

9.2.17. The bidder will submit a proposed sample report, to be known as the **Quarterly Quality Assurance Monitoring Program (QAMP) Report**, to be submitted to DOH in electronic and hard copy by the contractor, on a (calendar) quarterly basis. The reports will be due no later than the 15th of the month following the end of the calendar quarter. Bidder should select data items which provide an objective and comprehensive picture of the overall quality provided by the contractor, including but is not limited to the following:

- Results of candidate surveys regarding their test experience for the test event, for each test type;
- Results of facility surveys regarding their experience as a test site for the test event;
- Results of NAE surveys regarding their experience as the NAE for the test event;
- Results of CNA surveys regarding their recertification experience;
- Reversals of clinical skills test scores by NAEs;
- Test site uniformity with regard to space, equipment, supplies, etc.;
- Monthly and quarterly registry summaries for recertification applications processed including number and percent of forms audited, number of field errors found, field error rate (%), forms with errors and form error rate (%);
- Monthly and quarterly registry summaries for all registry applications processed including number and percent of forms audited, number of field errors found, field error rate (%), forms with errors and form error rate (%);
- Required response timeframes vs. actual response times and other statistics for various

performance areas including calls to certification information line, calls to registry, IVR, issuance of certificates, issuance of score reports; issuance of denial/disapproval letters for reciprocity and recertification, provision of materials to new training programs and employers and in-facility test scheduling.

The report will include analysis of all quality assurance data, and recommendations for improvement as appropriate.

9.3. Annual Reports. The contractor will prepare and provide the DOH, in electronic file and hard copy, annual (calendar year) reports, format to be approved by DOH and received by DOH no later than January 25th of the following year.

9.4.1. Pass Rates By Training Program Type. This report is described in Section 9.1.1.

9.4.2. Pass Rates, All Attempts. This report is described in Section 9.1.2.

9.4.3. Strengths and Weaknesses Summary. This report displays, for each training program type, for each individual training program, for each test type and the Reading Comprehension Test, score statistics which include but may not be limited to the following:

- reading comprehension test--number passed, number failed;
- written test--total number tested, total number and percent passed, total number and percent failed, number passed and number failed by each section/category of the test;
- clinical skills test-- number tested, number and percent passed, number and percent failed.

State totals for the above information are also displayed.

9.4.4. Pass Rates By Testing Route. This report displays, for each test type (CE, OE and WE) for each test/certification route (i.e., routes 1, 3, 5, 6 and 7), the following information:

- Total tests administered;
- Number and percent passed;
- Number and percent failed;
- State totals for the above information for each test type.

9.4.5. Test Route Summary Report. This report displays, by test route (i.e., Route 1, Route 3, Route 5, Route 6 and Route 7), by test type, for each attempt and for all attempts, the following information:

- Number and percent passed;
- Number and percent failed;
- Total.

Totals for the above information, for all routes, by test type, are also displayed.

9.4.6. Strengths and Weaknesses Summary. This report displays, for each training program type, for each test type, scoring statistics for each section of the test. It also displays the same statistics for all training programs. The scoring statistics may include but are not limited to the following:

- Written test--lowest score, highest score, average score;
- Clinical skills test--number and percent passed, number and percent failed, lowest score, highest score, average score.

9.4.7. Pass Rates by Form. This report displays for each test type, by form code, the following information:

- Form code;
- Date first used and date last used for year;
- Status (active, retiring, inactive);
- Number of administrations;
- Number passed;
- Percent passed.

9.4.8 List of Pre-Test Items. This report displays, by test code, all pre-test items.

9.4.9. Item Analyses. The contractor will develop reports that analyze each examination item used on each form of the written examination, updated for each revised examination question. The contractor will also gauge the reliability of the examination forms. Contractor will review with DOH any item that exceeds the normal deviation.

9.4.10. Reciprocity Activity Summary. This report is described in section 9.2.9.

9.4.11. Demographic Information for Test Candidates By Region. This report displays for each region of New York (regions are aggregations of counties and are defined by the Department of Health), age ranges, gender, language, ethnic group, employment status and education level for all candidates tested in the year.

9.4.12. Demographic Information for Test Candidates By Test Route. This report displays for each test/certification route (i.e., routes 1, 3, 5, 6 and 7) age ranges, gender, language, ethnic group, employment status and education level for all candidates tested in the year.

9.4.13. Demographic Information for Test Candidates By Training Program Type. This report displays for each training program type (i.e., adult secondary schools, employment organizations, nursing homes, etc.) age ranges, gender, language, ethnic group, employment status and education level for all candidates tested in the year.

9.4.14.1. Demographic Information for Non-Testing Candidates By Region. This report displays for each region of New York (regions are aggregations of counties and are defined by the Department of Health), age ranges, gender, language, ethnic group, employment status and education level for all individuals who obtain NY State nurse aide certification via reciprocity or other non-examination methods, in the year.

9.4.15. Demographic Information for Non-Testing Candidates By Test Route. This report displays for each test/certification route (i.e., routes 1, 3, 5, 6 and 7) age ranges, gender, language, ethnic group, employment status and education level for all individuals who obtain NY State nurse aide certification via reciprocity or other non-examination methods, in the year.

9.4.16.1. Demographic Information for Non-Testing Candidates By Training Program Type. This report displays for each training program type (i.e., adult secondary schools, employment organizations, nursing homes, etc.) age ranges, gender, language, ethnic group, employment status and education level for all individuals who obtain NY State nurse aide certification via reciprocity or other non-examination methods, in the year.

9.4.17. Employers With No Registry Verifications. This report is described in section 9.2.12.

9.4.18. Employers With No Applications Processed. This report is described in section 9.2.13.

9.4.19. Employers With No Registry Verifications and No Applications Processed. This report is

described in section 9.2.14.

9.4.20. Nurse Aide Abuse Complaints. This report displays by nurse aide name, sorted by complaint description, the following information:

- Nurse aide name;
- Certificate number;
- Original certification date;
- Certification end date;
- Status;
- Route;
- Complaint description and complaint code;
- Record creation date.

9.4.21. Pass Rates Comparisons For Nurse Aide Evaluators (NAE) By Training Program. This report lists the name of each NAE and the sites where the NAE administered clinical exams during the quarter. It also displays the following information for each training program in which the NAE administered clinical exams:

- Training program name and code;
- Number of candidates who took the exam;
- Number and percent passed;
- Number and percent failed.

Each NAE report also displays totals for the above information.

- Summary and itemized information from the Quality Assurance Monitoring Program with recommendations as appropriate to improve the NY State nurse aide certification and registry program.
- Information regarding the success or failure of all program improvements implemented during the reporting year.

9.5. Financial Reports. The contractor will prepare and provide the DOH with financial reports in electronic file and hard copy, the vouchers with supporting documentation, accounts receivable reports and other reports and/or documents required to comply with federal and State statutes, regulations and policies. Such reports must be received by DOH in a complete, accurate and timely manner. Security requirements for transmittal of confidential information are explained in Section D. Reporting requirements are subject to change as required by DOH.

9.6. Reports to Nurse Aide Training Programs. The contractor will prepare and distribute the reports in 9.6.1-9.6.2 in hard copy to approved nurse aide training programs, subject to change as required by DOH.

9.6.1 Weekly Test Summary. This report is a weekly alphabetical listing and summary of the training program's clinical skills, written and/or oral nurse aide competency examination passing and failing candidates and test results for both clinical skills and written and oral examinations for passing and failing candidates who have been administered any NY State nurse aide competency examination during the previous week, and for comparison purposes, pass/fail percentages statewide and for each training program type. The report will also include diagnostic information regarding the test performance of the program's students. It must be generated and mailed to nurse aide training programs within 3 business days following the subject week.

- 9.6.2. **Quarterly Test Summary.** This report is a quarterly summary of the pass/fail performance of the training program's candidates on the clinical skills, written and/or oral nurse aide competency examinations administered during the previous calendar quarter. Pass/fail percentages statewide and for each training program type will be included for comparative purposes.
- 9.7. **Reports to NYS nursing homes and nurse aide employers.** The contractor will prepare and provide to each NY State nursing home and nurse aide employer, in hard copy, the following reports listed in 9.7.1-9.7.3, subject to change as approved by DOH.
 - 9.7.1. **Weekly Test Summary.** This report is a weekly alphabetical listing and summary by approved training program type (nursing home, non-profit training organization, secondary education institution, college, proprietary trade school) for nurse aide candidates completing the clinical skills, written and/or oral nurse aide competency examinations (pass or fail) and test results for both clinical skills and written/oral examinations for all candidates who have been administered any New York State nurse aide competency examination during the previous week. The date that the test was administered to each candidate should also be shown.
 - 9.7.2. **Monthly Recertification Summary.** This report is a monthly alphabetical listing and summary of the nurse aide recertification applications submitted by the nursing home or nurse aide employer which includes the name and certification number of each nurse aide and the status of the recertification application (i.e., granted or pending).
 - 9.7.3. **Monthly Reciprocity Summary.** This report is a monthly alphabetical listing and summary of the reciprocity applications submitted by the nursing home or nurse aide employer during the prior month, which includes the name of the individual, the original state of certification and the status of the reciprocity request for certification.
- 9.8. **Nurse Aide Registry Databases.** The contractor shall provide to DOH monthly and upon request a complete and accurate electronic copy of the New York State Nurse Aide Registry, subject to change, as required by DOH. The electronic copy of the registry shall include all data and information residing in the New York State Nurse Aide Registry collected, assigned or maintained by the current and previous contractor for each individual who possesses one or more current or lapsed NY State nurse aide certification number(s). All databases that are collected, assigned or maintained by the contractor and linked to the registry shall also be provided as part of this requirement.
- 9.9. **Cost Reports.** The contractor shall provide the DOH with an annual cost report on actual expenses (both direct and indirect) incurred to meet specific contractual deliverables. This report is due within 120 days of the last day of each contract year. The cost centers and allocation statistics to be used will be determined by the DOH after consultation with the contractor.
- 9.10. **Revenue Reports.** The contractor shall provide the DOH with monthly, quarterly, annual and multi-year revenue and service volume reports with comparisons to revenue levels and service volumes for previous months, quarters and years, as specified by the Department.

D. SECURITY REQUIREMENTS

1. INTRODUCTION

Each bidder will include a security plan in its bid proposal. The bidder's security plan must conform to requirements listed below, as well as those indicated throughout this RFP. This security plan will address

how the bidder will accomplish security of the system, i.e., how the bidder will meet security requirements for ensuring: (a) data integrity, (b) data availability, (c) data confidentiality, (d) data, network, and application security, and (e) account management, authorization and authentication, as described in detail in this section. Confidentiality, integrity, and availability of data and data systems are absolutely essential and will be addressed by the bidder as part of the security plan. Network, systems and application security must be considered as an integral requirement of this RFP and bidders are expected to include plans to address all components of network, systems and application security.

As noted in section D.2.2.15., systems hosted outside NYSDOH-managed networks, including all hardware, software, networking components, applications, data, etc, must have the same level of security as that of systems hosted within NYSDOH networks. Reference to internally hosted networks, applications and systems, etc., is found throughout Section D. The bidder's security plan should not address the requirements of internally hosted systems because the bidder will not be managing such systems. This information is provided because externally hosted systems such as those that the bidder will be developing and managing if awarded the contract, must have the same level of security as that of systems hosted within NYSDOH networks.

The bidder should note that every requirement listed in Section D. Security Requirements must be addressed in its Security Plan. Bids that do not address each requirement in Section D. Security Requirements will be rejected without further review and are not eligible to win the contract. Use Attachment 16 to document that the bid proposal Security Plan addresses each requirement. Sections not applicable to the bid should be indicated as such.

Individual security components for externally-hosted and managed systems will be scored in a weighted fashion to evaluate how effectively the bidder addresses each individual security component. The individual security components that will be scored and weighted are:

1. Data Integrity
2. Data Availability
3. Data Confidentiality
4. Network Security, Data Security and Application Security
5. Security Testing and Assessment - Data, Network and Application Security
6. Appropriate Back-Up and Recovery Processes
7. Account Management, Authorization and Authentication
8. Secure Transfer of Information, Encryption and Data Protection
9. Incident Management and Audit Logging
10. Proprietary Information, Copyright and Software Licensing

Bidders are required to include all information that they wish to be used to score bids on the 10 criteria above, in their security plan. As noted above, the security plan is a required component of bid proposals. In scoring the above 10 security criteria, the Department is under no obligation to consider any

information that is not included in the bid proposal security plan.

Data security is of prime importance. Compliance with data security requirements must be maintained at all times throughout the term of the contract. Data security requirements may change during the term of the contract and the contractor is expected to work with the Chief Information Security Officer (CISO) for the Department of Health to modify its operations in a timely fashion to ensure that it continues to maintain compliance with new, changed standards. Compliance shall be determined by the Chief Information Security Officer (CISO) for the Department of Health in his or her sole discretion.

2. SECURITY REQUIREMENTS

2.1 SECURE TRANSMISSION

Bidders will follow these requirements whenever computer systems are used and data is transmitted electronically.

2.1.1. All information transferred within the system, between systems, outside the system, transferred to or from NYSDOH, transferred to or from winning bidder's system, including but not limited to all transfers described in this RFP, will be transferred in a secure manner as outlined in this section, commensurate with data from point to point.

2.1.2. No sensitive information, current and historical, archived files or other information will be allowed via unencrypted email. Information transmission must be commensurate with sensitivity and confidentiality of the data. This secure transmission policy applies to all sensitive information in scores, reports, databases, etc., associated with the deliverables described in the RFP. The bidder must include details on how secure transmission is addressed in its security plan.

2.1.3. Bidder/contractor will assure and employ appropriate measures to protect information during transmission (by using data encryption, and/or using transmission headers, checksums and control totals, where applicable), as defined in 2.1.1.

2.1.4. Bidder/contractor will ensure that information classified as "confidential" (as defined in HIPAA, NYSDOH policies related to data classification, and/or other NYS Laws and Regulations including but not limited to test scores, financial data, names and addresses) is not transmitted across a network unless it is encrypted. This includes reports as well.

2.1.5. Bidder/contractor will ensure that only encryption implementations approved by NYSDOH Chief Information Security Officer (CISO) will be utilized. The management of encryption keys and mechanisms will be planned and conform to NYSDOH standards of encryption management agreed upon with NYSDOH CISO.

2.1.6. Bidder/contractor agrees and will ensure that any proprietary encryption algorithms used will provide supplemental security only and will not be the sole source of encryption security. All information stored is to be encrypted using above average encryption strength (currently 128-bit for data in motion) except where the information is required for basic system operation and encryption beyond industry-standard levels is not available.

2.1.7. Bidder/contractor must adhere to all security policies in place, and must adhere to all policies as updated periodically by NYSDOH CISO. NYSDOH will be responsible for providing the contractor with these policies or access to these policies.

2.2 SECURITY REQUIREMENTS FOR APPLICATIONS/SYSTEMS THAT ARE HOSTED OUTSIDE NYSDOH-MANAGED NETWORKS

When the systems (databases, files, data, networks, and/or applications) are hosted outside NYSDOH network (i.e., hosted externally), bidder/contractor must satisfy all requirements including but not limited to:

2.2.1. Bidder/contractor will ensure that network and host security is defined and in accordance with NYSDOH Network Configuration Policy (attached as Attachment #15 – NYSDOH Network Configuration Policy).

2.2.2 Bidder/contractor will document in the form of schematics and/or diagrams the network layout of the system in accordance with the Network Configuration Policy and document how security will be performed. Bidder/contractor must present its network plan to NYSDOH CISO for review during development and again just prior to production. This should include diagrams with servers clearly labeled. The plan should clearly explain contractor's networking security policy (which can be included as an appendix to bidder's/contractor's plan), and should clearly describe how vulnerability scans and other on-going security measures will be implemented including frequency of security measures and tests.

2.2.3. Bidder/contractor will seek and receive NYSDOH CISO approval for the design, and will share all details of all components of the system and have all security components reviewed by NYSDOH CISO.

2.2.4. Any changes to the approved network layout must be reviewed and approved by NYSDOH for continued compliance with NYSDOH network standards.

2.2.5 Bidder/contractor will document for NYSDOH CISO review and approval of how sessions are established.

2.2.6. Bidder/contractor will ensure that when user sessions for an application or network connection terminate, either normally or abnormally, all related network sessions will also terminate.

2.2.7. Bidder/contractor will ensure that its network is eavesdrop-proof through the use of technologies including but not limited to secure hubs and/or switches. Wireless networks must use WPA2 or higher encryption, they must not broadcast SSIDs and they must ensure only authorized hosts can connect to the WLAN. Wireless may not be used for secure private e-commerce or external-class networks as defined in the Network Configuration Policy (Attachment #15 – NYSDOH Network Configuration Policy).

2.2.8. Bidder/contractor will ensure that the information, including system(s) will be isolated from other networks via secured network devices such as firewalls and/or state-full routers, including but not limited to other technologies that allow such isolated networks.

2.2.9. Bidder/contractor ensures that devices to be used during the scope of work as defined within this RFP are protected by packet-filtering firewalls and/or firewall-grade routers.

2.2.10. Bidder/contractor ensures that all devices that are defined within the scope of work in this RFP are operated utilizing robust operating systems and hardened against attack. Hardening includes and is not limited to OS patch management, software patch management and removing unnecessary services where applicable. Contractor must comply with security modules as described in http://www.cert.org/tech_tips/

2.2.11. Bidder/contractor ensures that periodic network vulnerability scans and tests be performed. These scans and/or tests should include and not be limited to open ports scans and network intrusion detection. NYSDOH reserves the right to review any reports from these scans as needed. Scans and tests will be performed prior to being implemented on production networks and after software of operating systems or configuration changes are made. Access to new systems should be prevented until scans and tests reveal systems are free from vulnerabilities. Scans and test must be performed at least annually and more frequently for critical and/or high-risk systems, such as those exposed to external users and/or the Internet. Scan frequencies should be defined within the scope of work.

2.2.12. All hardware, networking components, physical devices and software related to the scope of this RFP are to be protected by the contractor and no unauthorized person should be able to access these hardware and software components. Bidder/contractor is responsible for preventing any intrusion and unauthorized accesses as well as reporting any incidences to the NYSDOH CISO as they occur.

2.2.13. Bidder/contractor will describe and document the steps to physically secure the location of servers or workstations that will contain applications, source code and/or databases used during the term of the contract that results from this procurement. Bidder/contractor will describe and document how all of these physical devices are protected.

2.2.14. Bidder/contractor will describe, document and perform periodical back ups of data, databases, software, applications including and not limited to source code of anything defined within the scope of this RFP. Bidder/contractor is encouraged to address backup security, including the use to encryption of backup media.

2.2.15. Systems hosted outside NYSDOH-managed networks, including all hardware, software, networking components, applications, data, etc, must have the same level of security as that of systems hosted within NYSDOH networks. Some of the capabilities of servers hosted internally are highlighted in the next section (2.3). Bidder/contractor will review this periodically and keep externally hosted systems up to date to meet all security requirements so that the externally hosted system is as secure as a NYSDOH-internally hosted system. Contractor will work with NYSDOH CISO in making sure that the externally hosted system is at least as secure as NYSDOH-internally hosted systems. NYSDOH reserves the right to review if contractor's externally hosted system is secure and if it satisfies NYSDOH security requirements completely.

2.2.16. Periodically NYSDOH may update security policies pertaining to systems hosted externally. Bidder/contractor must adhere to any updated security standards and policies set by NYSDOH regarding systems hosted externally. NYSDOH will make updated standards and polices available to the contractor.

2.3 SECURITY REQUIREMENTS FOR APPLICATIONS/SYSTEMS THAT ARE HOSTED ON NYSDOH-MANAGED NETWORKS

It is not currently anticipated that any applications/systems will be hosted on NYSDOH-managed networks. For information purposes only, the following security requirements apply to such applications/systems. Bidders should not address Section D.2.3 security requirements in the security plan required to be included in the bid proposal.

When the system is hosted internally (i.e., within the network of NYSDOH), network security policies will adhere to NYSDOH infrastructure. NYSDOH performs vulnerability scans regularly in internally hosted systems. Contractor will comply in full with NYSDOH Network Security Policy during the scope of work and length of this contract for services as defined within this RFP. Attachment #15 explains NYSDOH Network Configuration Policy.

NYSDOH web server capabilities can be utilized if the systems and applications are hosted inside NYSDOH network. This includes but is not limited to centralized single sign on via NYSDOH Commerce Web system. NYSDOH server capabilities include but are not limited to:

- (a) Ability to scale to large number of users;
- (b) Providing data integrity;
- (c) Providing for security of the data;
- (d) Built-in audit capabilities;
- (e) Providing point in time recovery;
- (f) Providing back-up and recovery capabilities;
- (g) Providing logging information for back up, recovery and auditing;

- (h) Providing support for large objects (blobs, etc.);
- (i) Providing support for clustering and load balancing;
- (j) Providing SSL connectivity;
- (k) Providing data confidentiality;
- (l) Providing data availability near 24/7/365 if required and arranged for; and
- (m) Compliance with all NYSDOH security policies.

2.4 SECURITY REQUIREMENTS

Systems and application development will comply with NYSDOH security policies outlined in this section and will comply with any revised application security guidelines and standards updated by NYSDOH periodically. NYDOH will notify the contractor of any updates. Applications will be developed using a NYSDOH CISO-approved Software Development Life Cycle (SDLC) methodology and the contractor will document SDLC description with diagrams and review SDLC plan with NYSDOH. Application development can proceed after approval of SDLC and development plan by NYSDOH. Testing and evaluation is to be performed within the Software Development Life Cycle to comply with NYSDOH requirements.

2.4.1. Testing: Bidder/contractor will conduct security tests, reviews and audits regularly to evaluate the security of systems and applications. Bidder/contractor will test for vulnerabilities against network(s), system(s) and applications. Threats must be identified and rectified as found. When changes are made to related networks, systems, software or applications, testing will be performed again to ensure NYSDOH compliance.

Bidder/contractor will document and submit information about testing tools used for compliance and security.

Bidder/contractor will detail what (if any) external application testing platforms as well as software source code testing platforms are currently in use and describe level of expertise.

Security scanning at source code level will be performed regularly and critical findings will be addressed to ensure a "clean" scan outcome, which is required.

2.4.2. Ensuring application security will include and will not be limited to the following areas of Application Security in accordance with the NYSDOH policy on Application Security:

2.4.2.1. Application Logging: Logs will be reviewed for application security at least each business day and critical issues will be escalated as required by NYSDOH policy and procedures and/or other applicable legal requirements.

2.4.2.2. Input Validation: Bidder/contractor will ensure that all input validation is achieved in a manner that prevents any malicious requests or code from being processed.

2.4.2.3. Bounds Checking: Bidder/contractor will ensure that all variables be bounded by the length they are designed to be. This is a critical and integral part of Input Validation.

2.4.2.4. Databases: Bidder/contractor will ensure that all connections to any and all databases be secure, including but not limited to restricting connections to said databases from authorized applications, hosts, networks and users.

2.4.2.5. Database Queries: Bidder/contractor will ensure that all database queries are secure, run by authorized users and application(s). Queries should be stored procedures wherever possible. At no time should input data be passed to the database without appropriate validation.

2.4.2.6. Writing to Screen including error messages: Bidder/contractor will take all feasible precautions to ensure that all error messages are benign and reveal no extra systems information. This includes abend or stack trace errors or any other information displayed that could be used in a malicious way against an application or system. A generic error message should be used at all times.

2.4.2.7. Writing Directly to a File: Bidder/contractor will ensure that at no time any sensitive information be written to any external files (text or otherwise) except to log files, unless approved by the NYSDOH CISO. This includes sensitive information and includes any external files used within the application on a temporary basis.

2.4.2.8. URL Passed Variables: Bidder/contractor will ensure that variables will not be passed via a URL or are subjected to a high standard for Input Validation. Wherever possible, internal session variables should be used and only session reference given.

2.4.2.9. Caching SSL Pages: Bidder/contractor will take all feasible precautions to ensure that any cached SSL pages be removed upon exiting of the browser and/or the website.

2.4.2.10. Hidden Form Variables: Bidder/contractor will limit use of hidden form fields, will treat these fields with the same limited trust as other form fields and validate data provided in these fields as such.

2.4.2.11. Cookies: Bidder/contractor will ensure that any cookies required for any and all web-based applications will expire upon completion of the application. No cookies will be allowed to remain for an indefinite period of time. A Maximum Auth Cookie timeout is required.

2.4.2.12. Source Code:

- a) Bidder/contractor is aware that the source code of any project detailed within this RFP/Contract will be the property of the NYSDOH.
- b) Periodically, the NYSDOH may request a copy of the current software source code for its own internal security testing, archiving or other purposes.

2.4.2.13. Tool Sets and External Code: Bidder/contractor will ensure that at no time will freely available modules or programs (example: freeware, downloadable scripts, applications or modules) be used during the scope of the RFP/contract unless they have been thoroughly tested for application security vulnerabilities and concerns and were determined to pass such scans. The source code of this program, module or tool must be available for Application Security Scans. If the source code is unavailable, then this module, program or tool should not be included into any application or part of this RFP/Contract. This is to ensure that any external tools, modules or programs are in line with NYSDOH Application Security Requirements and that they can be modified to conform to these requirements.

2.4.2.14. Configuration Files: Bidder/contractor will ensure that no external configuration files contain sensitive information including but not limited to clear-text user names and/or passwords. Encrypted configuration files and/or use of encrypted values within clear-text files is permitted.

Application security policies, test procedures, guidelines and standards will be reviewed by NYSDOH CISO periodically and whenever there are updates to these standards contractor is required to follow the updated security policies.

2.5. Data Integrity

Data Integrity is of very high importance for the scope of work given in this RFP and the contractor is required to ensure data integrity in all data and information. The bidder's security plan must include specific details related to preserving the integrity of data maintained in the system.

No unauthorized person or process shall be allowed to update data or in any way impact data integrity. Account management requirements will be satisfied completely. Account management is detailed in section 2.7.

Contractor should be aware that Data Integrity requires live validation.

2.5.1. Bidder/contractor is responsible for integrity of all information sources within the scope of this RFP.

2.5.2. Bidder/contractor will ensure that authorization is required for all production system input and ensure that production input can be tracked. The system will perform data input validation.

2.5.3. Bidder/contractor will include a plan to ensure that the system is free from risks of undetected changes. There will be consistent representation of data and the security plan will clearly explain how data integrity is addressed.

2.5.4. For internally hosted (NYSDOH) systems, NYSDOH runs periodic network scans and tests to help ensure the integrity of data and network systems. These scans and/or tests will include and not be limited to open ports scans, network mapping and network intrusion detection. If contractor elects to host the system externally, contractor must ensure data integrity and network integrity. Documentation and plan must be drawn up and approved by NYSDOH CISO and must ensure the integrity of these systems is the same as if it was internally hosted. Whether hosted internally or externally, security plan should provide details about how data integrity within the system will be maintained.

2.5.5. Bidder/contractor will include specific plans concerning how it will maintain a secure environment for the Source Code of any software defined as part of this RFP. Bidder/contractor will also include steps as part of the plan on how this security will be maintained in regards to the Source Code.

2.6. Data Availability

Data will be available to the degree specified in the RFP. Data will be recoverable from back-ups when required. Measures will be in place to mitigate data loss. This is of very high importance and bidder/contractor must ensure data availability. Back-up procedures will be in place, will be documented by bidder/contractor and will be reviewed with NYSDOH CISO. All systems that store information will be backed up and bidder/contractor will implement procedures to transfer recent copies of back-ups to a physically and environmentally secure off-site storage location. Back-up procedures and practices will be monitored regularly and any back-up failures will be corrected immediately. Testing the back-ups will be done regularly to determine if data files and programs can be recovered. All recovery of information from back-up and restoration procedures will be documented and bidder/contractor will keep its staff well-trained for executing successful recoveries during disasters and during situations of data loss. Bidder's/contractor's storage location must have sufficient physical and environmental controls to ensure the security and integrity of back-ups.

In the security plan required to be included in the bid proposal, bidder must clearly describe plan for ensuring Business Continuity, Disaster Recovery and Data Availability.

2.7. Account Management

2.7.1. To preserve the properties of integrity, confidentiality and availability, NYSDOH's information assets will be protected by logical and physical access control mechanisms commensurate with the value, sensitivity, consequences of loss or compromise, legal requirements and ease of recovery of these assets. Access to NYSDOH information systems residing within NYSDOH networks (internal) and networks outside NYSDOH networks (external) must be managed in order to protect the confidentiality, integrity and availability of these systems and data.

2.7.2. Information owners are responsible for determining who should have access to protected resources within their jurisdiction, and what those access privileges will be (read, update, delete, etc.). These access privileges will be granted in accordance with the user's job responsibilities. All such access management information should be defined and documented by the bidder/contractor and bidder's/contractor's access and account management processes will be reviewed by the NYSDOH Chief Information Security Officer (CISO).

2.7.3. Bidder/contractor will ensure that appropriate logical and physical access control mechanisms exist before access to information systems is allowed. Bidder/contractor will also ensure that all workforce members who can access NYSDOH information systems are appropriately authorized to access the system or supervised when they do so. Workforce members will not be allowed access to NYSDOH information systems until properly authorized.

2.7.4. The type and extent of access control mechanisms to NYSDOH information systems will be based on risk analysis performed by or with the approval of the information owner. At a minimum, the risk analysis conducted by the bidder/contractor must consider the following factors:

- The importance of the applications running on the information system;
- The value or sensitivity of the data on the information system; and
- The extent to which the information system is connected to other information systems.

NYSDOH CISO (Chief Information Security Officer) reserves the right to overrule risk analysis conducted by the bidder/contractor.

2.7.5. The formal documented process for authorizing appropriate access to NYSDOH information systems at a minimum must include:

- Standards and procedures for granting different levels of access to NYSDOH information systems;
- Standards and procedures for tracking and logging authorization of access to NYSDOH information systems; and
- Standards and procedures for regularly reviewing and revising, as necessary, authorization of access to NYSDOH information systems.

NYSDOH CISO (Chief Information Security Officer) will review all such documented processes, standards and procedures.

2.7.6. Only appropriate information owners or their delegates will make authorized requests for the registration and granting of access rights for the bidder's/contractor's personnel onto NYSDOH systems. As such, information owners and delegates must be formally designated, approved by management and documented. NYSDOH CISO (Chief Information Security Officer) reserves the right to review the approved list of information owners and delegates.

2.7.7. Bidder/contractor must ensure that Standards and Procedures exist for account management and they should define:

- Account provisioning and deprovisioning (including identity verification, enrolling new users, deleting users, etc.);
- Authorization assignment and revocation;
- Privileged account management;
- Authentication token (such as password) management and distribution, including user identification procedures; and
- Access by third parties, such as sub-contractors and vendors.

2.7.8. A user management process shall be established and documented by the bidder/contractor to

outline and identify all functions of user management, to include the generation, distribution, modification and deletion of user accounts for access to resources. The purpose of this process is to ensure that only authorized individuals have access to applications and information and that these users only have access to the resources required for authorized purposes. This user management process must be reviewed and approved by the NYSDOH Chief Information Security Officer (CISO).

2.7.8.1. The user management process must include the following sub-processes as appropriate:

- Enrolling new users;
- Removing user-IDs;
- Granting “privileged accounts” to a user;
- Removing “privileged accounts” from a user;
- Periodic reviewing “privileged accounts” of users;
- Periodic reviewing of users enrolled to any system; and
- Assigning a new authentication token (e.g. password reset processing).

2.7.8.2. Privileged user-ids will not give any indication of the user’s privilege level, e.g., supervisor, manager, administrator. These individuals will also have a second user-id when performing normal business transactions such as when accessing the email system. Where technically feasible, default administrator accounts will be renamed, removed or disabled. The default passwords for these accounts will be changed if the account is retained, even if the account is renamed or disabled.

2.7.8.3. The appropriate information owner or other authorized officer will make requests for the registration and granting of access rights for the bidder’s/contractor’s personnel.

2.7.8.4. For applications that interact with individuals that are not employed by NYSDOH, the information owner is responsible for ensuring an appropriate user management process is implemented. Standards for the registration of such external users must be defined, to include the credentials that must be provided to prove the identity of the user requesting registration, validation of the request and the scope of access that may be provided. These standards will be reviewed and approved by NYSDOH CISO (Chief Information Security Officer). Bidder/contractor should follow guidelines that are given in “Identity and Access Management: Trust Model” (which can be accessed via www.oft.state.ny.us).

2.7.9. Logon banners will be implemented on all systems where that feature exists to inform all users that the system is for NYSDOH business or other approved use consistent with NYSDOH policy, and that user activities may be monitored and the user should have no expectation of privacy. Logon banners are usually presented during the authentication process. Use of NYS Department of Health computers and related resources is restricted solely to the conduct of NYSDOH business. User IDs and passwords assigned to an individual are the responsibility of that individual and may not be shared with others. Compromise of user IDs and passwords to department computers will be immediately reported to NYSDOH CISO. Personal and unauthorized usage is prohibited unless stated otherwise by NYSDOH policy.

2.7.10. The issuance and use of privileged accounts will be restricted and controlled. Inappropriate use of system account privileges is often found to be a major contributing factor to the failure of systems that have been breached. Processes will be developed by the bidder/contractor to ensure that uses of privileged accounts are monitored and any suspected misuse of these accounts is promptly investigated. Passwords of multi-user system privileged accounts will be changed more often than normal user accounts. Privileged accounts management standards will be reviewed and approved by NYSDOH CISO.

2.7.11. Password Management

2.7.11.1. Passwords are a common means of authenticating a user’s identity to access an information

system or service. Password standards will be developed and implemented to ensure all authorized individuals accessing NYSDOH resources follow proven password management practices. These password rules must be mandated by automated system controls whenever possible. These password best practices include but are not limited to:

- passwords must not be stored in clear text;
- use passwords that are not easily guessed or subject to disclosure through a dictionary attack;
- keep passwords confidential – do not share;
- change passwords at regular intervals;
- change temporary passwords at the first logon;
- when technology permits, passwords must contain a mix of alphabetic, numeric, special, and upper/lower case characters; and
- do not include passwords in any automated logon process (e.g., stored in a macro or function key, web browser or in application code).

2.7.11.2. To ensure good password management, password standards must be implemented on all platforms when technically feasible. Bidder's/contractor's password management practices will be reviewed and approved by NYSDOH CISO.

2.8 Periodic Security Assessments and Audit Requirements

NYSDOH CISO reserves the right to visit sites where the systems and applications are externally hosted and to conduct an audit to evaluate whether NYSDOH security guidelines are being followed and whether complete compliance with the security requirements detailed in this document exists. NYSDOH CISO reserves the right to review, evaluate and audit for security compliance any component of the system described in this RFP to assess if security requirements are being followed. Bidder/contractor may be required to utilize external security auditors to assess security compliance and will be required to provide security assessment outcomes to NYSDOH CISO.

2.8.1. Bidder/contractor must ensure that its facilities can provide System Logs to the NYSDOH CISO for review and/or document how it will review the system logs on a periodic, ongoing basis. Bidder/contractor agrees to allow the NYSDOH CISO to periodically request a review of these logs.

2.8.2. Bidder/contractor must ensure that logs are reviewed and reviews are documented every business day at least once every 24 hours. Bidder/contractor is to conform to NYSDOH Network Configuration Policy (Attachment #15).

2.8.3. Bidder/contractor agrees to ensure that any and all suspicious or unusual events will be reported to the NYSDOH CISO as a security incident within 24 hours of discovery. Bidder/contractor will comply with NYSDOH, State and federal incident reporting requirements as supplied by NYSDOH CISO.

2.8.4. Bidder/contractor ensures that all security systems will record all security-related events in a secured audit log. Typically these events include:

- a) Valid and invalid user authentication attempts;
- b) Log on and activity of privileged users;
- c) Successful access to security system details;
- d) Access to resources outside normal hours;
- e) Changes to user security profiles;
- f) Changes to access rights of resources; and
- g) Changes to system security configuration.

Bidder's/contractor's security plan will include specifics of how it will accomplish these requirements.

2.8.5. Audit logs will be managed in a secure manner to ensure the integrity of the logs. No unauthorized access should be permitted.

2.8.6. Where technically possible, logs should be written to by the appropriate system process only. Logs may not be altered.

2.8.7. All security logs should be archived for at least six months, unless directed by other laws and/or regulations.

2.8.8. Bidder/contractor will ensure that its users and administrators on its network who are in direct relation to the scope of work as defined within this RFP have received periodic security awareness training and are qualified to be working in a secure environment. Any updates to NYSDOH security policies will be communicated to these users and administrators.

2.8.9. Information Security Monitoring: In the case of applications/systems being hosted outside NYSDOH-managed networks, bidder/contractor will identify a primary security administrator. This individual should be familiar with and use security analysis tools for the production of exception reports and other monitoring output. Bidder/contractor must ensure that its security administrators will be notified when thresholds of specific security-related events are reached. Ideally, notification should be automatic, timely and require no user intervention. In the event a notification is made, validated and it is deemed to constitute a security incident, NYSDOH CISO must be notified.

2.8.10. Bidder/contractor ensures that audit logging analysis tools, systems and outputs will be subject to enhanced security.

2.8.11. Where applications maintain their own authentication and/or authorization controls, the application must also maintain its own logs of authorized access privileges and unauthorized attempts at access. Account management requirements (outlined in 2.7) will be followed.

2.8.12. System logs and web server logs are to be made available to NYDOH CISO on an as needed or predetermined schedule for review.

2.8.13. The bidder/contractor assures that its security, network and systems administrators will maintain records of all services as defined within this RFP.

2.8.14. Bidder/contractor will detail the software that has been installed. Bidder/contractor cannot introduce illegal code or code that is not approved/scanned and that will be treated as breach of security. NYSDOH reserves the right to audit and review lists of software added and inspect code and assess compliance of security requirements.

2.9. Proprietary Information, Copyright and Software Licensing

2.9.1. Regular reviews are to be carried out by bidder/contractor and the results must be reported to NYSDOH CISO to ensure that the bidder/contractor is in compliance with the terms of software licenses.

2.9.2. Any unauthorized software is to be isolated and access disabled.

2.9.3. It is the bidder's/contractor's responsibility to ensure that appropriate licenses are held by the provider for any products provided as part of this RFP. Licenses purchased under this contract are owned by NYSDOH.

2.9.4. The copying of software other than for legitimate backup purposes is strictly forbidden and may subject bidder/contractor to punitive damages and or cancellation of contract.

2.9.5. Any software that was developed during the term of this contract that is used to produce the deliverables for which the contractor bills the Department, or the services delivered by the contractor to the public as part of its contractual obligations, is the property of NYSDOH and can not be used for any reason other than its intended use.

2.9.6. Bidder/contractor will ensure that any backups, including but not limited to replicas or other duplication of data or system code and software, will be handled as confidential and stored in appropriate secure and under suitable environmental controls. All information that is determined confidential by NYSDOH CISO will be handled securely by the contractor.

2.9.7. Bidder/contractor at the end of the contract will return to the NYSDOH any and all material specified by the Department and remove from its server(s) and/or any other forms of storage, etc., any and all information pertaining to this contract. The information shared during the length of this contract remains the property of the NYSDOH and will remain so even after this contract has expired.

2.9.8. Especially in the case of sensitive or confidential information, bidder/contractor will ensure that all information at the expiration of this contract will be handled as directed elsewhere in this RFP. Material not required to be given to the next contractor or to the Department or to such other party as the Department may specify, will be destroyed and documented as such. Documentation is to be supplied after all information is handed back to the NYSDOH and/or subsequent contractor(s) and/or such other organizations as the Department may specify.

2.9.9. All media must be securely erased or rendered unreadable before disposal as approved by NYSDOH CISO. Storage media must be subjected to low-level formatting or securely erased at the end of contract after information is migrated to the NYSDOH and/or the successor of this contract and/or such other organizations as the Department may specify.

2.10. Data Confidentiality

Bidder/contractor must provide data confidentiality and integrity assurances through technologies including but not limited to field-level encryption, file level encryption and/or strong ACL controls. Bidder/contractor agrees that information stored is to be encrypted using above average encryption strength (with 1024-bit or above) except where the information is required for basic system operation and encryption beyond industry-standard levels is not available.

2.11. Remote Access Control

2.11.1. All systems and applications that connect remotely to NYSDOH systems or networks used by NYSDOH System, whether hosted internally or externally, must be approved in writing by NYSDOH CISO.

2.11.2. All remote access must be logged at all times. Bidder/contractor is to produce documentation and justification for any lapses in logging.

2.11.3. The use of modems attached to any permanently network-connected device is not allowed.

3. Virus Prevention

3.1. Bidder/contractor will document all anti-virus including and not limited to anti-malware protections that the contractor uses and maintains for the safe operation of its network(s).

3.2. Bidder/contractor will document and agree to maintain and keep current for the length of the contract all software and/or hardware used in the detection and prevention of viruses including and not limited to malware.

3.3. In the event that bidder/contractor has had a lapse of protection when utilizing anti-virus including but not limited to anti-malware, bidder/contractor agrees to notify the NYSDOH CISO and document such lapses.

3.4 Virus prevention standards are updated periodically by NYSDOH. Bidder/contractor will adhere to these updated standards whenever changes to policies take place.

4. Server Requirements

Security requirements for server(s) used during the term the contract include but are not limited to:

4.1. All information will be stored on appropriately secured servers (as required by Network Configuration Policy) that have the appropriate level of access control.

4.2. Bidder/contractor will ensure that systems used in the course of this contract are kept in a secure computer room environment or the server(s) itself has physical access controls and other security features, such as cable locks. All such security measures will be documented.

4.3. Bidder/contractor will ensure that the systems(s) are separated from regular AC power by being placed on an acceptable USP (Uninterruptible Power Supply) as approved by the NYSDOH CISO. Periodic maintenance records will be maintained and shown as requested on said UPSs.

4.4. Bidder/contractor will ensure that the power within its data center is professionally grounded in regard to backup generators and/or data center power needs.

4.5. Bidder/contractor will ensure the continued compliance with any and all power requirements of server(s).

5. Updates to Policies

The standards, guidelines and policies described in this document will be revised periodically. Bidder/contractor is required to adhere to any such updates to these security standards. In the event that changes are made during the term of contract, NYSDOH will notify contractor of updates and changes.

References:

1 - NYSDOH Network Configuration Policy (Attachment #15).

2 - Health Insurance Portability Accountability Act of 1996 (HIPAA) and its implementing regulations including those at 45 CFR Parts 160 and 164.

3 - http://www.cert.org/tech_tips.

E. FINANCIAL PLAN

1.0. The contractor may not bill any party, including the public and the Department of Health, fees for any services until such time as the Nurse Aide Registry and verification systems are fully operational as specified in this RFP and approved by the Department of Health.

1.1. On behalf of the Department of Health, the contractor shall accept payments from the public, e.g., nursing homes, approved nurse aide training programs, students, certified nurse aides, etc., for services rendered according to a fee schedule established by the Department of Health. These fees shall represent payment in full for the service regardless of who is paying the contractor. All money orders, checks and other payment instruments shall be made out to the New York State Department of Health unless otherwise determined by the Department.

- 1.2. The services for which such fees may be charged to the public are listed in Section E 3. The contractor may not charge fees to the public or to the Department for any service other than those listed in Section E.3.
- 1.2.1. If the contractor requires payment of test fees prior to the date of the test, the following shall apply. The contractor shall refund to the payer the full test fee when the contractor is informed at least 5 business days prior to the test date that the candidate will not be tested after all. For all other “no shows”, test fees are neither refundable nor transferable to other candidates. However, the contractor shall maintain a record for two years of such fees and the identity of the person on whose behalf they were paid. The candidate may register for and take the test at any time during the two year period at no additional cost to him or herself or any other party.
- 1.3. The Department is not responsible for non-payment or partial payment of fees charged to the public, nor is it responsible for non-payment of finance charges assessed in accordance with the requirements of the Article 55 of the State Finance Law. The contractor may not bill the Department for any service for which it has not received payment in full and for which it has not deposited such payment into the designated State bank account. All finance charges must also be deposited into the designated State bank account.
- 1.4. The contractor will deposit all such fees, partial fees and finance charges into a New York State bank account designated and owned by the Department of Health within two business days of receipt. Day of receipt is day one. The next business day is day two. The Department reserves the option of requiring the contractor to use a bank lock box.
- 2.0. The bidder in its bid proposal should submit the schedule of fees it proposes to bill the Department of Health in the period beginning on contract start date and ending December 31, 2011 for each of the services listed in Financial Plan Section E.3. These fees shall not change during this period. This fee schedule is the bidder’s bid on this contract. Use Attachment 6 to this RFP.
- 2.1. Fees charged to the Department for services delivered on or after January 1, 2012 may be increased only as follows. A fee change may be instituted for the period January 1, 2012 – December 31, 2013 (during which time fees shall not change), and again for the period January 1, 2014 through the end of the five-year term of the contract (during which time fees shall not change). No fee charged to the Department may be increased by more than the average monthly consumer price index (inflation factor) for the 12-month period ending six months before the first day of the period. The Average Consumer Price Index as calculated by the U.S. Department of Labor, Bureau of Labor Statistics (<http://www.bls.gov/cpi/>) will be used. If this is not available, another inflation factor as determined by the Department of Health will be used.
- 2.2. The contractor may not bill the Department for any service that the contractor has not both rendered and been paid in full for according to the fee schedule described in Financial Plan Section E. 3. and included in its contract with the Department, and for which the Department has not been paid in full for. For purposes of this RFP, “paid in full” means that the check, money order, voucher or other financial instrument has been successfully cashed at the value of the fee for the service rendered. The contractor is responsible for all collection activities for any financial instrument that cannot be cashed for the amount of the fee and must be in compliance with the provisions of Article 55 of New York State Finance Law at all times.
- 2.3. The contractor will submit to the Department a request for reimbursement for services rendered as per the agreed upon fee schedule in the contract. This bill will represent the total remuneration due to the contractor by Department for all services rendered and performed in

connection with this RFP.

- 2.4 Candidates that qualify under the Americans With Disabilities Act (ADA) for oral administration of the written exam, must be charged the fee for the written exam. They may not be charged the fee for the oral exam. No additional fees may be charged to such candidates.
3. The only services for which the contractor may charge a fee to the Department or to any other party or individual are:
 - 3.1. **Clinical skills and written test – first time testers.** The fee includes all direct and indirect expenses associated with the administration and processing of one nurse aide clinical skills and written examination (WE and CSE) for a first-time test taker including but not limited to expenses associated with employing and deploying nurse aide evaluators to administer the CEP; candidate registration, test and all other material required to administer the CSE; processing candidate registration information, fees and test results into the appropriate databases and NAR; test scoring; reporting the required information to the candidate, the training program, the employing nursing home and the Department; and issuing the CNA certificate and two pocket or wallet cards.

- 3.2. Clinical skills and oral test – first time testers.** The fee includes all direct and indirect expenses associated with the administration and processing of one nurse aide clinical skills and oral examination (OE and CSE) for a first-time test taker including but not limited to expenses associated with employing and deploying nurse aide evaluators to administer the CEP; candidate registration, test and all other material required to administer the CEP; processing candidate registration information, fees and test results into the appropriate databases and NAR; test scoring; and reporting the required information to the candidate, the training program, the employing nursing home and the Department; and issuing the CNA certificate and two pocket or wallet cards.
- 3.3 Clinical skills test – retesting only.** Each individual is entitled to three opportunities to pass the CSE. (If the CSE is failed three times, the individual must successfully complete the state-approved nurse aide training program again before sitting for the CEP again). The fee includes all direct and indirect expenses associated with the administration and processing of one nurse aide clinical skills examination (CSE) for a second- or third time test taker including but not limited to expenses associated with employing and deploying nurse aide evaluators to administer the CEP; candidate registration, test and all other material required to administer the CEP; processing candidate registration information, fees and test results into the appropriate databases and NAR; test scoring; and reporting the required information to the candidate, the training program, the employing nursing home and the Department; and issuing the CNA certificate and two pocket cards.
- 3.4 Written test – retesting only.** Each individual is entitled to three opportunities to pass the WE. (If the WE is failed three times, the individual must repeat a new state-approved nurse aide training program before sitting for the WE again). The fee includes all direct and indirect expenses associated with the administration and processing of one nurse aide written examination (WE) for a second- or third time test taker including but not limited to expenses associated with employing and deploying nurse aide evaluators to administer the CEP; candidate registration, test and all other material required to administer the CEP; processing candidate registration information, fees and test results into the appropriate databases and NAR; test scoring; and reporting the required information to the candidate, the training program, the employing nursing home and the Department; and issuing the CNA certificate and two pocket or wallet cards.
- 3.5. Oral test – retesting only.** Each individual is entitled to three opportunities to pass the OE. (If the OE by itself or in combination with the WE is failed three times, the individual must repeat a new state-approved nurse aide training program before sitting for the OE again). The fee includes all direct and indirect expenses associated with the administration and processing of one nurse aide written examination (OE) for a second- or third time test taker including but not limited to expenses associated with employing and deploying nurse aide evaluators to administer the CEP; candidate registration, test and all other material required to administer the CEP; processing candidate registration information, fees and test results into the appropriate databases and NAR; test scoring; and reporting the required information to the candidate, the training program, the employing nursing home and the Department; and issuing the CNA certificate and two pocket or wallet cards.
- 3.6 Reciprocity/CNA from another state and RNs and LPNs licensed in New York State.** The fee includes all direct and indirect expenses associated with processing and fulfilling the reciprocity application (including routine verification checks and any special additional verification checks requested by the Department of Health such as requesting the reciprocity candidate to submit additional documentation of certification status in the other state), updating all databases, NAR and other records, and issuing a NYS RHCF Nurse Aide certificate and two pocket cards.

- 3.7 Duplicate score report.** The fee includes all direct and indirect expenses associated with processing requests for and providing nurse aides with a duplicate copy of their score report.
- 3.8 Duplicate certificate.** The fee includes all direct and indirect expenses associated with processing requests for and providing nurse aides with a replacement or duplicate New York State RHCF Nurse Aide Certificate.
- 3.9 Duplicate pocket or wallet cards.** The fee includes all direct and indirect expenses associated with processing requests for and providing nurse aides with replacement or duplicate pocket or wallet card(s).
- 3.10 Hand score request.** The fee includes all direct and indirect expenses associated with processing and fulfilling requests from nurse aide candidates or from nurse aide training programs or employers for hand scoring an individual's competency evaluation.
- 3.11 Recertification.** The fee includes all direct and indirect expenses associated with processing and fulfilling recertification applications submitted by or on behalf of a New York CNA, including updating all appropriate databases, NAR and other records, and issuing the CNA certificate and two pocket or wallet cards.
- 3.12 No show (written, clinical or oral test, both first time and re-testers).** The fee includes all direct and indirect expenses associated with processing and fulfilling applications for the written, clinical and/or oral test submitted by or on behalf of candidates who are "no shows", i.e., candidates who do not reschedule within the required timeframes (to be recommended to the Department by the contractor) and who are late for the test or who fail to appear for the test at the designated time and date.
- 4.0** The Department makes no guarantees as to the value of the contract. The amount of remuneration to the contractor is dependent upon the volume of services delivered by the contractor to the public for which the Department has received full payment.
- 5.0** Bidders should be aware that the Department will add a fee to one or more of the fees proposed by the bidder in its bid on this contract. The sum of such Department-added fee plus bidder's fee will be the fee charged to the public for services rendered under this contract. The revenue generated by the fee added by the Department to the bidder's proposed fee will be retained by the Department.
- 5.1** Bidders should be aware that there is a statutory cap (see PHL §2803-j) on the fees charged to the public. Note that the cap applies to the fee charged to the public rather than to the Department of Health. Note also that the Department retains a portion of the fee charged to the public. Thus the highest of the fees proposed by the bidder, when increased by the amount to be retained by the Department of Health, cannot exceed the statutory cap.
- In 1989, when PHL §2803-j was signed into law, the cap was \$165. Using the Inflation Calculator available on the U.S. Department of Labor website (<http://www.bls.gov/cpi/>), as of December 4, 2008, the 2008 cap is \$288.18. Bidders should use this amount as the cap on the highest fee that can be charged to the public for any of the services listed in Section E 3 delivered before January 1, 2012.
- The cap on the highest fee that the bidder can charge to the Department for any of the services listed in Section E 3 delivered before January 1, 2012, is \$230.54
- 6.0** The Department shall make no payment advances to the contractor.

- 7.0. The contractor will be required to post a performance bond for the contract period in an amount equal to four times the average monthly amount of revenue from fees charged to the public for services rendered, as estimated by the Department of Health.
- 8.0. The contractor is required to maintain accounting records and other evidence pertaining to costs incurred on the program and to make the records available to the DOH at all reasonable times during the contract period and for six years from the date of the last transaction.
- 9.0. The contractor is required to submit monthly, quarterly, annual and year-to-year financial reports to the Department on revenues collected for services rendered and deposits of revenues collected for services rendered. These reports are in addition to the information required to be submitted as part of requests for reimbursement to enable the Department to reconcile revenues to expenditures. These reports will help the Department identify seasonal fluctuations in demand for specific services and the impact on revenues and expenditures. The reports will also help the Department identify long term (i.e., not seasonal) trends in demand and project the impact of these trends on future revenues and expenditures.

F. PROPOSAL REQUIREMENTS

1.0. General Instructions

All material that the Bidder wishes technical reviewers to consider as they review and score bids on the technical criteria must be included in the bid proposal. Technical reviewers are under no obligation to consider material not included in the bid proposal. If the bidder has submitted any material or information prior to submission of its bid proposal, it will not be shared with reviewers.

Bidders should include in their Technical Proposal a Table of Contents that mirrors the section titles provided below in Section F.2.0. Technical proposal organization should mirror the Table of Contents. Bid proposals must be typed or word-processed; hand-written proposals will be rejected without review. Font should be no smaller than 10 point. There are no page limits for any sections of the bid proposal except as indicated below in Section F.2.0. However, the following approaches to preparing bid proposals may result in lower scores if they hinder reviewers' attempts to identify the information they need to score proposals or if reviewers interpret the material as documentation that the bidder does not understand the requirement or its relevance to contractual deliverables:

1. Text that is not concise and to the point;
2. Text that "buries" information that *is* responsive to the requirement in information that *is not* responsive to the requirement; reviewers will assume that the bidder thinks that all of the text is responsive to the requirement and will assign a lower score that reflects the bidder's lack of understanding;
3. Referring to bidder's promotional material or material originally prepared for purposes other than responding to this RFP as documentation that RFP requirements are met without explaining how the material documents that the requirement is met; and
4. Cross-referencing material used to document that RFP requirements are met if reviewers cannot easily locate the cross-referenced material. The Department is not responsible for locating material that the bidder wishes to be considered as reviewers score a particular criterion if the material is referenced but located elsewhere in the bid proposal and the reviewers do not find it. Likewise, if reviewers go to the location of the referenced material and do not find material that is relevant to the criterion being scored, they may assume that the bidder believes the material is relevant and assign a lower score. See number 2 above.

An original and five copies of the bid proposal and financial proposal should be submitted. The original and all copies of the technical proposal and financial proposal must be separately bound or placed in separate binders. Bidders should use tabs to identify different sections and sub-sections of their bid proposals. Each section and sub-section listed in the Table of Contents in bold-face type should be identified by a tab.

Absolutely no financial information concerning the fee schedule proposed by the bidder (as required in Financial Plan Section E) should be included in the technical proposal binder. All such information is part of the financial proposal and all copies of the financial proposal must be placed in a separate, sealed envelop or box and labeled as such, to distinguish it from the technical proposal. The Department reserves the right to reject without review any bid proposal that includes financial information in the technical proposal or that does not place all financial information in a labeled and separate, sealed envelop or box.

In the technical proposal, with the exception of the bidder's security plan, the organization and order of the information that will be scored should parallel the organization and order of Sections C and D of the RFP. The section number and complete text of each section that will be scored should be reproduced and immediately followed by the bidder's documentation that it meets the requirements of that section.

Information required to be submitted with the bid proposal, but which is not scored, (but for which point(s) are deducted if the information is not included in the proposal), as specified in Section C of the RFP, should be included in the bid proposal in the same order as listed in the RFP. Such information should be clearly labeled or "titled" with the section number and complete text of the section that requires that the information to be included in the bid proposal.

The bidder's security plan, as described in Section D of the RFP, should be organized according to the Table of Contents as shown in Section F.2.0 below. In the Table of Contents, the RFP sections that are most relevant to each criterion are shown to the right of the criterion. However, there may be cases in which a security requirement that is relevant to a criterion is not in the section that is listed to the right of the criterion. Bidders are accountable for documenting compliance with all security requirements for each criterion regardless of the section(s) in which the requirement is found. In addition, bidders should note that some RFP sections and requirements may be relevant to more than one security plan criterion. In such cases, bidders should review the cautions regarding cross-referencing material included above in this section.

The technical proposal may be divided into more than one binder. If more than one binder is used for each copy of the technical proposal, use volume number or binder number to identify for reviewers the order in which the binders are to be placed to match the Table of Contents.

2.0 Technical Proposal Content

The technical proposal should be clearly labeled with RFP title and number (A Request for Proposal for Assistance with Administration of New York's Nurse Aide Testing and Certification Program, RFP # 0704190747), name of bidder and the words "Technical Proposal." Failure to correctly and clearly label each copy of the technical proposal (and each volume or binder of each copy of the technical proposal) could result in a lower score on the bid.

Do not alter the order of the information in the technical proposal from the order specified below. Each bullet is a section or sub-section of the technical proposal and should have its own tab. Label each section and sub-section with the correct title (the text in bold type) so that it is easily differentiated from the rest of the material in the technical proposal binder. For purposes of brevity, proposal requirements are not repeated word for word:

- **Technical Proposal Face Sheet.** Use Attachment 4.
- **Table of Contents.**
- **Brief Description of Bidder’s Skills, Experience and Qualifications Relevant to RFP Deliverables.** Page limit: two pages.
- **Scope of Work Requirements.**
 - **Section C 2: Establish a Standardized Competency Evaluation Program (CEP)**
 - 2.1: CSE and WE that bidder proposes to use in New York.
 - 2.1: Written sample of OE that bidder proposes to use in NY and how it will be administered.
 - 2.2: Documentation for bidder’s ownership and copyright of this CSE, WE and OE.
 - 2.2: Documentation of bidder’s continued right to use this CEP for entire term of the contract.
 - 2.3.1: Written in English at the 4th - 6th grade reading level.
 - 2.3.2: Compliance with federal and State requirements for CEPs.
 - 2.3.3: Professional standards and educational principles.
 - 2.3.4: Job analysis and relatedness.
 - 2.3.5: Validity and reliability.
 - 2.3.6: Curriculum.
 - 2.4: Examination blueprint.
 - 2.5: Weighted content outlines.
 - 2.6: Analysis and statistics for cut scores.
 - 2.8: Historical data on pass/fail rates.
 - 2.9: Data for states at 75% + of NYS volume.
 - 2.9.1: Number of years administered.
 - 2.9.2: Number of WEs, CSEs and OEs.
 - 2.9.3: Test procedures.
 - 2.9.4: Field test, if required.
 - 2.10: Generating, reviewing and editing new test items.
 - 2.13: Demonstration of ability to manage database for the life of the contract.
 - 2.14: Current system for maintaining accurate records of all test items.
 - 2.17: Security breaches re: test forms.
 - 2.19: Process used to implement new examination test forms.
 - 2.20: Quality control, confidentiality and security policies and procedures.
 - **Section C 3: Administration of the CEP**
 - 3.4: NAE statewide training and supervision.
 - 3.9: Retesting process.
 - 3.10: Consistent CEP administration.
 - 3.11: Maintenance of the quality of the test site environment.
 - 3.12: Time limit rational, if proposed.
 - 3.15: Stopping a CEP.
 - 3.16: Computer-based testing.
 - 3.16.1: Tutorial.
 - 3.16.2: Characteristics of the testing site.
 - 3.16.3: Advantages and disadvantages.
 - 3.16.4: Validity and reliability.
 - 3.18: Test order.
 - 3.19: Test administration plan.
 - 3.19.1: Testing program design.
 - 3.19.2: Integrity and security of the testing process.

- 3.19.3: Administration of CSE and WE/OE on same vs. consecutive days.
- 3.19.4: Approved training sites and approved regional test sites.
- 3.22: Plan to ensure that no individual will wait more than five business days.

- **Section C 4: Candidate Application and Eligibility Screening**

- 4.5: Copy of candidate handbook.
- 4.8: Candidate photographs.
- 4.10: Ensuring true and accurate information on nurse aide certification registration form.
- 4.11: Description of data entry quality assurance procedures.
- 4.13: Policies and procedures re: identifying eligible candidates.
- 4.14: Policies and procedures re: regaining certification.

- **Section C 7: Examination Data Base**

- 7.2: Capability and competency to develop and manage the examination database.
- 7.4: Continuity plan from current contractor to bidder awarded contract under this RFP.
- 7.5: Continuity plan from bidder awarded contract under this RFP to next contractor.
- 7.10: Ensuring the security of all hard copy data and the examination database.

- **Section C 8: The New York State RHC Nurse Aide Registry (NAR)**

- 8.5: Plan to develop, operate and maintain the NAR interactive database and system.
- 8.7: Description of telephone verification procedures.
- 8.7.1: Toll-free ("800" -type) certification information telephone lines.
- 8.7.2: Accuracy of the information provided.
- 8.7.3: NAR verification lines vs. nurse aide training and testing information lines.
- 8.7.4: Live person or automated answering system.
- 8.7.5: Exceptions to live person coverage requirement.
- 8.12: Plan for providing DOH NAR staff with continuous on-line real-time access.
- 8.14: Procedure used by BPC staff to generate ad hoc data and statistical reports.
- 8.16: Confidentiality of the data system and account management.
- 8.17: Database changes log.
- 8.18: Interception of data in transit and modification or misappropriation of data.
- 8.22: Plan to establish and maintain toll free NAR telephone lines.
- 8.28: Exceptions to the live person requirements.

- **Section D: Security Requirements – Security Plan**

Security Plan Checklist (Use Attachment 16)

- Data Integrity – Section D.2.5, 4
- Data Availability – Section D.2.6, 4
- Data Confidentiality – Section 2.10, 4
- Network Security, Data Security and Application Security – Sections D.2.2 – D.2.4 and D.3
- Security Testing and Assessment – Data, Network and Application Security – Section D.2.4
- Appropriate Back-Up and Recovery Processes – Section D.2.2, 4
- Account Management, Authorization and Authentication – Section D.2.7
- Secure Transfer of Information, Encryption and Data Protection – Section D.2.1, 2.11
- Incident Management and Audit Logging – Section D.2.8, 2.11
- Proprietary Information, Copyright and Software Licensing – Section D.2.9

- **Organization, Staffing and Management:** Describe how staff, including sub-contractor staff if any,

will be organized and managed to ensure appropriate communication, supervision and authority to complete all work in a timely fashion. Include brief profiles of key staff that state why each individual's skills and experience are key to effective performance and timely deliverables. Do **not** include vita, resumes, licenses and certifications in this section. Page limit: three pages.

- **Vita, Resumes, Licenses and Certifications:** Include resumes, licenses and certifications for key project staff.
- **Independently Audited Financial Statements:** Include a complete copy of the bidder's independently audited financial statements or Dunn and Bradstreet Business Information Reports for the last three years (2005, 2006 and 2007). These independently audited annual financial statements must include full disclosure of all significant litigation affecting the bidder, whether as defendant or plaintiff, and the outcome or status of such litigation.

If the bidder proposes to subcontract any portion of the work required under the contract, and the sub-contractor will be paid more than 25% of the bid price, include the same information for each such sub-contractor as is required for the bidder.

*NOTE: Although this is financial information, it **must** be placed in the technical proposal binder. Do **not** include this information in the financial proposal binder.*

- **References:** Include contact information for three states that the bidder has contracted with in the past three years to provide nurse aide testing and/or nurse aide registry management services. Contact information includes the name and title of the manager most familiar with the bidder's performance who is still employed by the state, his/her phone number at the state, and the state agency's name, address and general phone number. Also describe the work performed by the bidder for the state and provide the start and end dates for the contract.
- **Vendor Responsibility Questionnaire:** New York State Procurement Law requires that state agencies award contracts only to responsible vendors. *Bidders must complete the Vendor Responsibility Questionnaire.* Vendors and their sub-contractors 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 Help Desk at the Office of the State Comptroller 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.
- **Vendor Responsibility Attestation.** Use Attachment 5. All bidders and all sub-contractors must complete the Vendor Responsibility Attestation.
- **NYS Taxation and Finance Contractor Certification Form ST-220-CA.** Use Attachment 10.

3.0 Financial Proposal Content

All of the information in the financial proposal must be bound or put in a labeled binder, which must be placed in a sealed and labeled envelop or a sealed and labeled box. Technical proposal material **must not** be included in the sealed envelop/box. If such information is included in the financial proposal it will not be considered in the technical review of each bid. Each binder and each sealed envelope/box should be clearly labeled on the front/top with RFP title and number (A Request for Proposal for Assistance with

Administration of New York’s Nurse Aide Testing and Certification Program, RFP # 0704190747), name of bidder and the words “Financial Proposal.” Failure to correctly and clearly label each binder and each sealed envelop or box could result in a lower score on the bid.

Do not alter the order of this information from that specified below. Each bullet is a section of the financial proposal. Label each section with the correct title (the text in bold type) so that it is easily differentiated from the rest of the material in the binder:

- **Bid Form:** Use Attachment 6. Do not use any Bid Form other than the form provided in this RFP. The Bid Form must be completed and signed by the individual with contract negotiating authority for the bidding organization.
- **Letters of Commitment from Sub-Contractors:** letters from sub-contractors, if any, should describe the work they will perform and the amount they will be paid by the bidder for this work.

G. METHOD OF AWARD

At the discretion of the Department of Health, all bids may be rejected.

Bids may be rejected without review if they:

1. are submitted after the due date and time;
2. are handwritten;
3. include financial information on the bidder’s bid in the technical proposal; or
4. are not in compliance with the requirement that financial information relevant to the bid be placed in separate, sealed envelopes or boxes.

Bids will be rejected without review if they:

1. do not include a copy of both the CSE and the WE proposed to be used in New York and a written sample of the OE and the means of OE administration; and/or
2. do not include documentation of the bidder’s ownership of and copyright on the examinations comprising this CEP and documentation of its continued right to use this CEP for the entire term of the contract.
3. contain a Security Plan that does not address each requirement in Section D. Security Requirements.

The five technical criteria are worth 75% of the total number of points available. The financial criterion is worth 25% of the points. Bidders should be aware that in computing each bid’s financial score, the Department may compute a weighted (to reflect volume) sum of two or more of the fees proposed by the bidder.

The bid with the highest total score will proceed to the next stage of reviews. Financial stability and financial viability will be evaluated with data from the audited financial reports required to be submitted with the bid proposal. If the bidder is deemed financially stable and viable, the bidder will be reviewed for vendor responsibility using the information provided in the Vendor Responsibility Questionnaire, also required to be completed as part of the bid proposal, and any other information available to the Department that the Department deems relevant to this determination. If the bidder is deemed a responsible vendor, its references will be verified. If the bidder passes all three reviews (financial stability/viability, vendor responsibility, reference checks), it is the best value bidder and will be awarded the contract.

I. ADMINISTRATIVE

1. Issuing Agency

This Request for Proposal (RFP) is a solicitation 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

All questions concerning this solicitation must be submitted in writing by March 4, 2009 to profcred@health.state.ny.us.

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 (anticipated) March 20, 2009. All bidders should monitor this website page for modifications to the RFP and its requirements.

3. Letter of Intent

Letter of intent to submit a proposal is requested but is not required. Letters of intent should be submitted by March 27, 2009 to the e-mail address shown in Section G.2. above.

4. Pre-Bid Conference

A bidder's conference will be held on February 27, 2009 at NYS Department of Health offices at 161 Delaware Avenue, Delmar, NY 12054, from 12:00 – 3:00. Those wishing to participate in the conference should register by February 20, 2009 via e-mail to profcred@health.state.ny.us, or by phone, 518-408-1297.

Bidders are strongly encouraged, but not required, to submit their questions to profcred@health.state.ny.us at least three days prior to the bidder's conference on February 27, 2009.

5. Submission of Proposals

Interested vendors should submit one original and five signed copies of their Bid Proposal no later than 4:00 PM on April 10, 2009. Responses to this solicitation should be clearly marked as follows:

RFP # 0704190747
A Request for Proposal for
Assistance with Administration of New York's
Nurse Aide Testing and Certification Program

Submissions should be addressed to:

Brian Morris
Bureau of Professional Credentialing
NYS Department of Health
161 Delaware Avenue
Delmar, NY 12054

It is the bidder's responsibility to see that bids are delivered to the above address by the specified date and time. Late bids due to delivery to an address other than the one above or delay by the carrier may not be considered.

In addition:

- The Bid Form (Attachment 6) must be filled out in its entirety. The responsible corporate officer for contract negotiation must be listed. This document must be signed by the responsible corporate officer.
- All evidence and documentation requested or required to be submitted as part of the bid proposal must be labeled as indicated in Sections E.2.0 and E.3.0 and submitted by the due date indicated in Section G.5. Material that is not submitted in conformance with these requirements will not be reviewed.

6. Reserved 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 bidder.
- c. Adjust or correct cost or cost figures with the concurrence of bidder 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 offerers.
- 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.

7. Payment

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

Bureau of Professional Credentialing
NYS Department of Health
161 Delaware Avenue
Delmar, NY 12054

This address may change over the course of the contract. 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 have been described elsewhere in this RFP.

8. Term of Contract

This agreement shall be effective upon approval of the NYS office of the State Comptroller and shall have a term of five years, with an anticipated contract start date of July 15, 2009. 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.

9. 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 three months from date of award announcement.

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 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 5).

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.

These forms are Attachments 8 and 9 to this document and are provided as information only. Do NOT submit these forms with the bid. Only the winning bidder is required to complete and submit these forms to the Department.

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 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 Offerers. 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 Lobbying 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 Public Integrity Commission.

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 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.

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/>. For any potential breaches of information subject to this Act and which involve the contractor's own security or systems, the contractor must agree to notify all appropriate parties.

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 (Attachment 11). 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 (Attachment 10), 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.

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. 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. Bidders 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 stated 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 ##) and submit this Plan with their bid documents.

Bidders that are New York State certified MBE's or WBE's are not required to complete this form. Instead, such bidders 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.

H. APPENDICES

The following will be incorporated as appendices into any contract 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 (see Attachment 12)
- APPENDIX B - Request for Proposal
- APPENDIX C - Proposal
 - The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.
- APPENDIX D - General Specifications (see Attachment 13)
- 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
 - **DB-155** – Certificate of Disability Benefits Self-Insurance
- Appendix H - Health Insurance Portability and Accountability Act (HIPAA) (if applicable)

ATTACHMENT ONE
NURSE AIDE TRAINING PROGRAM CURRICULUM

This document is 215 pages long. It may be downloaded from the same website page as the RFP.

ATTACHMENT TWO

RATIO OF PROCTORS TO CANDIDATES

Candidates Per Room	Required Number of Proctors In Addition to the Nurse Aide Evaluator
1 – 10	0
11 – 35	1
36 – 70	2
71 – 100	3
101 – 150	4
151 – 200	5
201 – 250	6

ATTACHMENT THREE

REGIONAL TEST SITES

- | | | | |
|------|----------------------|------|-------------------------|
| (1) | Manhattan | (14) | Kingston |
| (2) | Bronx | (15) | Albany |
| (3) | Brooklyn | (16) | Lake George/Glens Falls |
| (4) | Staten Island | (17) | Plattsburg |
| (5) | Queens | (18) | Canton |
| (6) | Long Island-Nassau | (19) | Amsterdam |
| (7) | Long Island-Suffolk | (20) | Utica |
| (8) | Westchester County-N | (21) | Syracuse |
| (9) | Westchester County-S | (22) | Watertown |
| (10) | Poughkeepsie | (23) | Binghamton/Vestal |
| (11) | Middletown | (24) | Rochester |
| (12) | Corning/Hornell | (25) | Buffalo |
| (13) | Oneonta | (26) | Jamestown |

ATTACHMENT FOUR

TECHNICAL PROPOSAL FACE SHEET

**A Request for Proposal for
Assistance with Administration of New York's
Nurse Aide Testing and Certification Program**

RFP # 0704190747

Bidder: _____

Bidder's FEIN: _____

Bidder's Address: _____

Name and Title of Person with Signatory Authority for Bidder:

Contact Person's Name and Title: _____

Contact Person's Phone and E-mail Address: _____

ATTACHMENT FIVE

VENDOR RESPONSIBILITY ATTESTATION

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

Check 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 SIX
NEW YORK STATE
DEPARTMENT OF HEALTH

BID FORM

Procurement Title: A Request for Proposal for Assistance with Administration of New York's Nurse Aide Testing and Certification Program

RFP#: 0704190747

Bidder Name: _____

Bidder Address: _____

Bidder Federal ID Number: _____

A. Bid

Fees proposed in this Bid Form are the fees that the bidder proposes to charge the Department of Health.

A SERVICE	B PROPOSED FEE WITHOUT PHOTO	C PROPOSED FEE WITH PHOTO
a. Clinical skills and written test – 1 st time testers		
b. Clinical skills and oral test – 1 st time testers		
c. Clinical skills test – retesting only		
d. Written test – retesting only		
e. Oral test – retesting only		
f. No show		
g. Reciprocity/CNA from another state and NYS RNs and LPNs		
h. Duplicate score report		
i. Duplicate certificate		
j. Duplicate pocket or wallet cards.		
k. Hand score request		
l. Recertification		

(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. Offerer/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. Offerer/Bidder agrees to provide the following documentation either *with its submitted bid/proposal or upon award* as indicated below:

With Bid

Upon Award

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 name – please print)

(Officer signature)

(Date)

(Officer title)

(Telephone)

(E-mail address)

ATTACHMENT SEVEN
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.

State Consultant Services
FORM A

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.

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	Agency Code 12000
Contract Number:	
Contract Start Date: / /	Contract End Date: / /
Contractor Name:	
Contractor Address:	
Description of Services Being Provided:	

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:

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2. NYS Office of the State Comptroller
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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.



Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back*).

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		\$
Contractor's telephone number	Covered agency name		
Covered agency address			Covered agency telephone number

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ___ day of _____ in the year 20___, before me personally appeared _____,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
_he resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): _he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): _he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.
Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.
This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?
Internet access: www.nystax.gov (for information, forms, and publications)
Fax-on-demand forms: 1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.



Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-TD

(5/07)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a (see Need help? below)*.

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number ()
Covered agency or state agency	Contract number or description		Estimated contract value over the full term of contract (but not including renewals) \$	
Covered agency address			Covered agency telephone number	

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*, available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Sales Tax Information Center: 1 800 698-2909

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make only one entry in each section.

Section 1 — Contractor registration status

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

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, licenser, licensee, lessor, lessee or any other party):

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

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

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

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

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the

performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

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

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor

within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

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

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment,

employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

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

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

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

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

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

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

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

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

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

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

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

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

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

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

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

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

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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 judgement 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 judgement 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 non-procurement 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 Non-procurement 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.

ATTACHMENT FOURTEEN

DOCUMENTS THAT ESTABLISH IDENTITY AND EMPLOYMENT ELIGIBILITY

LIST A: Documents that Establish *Both* Identity and Employment Eligibility:

1. U.S. Passport (unexpired or expired)
2. Certificate of U.S. Citizenship (Form N-560 or N-561)
3. Certificate of Naturalization (Form N-550 or N-570)
4. Unexpired foreign passport, with I-551 stamp or attached Form I-94 indicating unexpired employment authorization.
5. Permanent Resident Card or Alien Registration Receipt Card with photograph (Form I-151 or I-551)
6. Unexpired Temporary Resident Card (Form I-688)
7. Unexpired Temporary Resident Card (Form I-688A)
8. Unexpired Reentry Permit (Form I-327)
9. Unexpired Refugee Travel Document (Form I-571)
10. Unexpired Employment Authorization Document issued by DHS that contains a photograph (Form I-688B)

LIST B: Documents that Establish Identity:

1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address.
2. ID card issued by federal, state, or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address.
3. School ID card with a photograph
4. Voter's registration card
5. U.S. Military card or draft card
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal documentation
9. Driver's license issued by a Canadian government authority
10. School record or report card
11. Clinic, doctor or hospital record.

LIST C: Documents that Establish Employment Eligibility:

1. U.S. social security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Native American tribal document
5. U.S. Citizen ID card (Form I-197)
6. ID Card for use of Resident Citizen in the United States (Form I-179)
7. Unexpired employment authorization document issued by DHS (other than those listed under List A)

ATTACHMENT FIFTEEN

NYSDOH Network Configuration Policy

An organization or Internet domain may contain several types of networks. Each type of network provides different methods of risk reduction, depending on the network access needs. Below is a basic definition of acceptable network configurations.

All networks:

- Eavesdrop-proof through use of secure hubs and/or switches
- Isolated from other networks via secured network devices such as firewalls and/or state-full routers
- Logging of all successful and failed attempts should occur at all network perimeter devices
- Logs should be stored on protected hosts
- Logs should be reviewed at least every business day
- Hosts must comply with security modules as described in http://www.cert.org/tech_tips/
- Network users and administrators must receive security awareness training

Untrusted networks:

Definition: A network outside of the direct, immediate control of the organization.

Example: Internet

Requirements:

- Only firewalls and/or firewall-grade router devices should reside on an untrusted network
- Management of devices on an untrusted network must be via a trusted connection to the device

External networks:

Definition: servers that require unauthenticated access from untrusted networks, such as the Internet.

Example: Network containing public web or mail servers

- No client (user) machines should reside on an external network
- Devices should be protected by packet-filtering firewalls and/or firewall-grade routers
- Devices must run robust operating systems and be hardened against attack. Hardening includes loading of all applicable patches as they're released and removing unneeded services
- No confidential or sensitive information may be stored, either temporarily or permanently, on any devices on this network except as needed for fundamental system operation and then only if encrypted (/etc/shadow, for example).
- Network logs should be archived for a least 6 months
- Application logging should be activated wherever possible and reviewed at least every business day.
- Inbound and outbound connectivity should be limited to needed services* but may go to and come from any type of network
- Authentication systems must be centrally managed

E-commerce networks:

Definition: Servers that provide authenticated access from untrusted networks, such as the Internet.

Example: Networks used to transact confidential information with clients and/or partners

- No client (user) machines should reside on an e-commerce network
- Devices should be protected by packet-filtering firewalls and/or firewall-grade routers
- Devices must run robust operating systems and be hardened against attack. Hardening includes loading of all applicable patches as they're released and removing unneeded services
- Network logs should be archived for a least 6 months

- Application logging must be activated where ever possible and reviewed at least every business day
- Confidential or sensitive information stored on devices in this network must be secured independently from network access security control (for example, separate password files) where ever possible
- Confidential or sensitive information stored on devices in this network must be encrypted using above-average encryption strength (currently 128-bit) except where the information is required for basic system operation and encryption beyond industry-standard levels (currently 56-bit) is not available (example: /etc/shadow)
- Confidential or sensitive information transferred to or across untrusted networks must be encrypted
- System and application standards designed to protect the systems, applications and network must be established by the system administrators
- Access to systems must be limited to needed parties and must be approved, where applicable, by data owners
- Inbound and outbound connectivity should be limited to needed services*
- Inbound connectivity from untrusted networks must be authenticated. Authentication must be encrypted to industry-standard levels (at least 56-bit at time of writing).
- Authentication systems must be centrally managed

Private networks:

Definition: Internal network which hosts users and internal-only applications and servers

Example: Corporate intranet

- Devices should be protected by packet-filtering firewalls and/or firewall-grade routers
- Devices should be maintained in a secure state.
- An automated virus-protect solution must be in operation
- Network logs should be archived for a least 6 months
- Application logging should be activated wherever possible and frequently reviewed by the individual(s) responsible for the application.
- Access to systems must be limited to needed parties and must be approved, where applicable, by data owners
- No inbound connectivity from untrusted networks is permitted
- Inbound connectivity from e-commerce networks is permitted provided the private network devices run robust operating systems and hardened against attack. Hardening includes loading of all applicable patches as they're released and removing unneeded services. The needed services cannot provide access beyond the scope of the need. *
- Outbound connectivity should be limited to only to needed services*
- Authentication is required for access to confidential or sensitive information. This includes information temporarily or permanently stored on PCs or other single-user devices

Secured private networks:

Definition: Servers that hold the organizations most sensitive information and are secured from all other types of networks

Example: Network containing database servers containing credit card or patient-identifying data

- No client (user) machines should reside on a secured private network
- Devices should be protected by packet-filtering firewalls and/or firewall-grade routers
- Devices must run robust operating systems and be hardened against attack. Hardening includes loading of all applicable patches as they're released and removing unneeded services
- Network logs should be archived for a least 6 months
- Application logging must be activated where ever possible and reviewed at least every business day
- Confidential or sensitive information stored on devices in this network must be secured independently from network access security control (for example, separate password files) where ever possible

- System and application standards designed to protect the systems, applications and network must be established by the system administrators
- Access to systems must be limited to needed parties and must be approved, where applicable, by data owners
- Inbound and outbound connectivity should be limited to needed services*
- No inbound connectivity from or through untrusted networks is permitted.
- Authentication systems must be centrally managed

Recommended Best Practices:

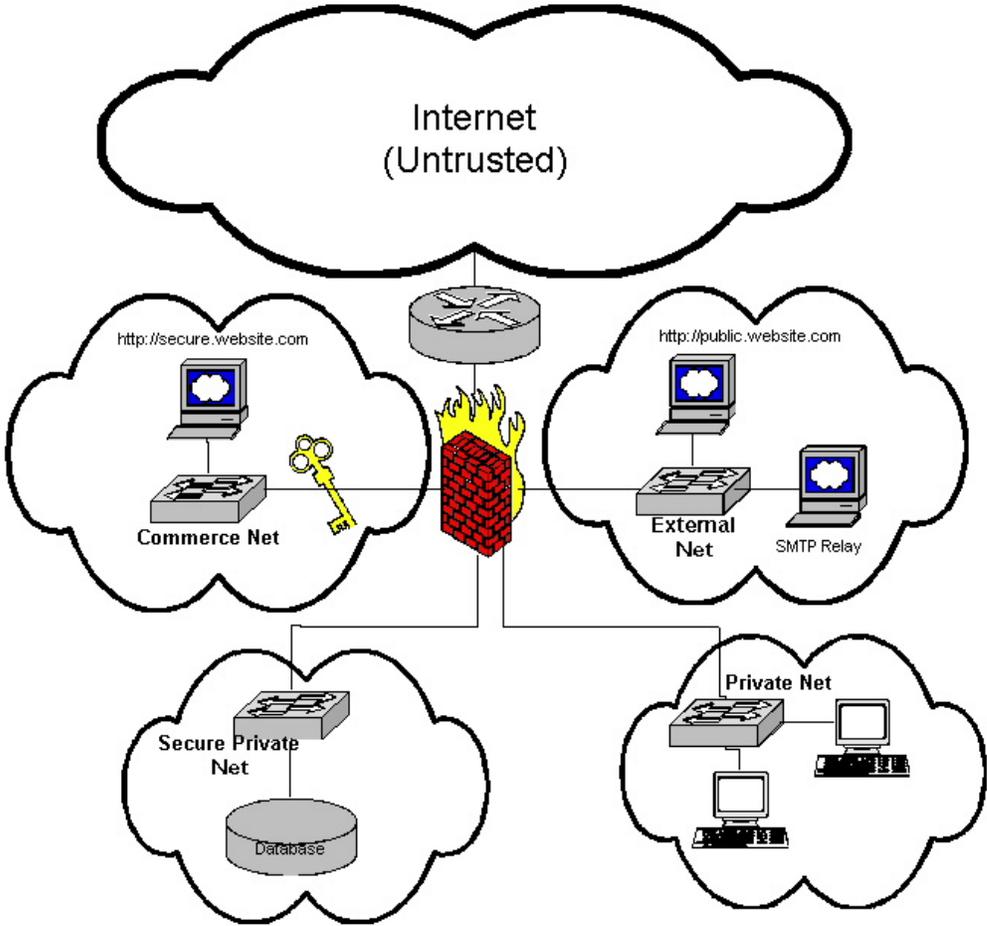
- Network Intrusion Detection Systems be deployed at strategic locations
- Network Mapping/Scanning be done at regular intervals to detect vulnerabilities

NYSDOH Auditing

- Network administrators must provide written confirmation of policy compliance prior to full production implementation and quarterly thereafter. This attestation must be supported by detailed network descriptions, which address the related policy aspects
- NYSDOH Security Office will be provided secure shell (SSH) access to at least one device in each network. The account must have privilege to create network sockets
- NYSDOH Security Office reserves the right to conduct on-site inspection of network infrastructure for the purpose of policy compliance verification
- Modifications to these auditing requirements may be negotiated but should not be assumed.

***NYSDOH Security Unit will perform the risk benefit analysis prior to approval and deployment of services**

NYSDOH Network Configuration Policy Diagram



**ATTACHMENT 16
SECURITY PLAN CHECKLIST**

SECURITY PLAN REQUIREMENT	CHECK IF ADDRESSED IN SECURITY PLAN (X = Yes)
2.1.1	
2.1.2	
2.1.3	
2.1.4	
2.1.5	
2.1.6	
2.1.7	
2.2.1	
2.2.2	
2.2.3	
2.2.4	
2.2.5	
2.2.6	
2.2.7	
2.2.8	
2.2.9	
2.2.10	
2.2.11	
2.2.12	
2.2.13	
2.2.14	
2.2.15	
2.2.16	
2.3	Not applicable
2.4.1	
2.4.2	
2.4.2.1	
2.4.2.2	
2.4.2.3	
2.4.2.4	
2.4.2.5	
2.4.2.6	
2.4.2.7	
2.4.2.8	
2.4.2.9	
2.4.2.10	
2.4.2.11	
2.4.2.13	
2.4.2.14	
2.5.1	
2.5.2	
2.5.3	
2.5.4	
2.5.5	

ATTACHMENT 17, Cont'd.
SECURITY PLAN CHECKLIST

SECURITY PLAN REQUIREMENT	CHECK IF ADDRESSED IN SECURITY PLAN (X = Yes)
2.6	
2.7.1	
2.7.2	
2.7.3	
2.7.4	
2.7.5	
2.7.6	
2.7.7	
2.7.8	
2.7.8.1	
2.7.8.2	
2.7.8.3	
2.7.8.4	
2.7.9	
2.7.10	
2.7.11	
2.7.11.1	
2.7.11.2	
2.8.1	
2.8.2	
2.8.3	
2.8.4	
2.8.5	
2.8.6	
2.8.7	
2.8.9	
2.8.10	
2.8.11	
2.8.12	
2.8.13	
2.8.14	
2.9.1	
2.9.2	
2.9.3	
2.9.4	
2.9.5	
2.9.6	
2.9.7	
2.9.8	
2.9.9	
2.10	
2.11.1	
2.11.2	
2.11.3	

ATTACHMENT 17, Cont'd.
SECURITY PLAN CHECKLIST

SECURITY PLAN REQUIREMENT	CHECK IF ADDRESSED IN SECURITY PLAN (X = Yes)
3.1	
3.2	
3.3	
3.4	
4.1	
4.2	
4.3	
4.4	
4.5	

**ATTACHMENT 18
M/WBE FORMS**

**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:
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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