

**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**

Questions and Answers

NOTE: Bid proposal due date has been changed to May 8, 2009.

1. Section B.2. Statistical Information.

Are there any statistics on the number of IVR "hits" during any specified time frame? What is the number of IVR phone lines the current vendor supports and is this number sufficient to handle peak traffic?

During 2008 the New York State Nurse Aide Registry received 5,251 IVR verification requests. We do not know the number of IVR phone lines the current vendor supports.

2. Sections C.1.3. and 1.5, and E.3.1. through 3.12.

What is the difference between the fees collected for services specified in items E.3.1. -- 3.12. under the current contract and the unit prices that the current vendor bills the Department?

Please see attached fee schedule.

3. Section F.2. Independently Audited Financial Statements

We do not have independently audited financial statements. Could we submit alternative financial records, such as the 2001 audit, tax records (Forms 1065 for 2005, 2006, and 2007), income statements and balance sheets for 2005-2008, etc., to meet this requirement?

Yes. However, the selected bidder must submit either independently audited financial statements or Dunn and Bradstreet Business Information Reports for the last three years (2005, 2006 and 2007) prior to award of the contract, if these reports are not submitted with the bid. The selected bidder will have 14 calendar days from date of notification by the Department of Health to submit the statements. Day one is the day the bidder is notified. Department staff must have the reports in hand by day 14. If the bidder is unable to provide the reports by day 14, the contract will be offered to the next highest scoring bidder.

4. Section I.15. New York State Tax Law Section 5-a

Is the Department charging a State sales tax for the services it pays the current vendor for when appropriately invoiced for those services?

No. There is no State sales tax on any of the fees for the services in the RFP. However, you must still file Attachment ST-220 CA with your bid documents, which indicates that you have filed ST-220 TD with the Tax Department.

5. Section C.8.13.

Is the current vendor maintaining/paying for/responsible for an Internet connection at DOH offices different than the DOH (State provided) Internet bandwidth that we would think must securely connect DOH registry staff to the current vendor's registry server, wherever it may be located?

No. This requirement has been deleted. Please see Official Amendments to the RFP.

6. Section C.1.17.

If approved by DOH staff, will electronic applications, electronic service request forms, etc., and imaged records (linked to candidate records) of any paper forms submitted be considered "original" copies?

Yes, if approved by the Department of Health.

7. Section C. 5.4.

Is there historical regional test site data available, e.g., numbers of candidates tested at each regional test site during a specified time frame?

Yes. Please see the attached chart showing regional candidate and test volume for 2008. Bidders should note that all nurse aide training programs must have the ability to test on-site.

8. Section C.5.14.

Are the current test proctors employees of the current vendor, and insured and bonded under the corporate entity, or are they private contractors providing their own insurance and bonds?

We don't know. Either method or a combination of the two is permissible.

9. Section C.7.3.1.

We gather the SSN is no longer a part of the CEP in New York. Is that a correct assumption? What is the algorithm for generating the 13 digit alphanumeric certification number? Does the current vendor's software generate that number during a data entry process?

Please see Official Amendments to the RFP. Sections of the RFP that lay out SSN requirements have been modified. Social security numbers are required to be collected for nurse aide candidates but cannot be used by the contractor for any purpose whatsoever. The current vendor generates an identifier number for each candidate. We do not know the algorithm for generating the identifier number.

10. Section C.8.5.2.7.

Are there statistics on the number of hard copy verification requests for a specified period of time? If so, what are the numbers of requests filled from the various sources of possible requests?

We do not have this information.

11. Section C.8.7.4.

Are there statistics on the number of calls fielded by the current vendor's staff for any specified time frame?

In 2008 the contractor received an average of 6,679 calls per month.

12. Section C.3.18.4.

What is the maximum length of time a nurse aide testing session (including the clinical skills examination (CSE) and the written examination (WE)) can take? Are there any instances when a nurse aide examination has taken longer than a day?

No time limit is currently required, although the Department of Health is open to considering this. There have been instances when an exam has taken longer than a day.

13. Section C.3.16.

How flexible will the NYSDOH be in allowing a vendor to implement computer-based testing (CBT) for the written exam?

We cannot answer this question other than to say that we are quite open to this technology and welcome discussing it with the contractor, especially if it can reduce testing costs. In any event, the vendor would be required to meet the criteria in Section 3.16 before implementing CBT in any test site and cannot implement absent the Department's approval.

14. Section G. Method of Award

Regarding the criteria for rejecting bids, would the NYSDOH be willing to sign a non-disclosure agreement (NDA) to receive copies of the vendor's national nurse aide CEP examination forms and the vendor's Security Plan?

No. The Department does not sign non-disclosure agreements. Trade secrets are protected as per the requirements and procedures provided in Sections 87 and 89, Article 6 (Freedom of Information Law) in New York State's Public Officers Law. These requirements may be accessed at <http://public.leginfo.state.ny.us>. In order for information in the bid proposal to receive trade secret designation the request must:

- be submitted in writing along with the bid proposal;
- be submitted at the time the trade secret information is submitted;
- include the name, address and telephone number of the manufacturer, producer, formulator, employer or person desiring to register a trade secret;
- include the name and title of an individual who may be contacted concerning the request;
- include the name or other identification of the trade secret; and
- state why the information should be excepted from disclosure.

15. There appear to be variances between the Scope of Work and the Technical Proposal Content. Could the NYSDOH confirm that vendors are not to respond to all of the Scope of Work requirements in the RFP, but to only those listed in the Technical Proposal Content outline as it is presented under RFP 2.0 Technical Proposal Content?

Page 6 of the RFP states:

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.

The RFP has many requirements that are not scored and are not included in the bid proposal Table of Contents. Bidders are not required to respond to any Scope of Work item that is not scored or otherwise required to be addressed or included in the bid proposal as stated in the RFP. Bidders may supply any additional information they wish to provide in a new Section C.9 Additional Information, which has been added to the required Table of Contents. However, this information may not be used in the technical and financial scoring process.

16. Section C.2.1.

What is your plan at the conclusion of the RFP process for the disposition of the forms submitted?

DOH keeps all documents submitted, including the test forms, as part of the procurement record. Please see answer to Question 14.

17. Section C.2.1.

How many forms of the test should be submitted with the bid proposal?

For both the clinical and written test, the number of test forms submitted should be sufficient to document that every federal requirement for CEPs at 42 CFR 483.152(b) and 42 CFR 483.152(b)(3) is met. For example, the number of clinical test forms submitted must be sufficient to show that the entire pool of personal care skills listed in § 483.152(b)(3) is represented across the test forms.

18. Section C.2.15.

Are you going to change the NATP curriculum during the contract?

We are not working on a new or revised NATP curriculum at this time. It is possible that it will be modified during the term of the contract.

19. Section D.2.4.2.12.

Is NYSDOH willing to rescind this requirement and restrict its ownership rights to just the data collected by the vendor in course of providing the contracted services?

This requirement pertains to software developed for the NYSDOH using funds from this contract, as that would be software developed at the NYSDOH's expense. If the vendor is providing contracted services, as opposed to a software solution, then this requirement is most likely not applicable and the vendor should indicate this in its Security Plan. We generally agree that source code is the property of the contractor in the case of contracted services that do not require agency specific software be developed, as specified or required in this RFP.

20. Section C.3.21.2. and Section C.5.4.

If a single candidate wants to test at a regional site do we have to test them, or can we require a minimum number of candidates for any individual testing event?

This requirement has not been changed. The contractor may not require a minimum number of candidates to be tested. However, the Department is interested in exploring the advantages and disadvantages of this requirement with the contractor, the nursing home industry and other stakeholders.

21. There is a two-day window between the contract award and the actual signing. Will you allow exceptions or additional time?

We do not know how you calculated this timeframe. We anticipate that the selected bidder will have 14 calendar days to sign the contract and return it to the Department. The elements of the contract itself are shown in an attachment to these Qs and As. Appendices that will be part of the contract are either in an attachment to these Qs and As or are included in the RFP itself. Bidders are urged to share these documents immediately with their legal staff for review. This "pre-review" will help to reduce the time required to review the contract once it has been delivered to the bidder for signature.

22. Section C.

Can we make exceptions after the contract is awarded on items where we are required to do something different than what was included in our bid proposal?

No. As stated at the beginning of Section C:

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 on the requirements of the RFP.

23. Attachment Six - Bid Form

Can we propose multiple pricing structures?

No. Complete the Bid Form as directed.

24. Section C.8.5.2.5.

Would the Department consider eliminating the IVR requirement for a potentially significant cost savings?

No.

25. Would you consider storing records electronically?

As long as there are paper processes, we will need paper forms. With the approval of the Department, records can be digitized and the digital images stored in lieu of actual hard copy.

26. Sections C.1.17. and C.1.18.

How long do you have to store records?

Section C.1.17. has been modified. See Official Amendments to the RFP.

27. Section C. 1.19.

Would the NYSDOH agree to a transfer of these databases to the State or its designee upon termination of the agreement as an acceptable alternate arrangement?

The Department will decide to whom the databases are transferred upon termination of the agreement and the contractor is expected to transfer the databases to this entity as required by the RFP.

28. How frequently do you have to provide records?

We do not understand this question.

29. Section C.3.7.

Does the RFP require that we provide home addresses for all our NAEs?

See Official Amendments to the RFP. Only the county is now required.

30. Sections C.3.21. and C.8.

Is the Department going to reduce the time between the request and test administration from ten business days to five business days?

See Official Amendments to the RFP. The requirement is now ten business days.

31. Section C.4.1.

Would the Department entertain a proposal for 100% electronic handbooks?

No.

32. Section C.4.15.

Would the Department consider requiring the issuance of only one pocket card to the candidate instead of two?

Yes. See Official Amendments to the RFP.

33. Section C.4.15.

Would you consider issuing only the pocket card without the certificate to the candidate?

No. We believe the issuance of the certificate to the candidate is significant in fostering her/his self-esteem and pride.

34. Section C.6.3.

Would you consider providing the candidate the results immediately after testing?

No. Although that was the procedure previously for the clinical exam, a recent audit criticized that practice as potentially contributing to NAE bias affecting pass rates. As a result, we now require that candidates be notified of their test results by mail.

35. Section C.7.1.2.

Can an NATP instructor work as an NAE?

No.

36. Section C.7.7.

Does NYSDOH require live access to the data in the examination database?

Yes. While it is unlikely that such access will be required, we would like to retain that option.

37. Section C.7.5.

This section requires that the contractor will assign to each NAE a unique identification number. Social Security numbers cannot be collected or used for this purpose. Will this be changed?

No.

38. Section C.8.6.14.

Why are there multiple identification numbers?

In the case where a nurse aide's certification has lapsed and the aide must retrain and test again, the two records have to be linked in the Registry.

39. Section C.8.74.

Would you consider substituting a standard of 90% of the calls answered within 90 seconds instead of 80% of the calls answered by the fourth ring?

No.

40. Section C.9.9.

Does this section require the contractor to provide cost data to the Department?

Yes.

41. Section E.1.2.1.

Would the Department consider allowing the contractor to provide only a partial refund for the candidate who cancels five days or more before the test date? Could some type of payment be made to the contractor for the cost of the five-day cancels and no-shows instead of the noted cost structure?

See Official Amendments to the RFP. The amendments restore current policy regarding test fees for cancellations and no shows. However, the Department reserves the right to amend this practice at any time during the contract period.

42. Section C.1.5.

Would the NYSDOH be willing to adjust the two business day timeline for depositing fees collected by the contractor to match the time needed for processing applications and the bidder's bank check deposit and check clearing procedures?

No.

43. Section E.1.4.

Is Day One considered to extend from 8:00am to 4:00 pm?

Yes. If payment is received after 4:00 pm it would be considered to have arrived the next business day.

44. Section C.8.27.

Are the hours specified for live operator availability as 8:00 am to 5:00 pm based on Eastern Standard Time?

Yes.

45. Section C.8.22. and Section C.8.28.

Is NYSDOH agreeable to the toll-free customer service center being closed on national holidays if these occur during the normal work week of Monday through Friday?

Yes.

46. Section D.2.1.5.

What are the encryption standards currently approved by NYSDOH CISO?

Encryption standards approved by NYSDOH CISO are in line with Federal standards. Specifics are hard to provide without knowing the context of what is being proposed. Bidders should use Federal guidelines to make their assessments and complete their security plan for this requirement.

47. Section E. Financial Plan and Attachment E: Bid Form

Could the NYSDOH add a section that would allow a bidder to propose a fee for administering the written examinations on computer for items 3.1 and 3.4?

No.

48. Section I.17.

Bidders are instructed to use Attachment ## and submit this plan with their bid documents. Is this reference to Attachment 18: M/WBE Procurement Forms?

See Official Amendments to the RFP. M/WBE forms are Attachment 17.

49. Attachment 16: Security Plan Checklist

The numbering of the Attachment changes on page 2 to Attachment 17, making the following Attachment containing M/WBE Procurement Forms number 18, when it should in fact be Attachment 17. Will the NYSDOH renumber Attachment 18 to 17?

See Official Amendments to the RFP. All pages of the Security Plan Checklist are now labeled Attachment 16. M/WBE Procurement Forms are Attachment 17.

50. Section E.7.0.

Will the State accept an annualized performance bond for each year of the contract to meet this requirement?

Yes.

51. Appendix D Section X

Would the State be willing to negotiate mutually acceptable insurance language that is more appropriate for these services?

No. This is the State of New York's standard contract language and cannot be changed.

52. Appendix D Item Z 6

Would the State consider written agreements with subcontractors that are no less protective of the State than those contained herein as a substitute?

No. This is the State of New York's standard contract language and cannot be changed.

53. Section C.1.4.

This Section mentions "special circumstances" whereupon the Department would require "duplicate" renewal fees to be returned to the nursing home that paid them. Please provide examples of special circumstances that will require the contractor to return fees.

One such situation might be when two or more nursing homes pay the recertification fee for a nurse aide.

54. Section C.2.3.6.

This Section requires the contractor to "state the number of items in the bidder's test item bank (this number should not include test items on test forms)". Do the "test items" referred to in the parenthetical statement refer to unscored pre-test items? If "test items" refers to all items on active forms, please provide additional information regarding the reasons behind removing those items from the count.

Items in the test bank include unscored pre-test items.

55. Section C.2.9.

Please provide the specific volume figures that will be used to determine compliance with the requirement that the bidder provide information for similar programs where the volume is at least 75% of the volume in New York State.

The 75% volume standard is at least 11,589 clinical and 12,594 written exams.

56. Section C.3.10.

Please confirm that the Department does not consider the variation in examination administration associated with paper-based and computer-based examinations to be a variance in this context.

NYSDOH will not permit the use of computer-based testing until the "no variance" requirement is met.

57. Section C 4.2.8.

Would the Department consider an alternative method of providing the information on training program pass rates, such as posting this information electronically on the vendor's webpage?

No.

58. Section C.6.4.

Would issuing the certificate alone satisfy this requirement rather than separately mailing a passing score report and a certificate?

A candidate who passes the exam does not receive a score report. The score report is mailed only to the candidate who fails the exam.

59. Please confirm that all date references in the RFP are business days rather than calendar days.

See Official Amendments to the RFP. Some timeframes are business days; others are calendar days.

60. Scope of Services

Please clarify the bid proposal requirements for the following:

- **The required outline calls for responses to sections 3.19.1., 3.19.2., 3.19.3. and 3.19.4., but these requirements are not identified in the scope of work.**
- **The required outline does not call for 7.3., 7.3.1. and 7.3.2., but the scope states that this section will be scored.**
- **The required outline calls for 7.10. but there is no 7.10. requirement in the scope of work.**

See Official Amendments to the RFP. This has been corrected.

61. Scope of Services

Please clarify the bid proposal requirements for the following: the required outline only calls for 8.5.; subsections 8.5.1. -- 8.5.2.10. are not mentioned.

Section 8.5 includes all Sections within Section 8.5., i.e., all Sections up to Section 8.6. All of the requirements contained in 8.5.1. -- 8.5.2.10. must be addressed in the plan for 8.5.

62. Section D.5. Update to Policies is not called for in Attachment 16. Per the Scope, all requirements in Section D must be addressed in the Security Plan.

Bidders do not have to address this Section in their Security Plan. This Section is a requirement to which the winning bidder must adhere, but it need not be addressed in the Security Plan.

63. What is the total number of clinical and written exams administered in New York State in 2008?

There were 16,792 clinical and 15,452 written exams administered in 2008.

64. In performance of the services under any resulting contract awarded from RFP # 0704190747, the contractor will utilize significant existing proprietary computer programs, source code, materials, test items, tests and intellectual property that have been previously developed by the contractor or its 3rd party licensor ("Contractor Intellectual Property"), some of which may be trade secret, copyright, patent and trademark protected. Is it the NYSDOH's understanding that the contractor or its licensors will retain all Intellectual Property rights to Contractor's Intellectual Property including derivative or customized works and the State will not be able to disclose or provide any such Contractor Intellectual Property to another person not a party to this agreement?

Please see answers to Questions 14 and 16. Bidders should identify all material that they consider to be Contractor Intellectual Property. Materials that exist before contract start date and that are owned by the contractor will continue to be owned by the contractor.

65. Regarding item Z. Confidentiality Clauses under Appendix D to the Standard Clauses to NYS Contracts, any such Contractor Intellectual Property provided to the State under the resulting contract will include the appropriate Contractor (or its licensor's) copyright notices or notice as to the proprietary nature of the intellectual property. Is the State amenable to these

notices despite the requirement specified in item Z to mark all materials delivered as "Funded by the New York State Department of Health"?

The contractor may label copyrighted and/or proprietary material as such.

66. Section C.8.5.2.7.

Is it acceptable to require anyone utilizing internet access to the public registry to print their own verification, instead of having the contractor mail out a hardcopy?

Yes.

NEW YORK STATE NURSE AIDE TESTING AND CERTIFICATION FEES, 2003-09

SERVICE	PUBLIC CHARGE	VENDOR CHARGE
a. Written test – 1 st time testers	\$57	\$52
b. Clinical skills test – 1 st time	\$58	\$47
c. Oral test-1 st time	\$77	\$62
c. Clinical skills– retest	\$68	\$47
d. Written test – retest	\$57	\$52
e. Oral test – retest	\$67	\$62
f. Written test-no show 1 st time	\$57	\$52
g. Clinical skills -no show 1 st time	\$58	\$47
h. Oral test-no show 1 st time	\$77	\$62
i. Written test- no show extra	\$57	\$52
j. Clinical test-no show extra	\$68	\$47
k. Oral test—no show extra	\$67	\$62
i. Reciprocity/CNA from another state and NYS RNs and LPNs	\$50	\$35
j. Duplicate certificate	\$15	\$12
k. Duplicate score report	\$15	\$12
l. Hand score request	\$25	\$25
m. Recertification	\$40	\$25

2008 CANDIDATE AND TEST VOLUME BY REGIONAL CENTER

Albany	Candidate Volume	Test Volume (clinical/oral/written)
January	3	6
February	2	4
March	3	6
April	5	10
May	0	0
June	3	6
July	5	7
August	4	7
September	0	0
October	3	5
November	13	21
December	8	15

Beacon	Candidate Volume	Test Volume (clinical/oral/written)
January	0	0
February	0	0
March	0	0
April	0	0
May	0	0
June	1	2
July	2	2
August	5	9
September	5	8
October	3	6
November	3	6
December	4	8

Brooklyn	Candidate Volume	Test Volume (clinical/oral/written)
January	22	41
February	12	20
March	6	8
April	25	42
May	35	67
June	13	26
July	0	0
August	0	0
September	11	19
October	2	3
November	7	12
December	4	8

Canton	Candidate Volume	Test Volume (clinical/oral/written)
January	3	2
February	1	1
March	0	0
April	1	1
May	0	0
June	1	2
July	0	0
August	0	0
September	2	4
October	1	2
November	0	0
December	2	4

Jamaica	Candidate Volume	Test Volume (clinical/oral/written)
January	0	0
February	0	0
March	0	0
April	0	0
May	0	0
June	0	0
July	0	0
August	0	0
September	18	30
October	14	30
November	5	10
December	9	15

Long Island - Suffolk	Candidate Volume	Test Volume (clinical/oral/written)
January	9	14
February	12	24
March	39	67
April	17	33
May	15	27
June	9	16
July	12	20
August	23	45
September	12	21
October	22	43
November	16	29
December	17	32

Manhattan	Candidate Volume	Test Volume (clinical/oral/written)
January	8	15
February	21	35
March	45	82
April	19	36
May	19	27
June	5	10
July	32	58
August	39	69
September	36	65
October	31	60
November	12	21
December	15	27

Poughkeepsie	Candidate Volume	Test Volume (clinical/oral/written)
January	0	0
February	4	8
March	3	6
April	3	3
May	3	5
June	0	0
July	4	6
August	4	8
September	0	0
October	0	0
November	3	6
December	3	6

Rochester	Candidate Volume	Test Volume (clinical/oral/written)
January	5	9
February	6	12
March	6	9
April	6	12
May	7	13
June	7	13
July	0	0
August	13	25
September	0	0
October	0	0
November	0	0
December	0	0

Syracuse	Candidate Volume	Test Volume (clinical/oral/written)
January	0	0
February	4	5
March	3	6

April	6	12
May	7	12
June	6	12
July	6	10
August	6	10
September	4	8
October	8	14
November	4	8
December	8	15

Watertown	Candidate Volume	Test Volume (clinical/oral/written)
January	1	2
February	4	4
March	1	1
April	1	1
May	0	0
June	1	1
July	3	4
August	0	0
September	4	3
October	0	0
November	0	0
December	9	18

MISCELLANEOUS / CONSULTANT SERVICES

STATE AGENCY (Name and Address):

NYS COMPTROLLER'S NUMBER:

ORIGINATING AGENCY CODE:12000

CONTRACTOR (Name and Address):

TYPE OF PROGRAM(S):

CHARITIES REGISTRATION NUMBER:

CONTRACT TERM

FROM:

TO:

CONTRACTOR HAS () HAS NOT () TIMELY.
FILED WITH THE ATTORNEY GENERAL'S
CHARITIES BUREAU ALL REQUIRED
PERIODIC OR ANNUAL WRITTEN REPORTS

FUNDING AMOUNT FOR CONTRACT
TERM:

FEDERAL TAX IDENTIFICATION NUMBER:

MUNICIPALITY NO. (if applicable):

STATUS:

CONTRACTOR IS () IS NOT () A
SECTARIAN ENTITY

CONTRACTOR IS () IS NOT () A
NOT-FOR-PROFIT ORGANIZATION

() IF MARKED HERE, THIS CONTRACT'S
RENEWABLE FOR ___ ADDITIONAL
ONE-YEAR PERIOD(S) AT THE SOLE
OPTION OF THE STATE AND SUBJECT
TO APPROVAL OF THE OFFICE OF THE
STATE COMPTROLLER.

CONTRACTOR IS () IS NOT () A
N Y STATE BUSINESS ENTERPRISE

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT

Precedence shall be given to these documents in the order listed below.

- APPENDIX A Standard Clauses as required by the Attorney General for all State Contracts.
- APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)
- APPENDIX Q Modification of Standard Department of Health Contract Language
- STATE OF NEW YORK AGREEMENT
- APPENDIX D General Specifications
- APPENDIX B Request For Proposal (RFP)
- APPENDIX C Proposal
- APPENDIX E-1 Proof of Workers' Compensation Coverage
- APPENDIX E-2 Proof of Disability Insurance Coverage
- APPENDIX H Federal Health Insurance Portability and Accountability Act Business Associate Agreement
- APPENDIX ___:
- APPENDIX ___:

STATE OF NEW YORK
AGREEMENT

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

WITNESSETH:

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

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

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

I. Conditions of Agreement

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

II. Payment and Reporting

- A. The CONTRACTOR shall submit invoices to the STATE's designated payment office:
 - .
 - .
- B. Payment of such invoices by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

III. Term of Contract

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

IV. Proof of Coverage

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

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

- 1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- 2. C-105.2 – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR
- 3. SI-12 – Certificate of Workers' Compensation Self-Insurance, OR GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance.

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

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