

**NEW YORK STATE DEPARTMENT OF HEALTH**

A Request for Proposals for

**NYSTEM and the Empire State Stem Cell Board**

RFP No. 0709120950

**Merit Peer Review Services  
for Stem Cell Research and Related Applications**

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Schedule of Key Events

Written Questions Due	11/30/07
Letter of Interest Due (optional)	11/30/07
Response to Written Questions	12/14/07
Proposal Due Date	1/4/08 by 4:00 pm
Anticipated Contract Start Date	4/1/08

This RFP, questions and answers, as well as any updates and modifications, may be downloaded at <http://www.nyhealth.gov/funding/>

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

### **DESIGNATED CONTACTS:**

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

Bonnie Jo Brautigam  
NYS Dept. of Health  
Wadsworth Center  
Empire State Plaza, Room C345  
P.O. Box 509, Albany NY 12201-0509  
518-402-5033  
nystemgrants@wadsworth.org

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### **Permissible Subject Matter Contacts:**

Pursuant to State Finance Law § 139-j(3)(a), the Department of Health also identifies the following allowable contact for communications related to the following subjects: RFP Release Date, Submission of written proposals or bids, Submission of No-Bid Form, Submission of Written Questions, Participation in the Pre-Bid Conference, Debriefings, Negotiation of Contract Terms after Award:

Bonnie Jo Brautigam  
NYS Dept. of Health  
Wadsworth Center  
Empire State Plaza, Room C345  
P.O. Box 509, Albany NY 12201-0509  
518-402-5033  
nystemgrants@wadsworth.org

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

# **Empire State Stem Cell Board**

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Memorial Sloan-Kettering Cancer Center

## TABLE OF CONTENTS

A. Introduction .....	1
B. Background.....	1
C. Detailed Specifications.....	2
1. Eligibility .....	2
2. Overall Activities .....	2
3. Scope of Work .....	2
4. Specific Requirements.....	4
D. Proposal Requirements .....	8
1. Proposal Format .....	8
2. Method of Award .....	10
E. Administrative Information .....	14
1. Issuing Agency .....	14
2. Inquiries.....	14
3. Submission of Proposals .....	14
4. The Department of Health Reserves the Right to:.....	15
5. Payment .....	16
6. Term of the Contract.....	16
7. Debriefing .....	16
8. Vendor Responsibility Questionnaire.....	16
9. State Consultant Services Reporting.....	17
10. Lobbying Statute.....	17
11. Accessibility of State Agency Web-based Intranet and Internet Information and Applications .....	19
12. Information Security Breach and Notification Act.....	19
13. New York State Tax Law Section 5-a .....	20
F. Appendices .....	20
G. Attachments.....	22
Attachment 1 – Technical Proposal Cover Page .....	23
Attachment 2 – Cost Proposal Cover Page .....	24
Attachment 3 – Bid Proposal by Deliverable .....	25
Attachment 4 – Bid Form .....	29
Attachment 5 – No Bid Form.....	32
Attachment 6 – Appendix A – Standard Clauses for All New York State Contracts .. .....	33
Attachment 7 – Appendix D – General Specifications.....	37
Attachment 8 – Proposal Checklist .....	51
Attachment 9 – Vendor Responsibility Attestation .....	52
Attachment 10 – State Consultant Services Form A.....	53
Attachment 11 – State Consultant Services Form B.....	56
Attachment 12 – NYS Taxation and Finance Contractor Certification Form ST-220-TD .....	59
Attachment 13 – NYS Taxation and Finance Contractor Certification Form ST-220-CA .....	64

## **A. INTRODUCTION**

Stem cell research is emerging as a promising field of scientific inquiry. New discoveries are encouraging leading scientists to investigate the potential of cell-based therapies to treat life threatening disease.

In April, 2007, Governor Eliot Spitzer signed legislation creating the Empire State Stem Cell Board (ESSCB) and authorizing the investment of six hundred million dollars in state funding over the next eleven years. The Empire State Stem Cell Board is authorized to provide grants to basic, applied, translational and other research designed to advance scientific discoveries in fields related to stem cell biology. New York State investigators will be invited to compete in this newly created state supported research program. All grants will be financed by the Empire State Stem Cell Trust Fund. It is expected that approximately \$50 million will be distributed each year for ten years, beginning April 2008.

## **B. BACKGROUND**

NYSTEM is the program of the New York State Department of Health, whose purpose is to administer stem cell research funding based on recommendations and advice from the Empire State Stem Cell Board. In conjunction with NYSTEM, the ESSCB solicits, reviews, and makes funding recommendations for creative and innovative biomedical research projects to be supported by the Fund.

The Funding Committee of the ESSCB is authorized to provide for an independent scientific merit peer review panel composed of individuals with expertise in the field of biomedical and bioengineering research who shall review grant applications based on the criteria requirements and standards adopted by the Funding Committee, and make recommendations to the Funding Committee for the award of grants.

On behalf of the ESSCB, NYSTEM seeks proposals from qualified organizations to organize scientific panels (sometimes called study sections) and conduct independent scientific and technical merit peer reviews of research applications. This includes recruitment of skilled professionals who have experience with peer review procedures, arranging of the peer review meetings, scoring of research applications and other items as listed herein.

Information about the ESSCB and NYSTEM can be found at <http://www.stemcell.ny.gov>

## **C. DETAILED SPECIFICATIONS**

### **1. Eligibility**

Any fiscally and legally responsible entity with demonstrated expertise, including a minimum of five years' experience in peer review of research applications, is eligible to submit a proposal. Proposals will be accepted from corporations, limited liability companies (LLC), or other established business organizations. Proposals will not be accepted from individuals. Although the entity and its staff may or may not be located in New York State, to avoid any potential conflict of interest all reviewers must reside outside of the State.

### **2. Overall Activities**

Through processes that are generally recognized by the scientific community to be highly credible, objective and comprehensive, the successful bidder must demonstrate the ability to perform and supply each of the following:

- Receive applications and screen for compliance with ESSCB-established criteria and other application requirements and standards, including, but not limited to, conflict of interest, human subjects research, vertebrate animal research, and human embryonic stem cell research.
- Coordinate, manage and provide support for the performance of independent scientific and technical merit peer review of research applications by qualified individuals.
- Implement and follow procedures that provide for an established and systematic process of reviewing applications to ensure compliance with ethical standards of conduct and high quality research.
- Provide written reports and summaries of each peer review process conducted.
- Provide written reports to document efforts made during the reporting period to continuously improve services.
- Provide support services such as conference management and travel logistics.

Partial bids or bids containing subcontracts will not be accepted.

### **3. Scope of Work**

The contractor will coordinate the review (through the peer review process) and scoring of anticipated annual applications for single year and multiyear grant mechanisms described below. A list of the anticipated funding mechanisms that may be offered over the next three years is provided below, and a reference to an existing similar Request for Applications (RFA) model for each mechanism is provided. Additional or different mechanisms may be offered.

<b>Mechanism</b>	<b>Similar Model</b>	<b>Reference</b>
Postdoctoral Fellowship	NIH F32	<a href="http://grants.nih.gov/grants/guide/rfa-files/RFA-CA-08-003.html">http://grants.nih.gov/grants/guide/rfa-files/RFA-CA-08-003.html</a>
Mentored Research Scientist	NIH K01	<a href="http://grants.nih.gov/grants/guide/rfa-files/RFA-HL-05-015.html">http://grants.nih.gov/grants/guide/rfa-files/RFA-HL-05-015.html</a>
Mentored Clinician Scientist	NIH K08	<a href="http://grants.nih.gov/grants/guide/rfa-files/RFA-DK-06-015.html">http://grants.nih.gov/grants/guide/rfa-files/RFA-DK-06-015.html</a>
Innovative, Developmental or Exploratory Research	NIH R21	<a href="http://grants.nih.gov/grants/guide/pa-files/PA-06-181.html">http://grants.nih.gov/grants/guide/pa-files/PA-06-181.html</a>
	NIH R01	<a href="http://grants.nih.gov/grants/guide/pa-files/PA-07-070.html">http://grants.nih.gov/grants/guide/pa-files/PA-07-070.html</a>
Multi-Investigator Interdisciplinary Research	NIH Roadmap R01	<a href="http://grants.nih.gov/grants/guide/rfa-files/RFA-RM-06-010.html">http://grants.nih.gov/grants/guide/rfa-files/RFA-RM-06-010.html</a>
Collaborations to Accelerate Research Translation	NIH R01 for translational research	<a href="http://grants.nih.gov/grants/guide/pa-files/PA-07-371.html">http://grants.nih.gov/grants/guide/pa-files/PA-07-371.html</a>
Program Projects	NIH P01	<a href="http://grants.nih.gov/grants/guide/rfa-files/RFA-GM-08-003.html">http://grants.nih.gov/grants/guide/rfa-files/RFA-GM-08-003.html</a>
Exploratory Center	NIH P20	<a href="http://grants.nih.gov/grants/guide/pa-files/PA-07-229.html">http://grants.nih.gov/grants/guide/pa-files/PA-07-229.html</a>
Center of Excellence	NIH P50	<a href="http://grants.nih.gov/grants/guide/rfa-files/RFA-GM-08-004.html">http://grants.nih.gov/grants/guide/rfa-files/RFA-GM-08-004.html</a>
Training	NIH R13, R25, T15, T32, T35	<a href="http://grants.nih.gov/grants/guide/pa-files/PA-06-041.html">http://grants.nih.gov/grants/guide/pa-files/PA-06-041.html</a> <a href="http://grants.nih.gov/grants/guide/rfa-files/RFA-RR-07-005.html">http://grants.nih.gov/grants/guide/rfa-files/RFA-RR-07-005.html</a> <a href="http://grants.nih.gov/grants/guide/pa-files/PA-05-133.html">http://grants.nih.gov/grants/guide/pa-files/PA-05-133.html</a> <a href="http://grants.nih.gov/grants/guide/rfa-files/RFA-HL-04-027.html">http://grants.nih.gov/grants/guide/rfa-files/RFA-HL-04-027.html</a> <a href="http://grants.nih.gov/grants/guide/pa-files/PA-05-117.html">http://grants.nih.gov/grants/guide/pa-files/PA-05-117.html</a>

### Research Topic Areas

The ESSCB has not yet determined specific research topic area for the various mechanisms outlined above. The ESSCB may make future determinations regarding the specific targeting of research topics. By statute, no grants will be allowed for any research involving human reproductive cloning.

### Anticipated Schedule of Release of RFAs

NYSTEM anticipates that the first peer review process conducted by the contractor will be held in April 2008. RFAs may be issued with only one due date for application submission while others may be issued with continuous receipt dates in anticipation of quarterly review cycles.

### Anticipated Volume of Applications

Prospective bidders should note that NYSTEM expects two to five RFAs to be issued in the first year of the contract and as many as eight review cycles in future years. RFAs may contain one or more funding mechanism. Based on preliminary assessment conducted by the New York State Department of Health, it is estimated that as many as 40 institutions and more than 100 investigators may be eligible to apply for funding in the first year of the contract. This number is expected to increase.

Bidders are requested to submit a bid price based on the number of applications anticipated to be reviewed as a result of any one RFA. The application ranges for budget preparation are as follows:

- 5 to 40 applications
- 41 to 70 applications
- 71 to 100 applications.

Bid prices submitted for each of the three ranges (likely scenarios) will be totaled to enable reviewers to evaluate bids on an equal basis.

## **4. Specific Requirements**

NYSTEM acknowledges that there are several effective methods for conducting peer review. However, for the purpose of assessing the technical proposal and the cost proposal in this RFP, a face-to-face peer review panel meeting is required to be used as the basis for the proposal. In addition, the bidder may propose alternate methods of conducting peer reviews. NYSTEM reserves the right to change the peer review method for any peer review cycle conducted by the successful bidder throughout the contract term if an alternate method is deemed by NYSTEM to be more efficient, effective, or cost-effective.

The selected contractor must assume full responsibility for the services offered in the proposal for the duration of the agreement. All work is to be completed by

the bidder to the satisfaction of NYSTEM. The successful contractor is expected to assume all costs and responsibilities for recording necessary data, preparing and producing the written products, and costs associated with the convening of the panels.

**a. Staffing**

The contractor must identify and designate one or more staff person(s), who has the rank and authority, to make decisions on behalf of the contractor and to act as liaison with NYSTEM staff to ensure completion of all tasks required for this project. This individual must be an experienced manager, be committed to the objectives of this project, and be able to dedicate as much of his/her time on this project as is necessary. The contractor must have access to a sufficient number of other staff support with expertise in biomedical research with demonstrated scientific excellence through their own research publications. These staff will be recruited based on their possession of the appropriate scientific credentials; maintenance of a record of academic publications within the pertinent disciplines; specific teaching and/or research experience; and prior experience in peer review procedures and health sciences administration.

**b. Pre-Meeting Activities**

For each RFA drafted by NYSTEM, the contractor will provide technical assistance and consultation regarding RFA improvements that can facilitate the peer review process. In advance of each RFA due date, NYSTEM will provide the contractor with necessary information to design reviewer instructions and forms for the peer review process including, but not limited to, evaluation criteria. NYSTEM will approve the reviewer instructions and forms prior to the contractor distributing them to reviewers for use.

NYSTEM will identify and contact the preferred peer review panel members for each review panel to be convened. NYSTEM will provide the contractor with the contact information for each review panel member selected. The contractor will be responsible for subsequent communications with the approved review panel members. In the event that additional members are needed, the contractor will identify other highly competent and experienced scientists and physicians to serve as review panel members. NYSTEM will have final approval on selected peer review panel members. Panel members must meet the requirements for peer reviewers established in the bylaws adopted by the Empire State Stem Cell Board. Scientists and physicians will be identified and recruited based on their possession of the appropriate credentials and funding history in the field of stem cell biology research or other closely related fields (e.g., developmental biology, cell signaling, tissue engineering and regenerative medicine), enabling technologies (e.g., advanced imaging, mass spectroscopy, computational biology, biomedical engineering), as well as relevant disease-specific expertise in which stem cell research may be important for diagnostics and therapeutics. In addition, these scientists and physicians will demonstrate a record of academic publications within

the pertinent disciplines as related to the foci of the applications under review; and specific experience in their field. Further, the majority of Review Panel members will have experience in rigorous scientific peer review and in managing competitive federally funded research projects.

Peer reviewers must agree to abide by the merit-based peer review guidelines established by the bylaws adopted by the Empire State Stem Cell Board and any additional instructions provided by NYSTEM to the contractor to ensure compliance with the highest ethical standards.

Prior to the review panel meeting, the contractor will hold a kick-off meeting with NYSTEM to ensure proper peer review panel assembly, discuss and finalize required post-review report contents, and review other details as necessary.

Applications responding to the RFAs will be submitted to NYSTEM. Each application will be assigned a log number. Those which meet the minimum requirements (Pass/Fail) will be forwarded to the contractor on CD-ROM in Microsoft Word Document (.doc) and/or Portable Document File (.pdf) formats. The contractor staff will assess each forwarded application's compliance with additional requirements specified in the RFA, such as page limitations, font size, etc. NYSTEM will make final determinations with respect to compliance issues identified by the contractor.

Following the assessment of conflicts of interest made by the contractor staff in conjunction with Independent Scientific Merit Peer Review Panel (Review Panel) members, the contractor will assign compliant applications to the approved Review Panel members, and forward the applications, reviewer critique templates, and instructions to the members for review. All reviewers will be required to submit their critiques in writing to the contractor prior to the peer review meeting. Written reviewer critiques will contain a summary statement and a critique of the application categorized by the appropriate evaluation criteria for the specific grant mechanism.

Each Review Panel will be administered by a Scientific Review Administrator (SRA), and comprised of a Chairperson, and several Peer Reviewers. The contractor will recruit SRA's from highly skilled professionals in their employ who possess years of experience in peer review procedures, as well as health science administration related to biomedical and behavioral research. The SRA will play a critical leadership role in the peer review process. The SRA has the overall responsibility to ensure that the peer review panel proceedings are accurately recorded and the integrity of the review process is maintained. The Review Panel Chairperson is a senior individual selected on the basis of his/her standing in the scientific community, prior peer review experience, experience leading a research program, and expertise in the area(s) related to the subject matter of the applications to be reviewed. The Chairperson is a voting member

of the Review Panel who works closely with the SRA, presides at the meeting, provides leadership in moderating and guiding panel members in their peer review deliberations, and ensures that each application receives a fair review on the basis of merit. In turn, Review Panel members are responsible for thoroughly reviewing and providing written evaluations of their assigned applications as well as orally presenting their evaluations to the Review Panel and actively participating in the assessment, discussion, and voting of all applications reviewed by the Review Panel.

Administrative and logistics planning of the peer review meeting occur simultaneously. The contractor will select the meeting location, limited by NYS per diem rates, make travel and hotel arrangements for meeting attendees, and prepare meeting materials. Lunch and refreshments will be provided by the contractor during the review meeting.

### **c. Meeting Activities**

At the peer review meeting, the Review Panel will meet to review assigned applications. Each application will be presented by the assigned reviewers to the rest of the committee. A complete panel discussion will ensue after these presentations. Panel members will then be required to complete a scoring sheet. The contractor will be responsible for ensuring the proper conduct of the meeting, and provide technical assistance and support as necessary throughout the meeting.

### **d. Post-Meeting Activities**

Upon completion of peer review, scores will be prepared by the SRA, and calculated for each application. Score reports and peer review summary statements, which accurately report the findings of the Review Committee, will be prepared by the contractor for every application. These reports, including summary statements and copies of the applicants' scientific and lay abstracts, will be delivered to NYSTEM in electronic (Microsoft products) and paper formats. Upon acceptance by NYSTEM, the contractor will provide a report to each ESSCB Funding Committee member in paper format. In addition, technical support will be provided to NYSTEM as needed to fulfill the requirements of the ESSCB.

### **e. Reporting**

#### Post-meeting reports

See Section 4.d. Post-Meeting Activities, above.

#### Semi-annual progress reports

Semi-annual written reports are to be submitted in electronic format (Microsoft products) by the contractor no more than 30 days after the end of the period. The first period begins on the start date of the contract and ends six months later. For each six month reporting period, the report will include a summary of activities and

tasks completed, progress toward the attainment of milestones, and a brief statement of activities planned for next reporting period, including recommendations to improve contractor performance.

Final report

Within 60 days of the termination date of the contract, the contractor will submit a final written report in electronic (Microsoft products) and paper formats. The final report will summarize the work performed and the outcomes of the merit peer review processes.

Other reports

The contractor will provide other reports as requested by NYSTEM to fulfill the requirements of the ESSCB and the Department, including but not limited to, reports required of all New York State contractors.

**D. PROPOSAL REQUIREMENTS**

**1. Proposal Format**

All relevant federal and State laws and regulations must be observed. These include, but are not limited to, statutes pertinent to confidentiality, safety and health standards, equal opportunity in recruitment, salary standards, and assurance that bidders comply with federal protection of human subjects and animals.

So that all proposals can be evaluated fairly, a uniform proposal format is requested. The proposal should be submitted using the format, headings and contents as outlined in Sections 1.a. and 1.b., below. Elaborate brochures, reproduced copies, or printouts of standard manuals or sales literature may not be substituted for the required proposal narratives and responses, but may be included as an appendix. Appended material may not be used to circumvent the page limits below. Proposals should be typewritten using Arial 12 point font, paginated, reproduced on letter size (8½ " x 11") paper and legible in all required copies. Margins should be at least ½" in all directions. ***Up to four (4) points will be deducted for proposals deviating from this format.***

Information submitted should be specific as to approach, services to be provided, qualifications of bidders and/or staff and any other items being included. Any trade secrets for which the bidder seeks protection from disclosure under the NYS Freedom of Information Law (FOIL) as a trade secret must be clearly marked.

### **a. Technical Proposal**

The Technical Proposal should be limited to a maximum of 12 typewritten pages, excluding the cover page, letters of reference and appendix material.

#### Cover Page

Attachment 1 must be completed and signed by an official authorized to bind and speak on behalf of the organization.

#### Bidder Experience

Eligible bidders must meet minimum qualifications described in Section C.1., Eligibility.

Provide a brief description of the organization's background and relevant experience with other biomedical peer review projects. To substantiate this experience, a minimum of three references from health-related research sponsors, including at least one from an organization that sponsors basic and translational biomedical research, are required. For each reference, provide the name of the sponsoring agency, a contact name and professional title, address and telephone number; also provide a brief description of the scope of the services provided, deadlines, reports produced, etc.

#### Approach

Provide a detailed workplan for the provision of one peer review process. Include all specific tasks, activities, and related operations to be used in accomplishing the activities described in Section C. Detailed Specifications. Provide evidence of the organization's ability to accomplish the proposed workplan. Provide the rationale for the approach proposed explaining relevant issues. Describe previous experience in implementing the approach described. In addition, describe the approach that will be used to accommodate up to 12 peer review panel meetings in a single year under the contract and provide evidence of the organization's ability to accomplish that level of effort.

#### Bidder Qualifications and Staffing

The bidder must demonstrate that it has the knowledge, skills, abilities, capacity and experience to implement the proposed project activities as described in Section C. Detailed Specifications. Provide a brief summary of the background, qualifications, and staffing plan of the bidder. Include the name, qualifications, experience and accomplishments relative to this project of the individual designated by the bidder as the lead staff person to oversee the contract and ensure that all project needs and requirements are met. Identify job descriptions for typical positions selected.

Access to Reviewers and Meeting Environment

Describe the proposed facilities and equipment available to meet the project requirements specified in Section C. Detailed Specifications. Describe the organization's access to qualified reviewers. Provide details regarding the scientific environment and other resources necessary to support the workplan and to meet the Detailed Specifications delineated in Section C.

**b. Cost Proposal**

The Cost Proposal is comprised of the following forms:

Cover Page

Attachment 2 must be completed and signed by an official authorized to negotiate a contract on behalf of the organization.

Bid Form

Attachment 4 must be completed and signed by an authorized official.

Bid Proposal by Deliverable and Activity

Information presented on Attachment 3 should correspond to the work plan presented in the Technical Proposal's section labeled "Approach." Bid cost must be predicated upon face-to-face meetings of the peer review panels. Bidders are asked to propose separate costs at three (3) levels of effort (5-40, 41-70 and 71-100 applications reviewed) for one peer review cycle conducted during the first year of the contract, and for each year thereafter through the fifth year of the contract.

The State of New York will not be held liable for any cost incurred by the bidder for work performed in the preparation and production of a proposal.

Bid prices shall include all ancillary costs, such as printing, secretarial, data entry, as well as any and all travel costs.

Any resulting contract will allow payment for services at the appropriate range for each peer review conducted up to a maximum of 12 peer review cycles per year.

**2. Method of Award**

**a. Vendor Selection**

Pass/Fail Assessment

All proposals will be reviewed by NYSTEM to ensure that minimum criteria are met. Proposals that do not meet the following minimum criteria will not be forwarded to the review panel for evaluation and rating:

- proposal packages must be received by 4:00 PM on the date and at the address specified in the RFP

- proposal packages must contain one signed original and six copies of the entire proposal package
- proposal must not require the use of subcontractors to complete the work
- bidder must not be unincorporated individual(s)
- bidder must demonstrate a minimum of 5 years' experience performing peer review of research applications
- proposal packages must include separate technical and cost proposals
- technical proposal must include a completed and signed cover page (Attachment 1)
- technical proposal must contain a minimum of three letters of reference
- cost proposals must be properly labeled and sealed, and include completed and signed cover page (Attachment 2) and bid form (Attachment 4)
- cost proposals must contain a completed bid proposal by deliverable and activity (Attachment 3).

#### Evaluation Process

The Department of Health will conduct a comprehensive, fair, and impartial evaluation of each proposal in response to this RFP according to Department rules. NYSTEM will supervise the review and scoring of all proposals. NYSTEM will notify all bidders in writing when it makes its final selection.

The basis of the award will be the highest composite Technical Evaluation and Cost Evaluation score. Separate teams of staff will evaluate the technical and cost proposals. The maximum score is 100 points.

The evaluation of proposals will determine which services provide the "Best Value" to the State. Under NYS Procurement Guidelines, "Best Value" is the basis for awarding all service contracts, which optimize quality, cost and efficiency, among responsive and responsible offers."

Upon determination of the "Best Value" proposal, the Department will develop a binding contract with the selected bidder to provide the services. In the case of failure to execute a contract with the selected bidder, NYSTEM may pursue a contract for the services proposed by the next best rated bidder. NYSTEM will administer any contract that is executed between the Contractor and the State.

At the discretion of the Department of Health, all bids may be rejected in whole or in part. The evaluation of the bids will include the following considerations:

#### Proposal Scoring and Merit Review Criteria

Proposals that "pass" the Pass/Fail Assessment described above will be reviewed by a panel consisting of Department staff. Those proposals will be scored as described below. The proposal with the highest total (technical plus financial proposal) score will be awarded. The State reserves the right to award all or parts

of a proposed scope of work or to not award any contract, at its discretion. The State may award a contract to a bidder if only one proposal is received.

Proposals that meet the minimum qualifications will be scored on a scale of 0 to 20, for each of the following requirements, with 0 reflecting low merit and 20 reflecting high merit. An overall score will also be provided by reviewers.

## **TECHNICAL PROPOSAL COMPONENT**

### **Bidder's Experience - 20% weight**

Does the bidder's experience demonstrate the ability to:

- Receive applications and screen for compliance with ESSCB-established criteria and other application requirements and standards, including, but not limited to, conflict of interest, human subjects research, vertebrate animal research, and human embryonic stem cell research.
- Coordinate, manage and provide support for the performance of independent scientific and technical merit peer review of research applications by qualified individuals.
- Implement and follow procedures that provide for an established and systematic process of reviewing applications to ensure compliance with ethical standards of conduct and high quality research.
- Provide written reports and summaries of each peer review process conducted.
- Provide written reports to document efforts made during the reporting period to continuously improve services.
- Provide support services such as conference management and travel logistics.
- Assure applications are screened for compliance with standards regarding conflict of interest, human subjects research and vertebrate animal research.

**15 points**

Does the bidder have experience with peer review processes for federal and/or state government agencies that sponsor biomedical research and not-for-profit national research sponsors?

**5 points**

### **Approach - 20% weight**

Does the workplan design and methods present an appropriate and detailed plan to achieve all required tasks necessary to fulfill the requirements of the RFP?

**10 points**

Does the bidder provide evidence of the ability to accomplish the workplan?  
**5 points**

Does the bidder acknowledge potential problem areas and consider alternative methods/tactics?  
**2 points**

Does the approach provide adequate flexibility to address the varying numbers of applications, types of RFAs, and describe alternate peer review formats?  
**3 points**

**Bidder's Qualifications and Staffing - 20% weight**

Does the staffing plan represent the knowledge, skills, abilities, capacity, and experience to implement the proposed project activities and volume?  
**10 points**

Does the organization's lead staff person, program staff, support staff and information technology staff have the appropriate background to carry out this work?  
**5 points**

Is there adequate staff in all areas of expertise necessary to conduct the reviews?  
**5 points**

**Access to Reviewers and Meeting Environment - 20% weight**

Does the bidder have access to, and a working knowledge of, the highest quality reviewers with the appropriate experience and expertise necessary to perform the reviews for each anticipated funding mechanism, including access to sufficient numbers of reviewers from outside New York State to manage conflicts of interest and adequately seat Review Committees?  
**8 points**

Does the bidder maintain appropriate information technology and other electronic/equipment capacity to support the workplan?  
**7 points**

Does the bidder maintain or have access to an appropriate location in which to conduct review meetings?  
**5 points**

**COST PROPOSAL COMPONENT – 20% weight**

Scoring of financial proposals is based only on total bid price.

**20 points**

**Total Score**

**0-100 points**

**E. ADMINISTRATIVE INFORMATION**

**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**

Any questions concerning this solicitation must be directed in writing or via Email to:

Bonnie Jo Brautigam  
NYS Department of Health  
Wadsworth Center, Room C-345  
Extramural Grants Administration  
Empire State Plaza  
Post Office Box 509  
Albany, New York 12201-0509

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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 12/14/07. Bidders wishing to receive these documents via mail must send a request, in writing, to the Department at the address above.

**3. Submission of Proposals**

Interested vendors should submit one (1) original and six (6) signed copies of the complete bid package (Technical Proposal with appended material and Cost Proposal) in one package. No cost information should be provided in the Technical Proposal. Responses to this solicitation should be clearly marked "ESSCB Peer Review Proposal" and directed to:

New York State Department of Health  
Wadsworth Center, Room C-345  
Extramural Grants Administration  
Empire State Plaza  
PO Box 509  
Albany, NY 12201-0509  
Attention: Bonnie Jo Brautigam

Inside the single mailing package, the original and six copies of the Cost Proposal portion of the bid package must be in a separately sealed envelope clearly marked "ESSCB Peer Review – Financial Proposal", with the bidder's legal name and contact information clearly indicated on the envelope containing the Cost Proposal.

It is the bidders' responsibility to see that a complete bid package is delivered to Room C-345 prior to the date and time of the bid due date - 4:00 p.m., 1/4/08. Late bids due to delay by the carrier or not received in the Department's mail room by 4:00pm will not be considered.

1. The Bid Form must be filled out in its entirety.
2. The responsible corporate officer for contract negotiation must be listed. This document must be signed by the responsible corporate officer.
3. All evidence and documentation requested under Section D, Proposal Requirements must be provided at the time the proposal is submitted.

**4. 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.

## **5. Payment**

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

NYS Department of Health  
Wadsworth Center, Room C345  
Extramural Grants Administration  
Empire State Plaza  
PO Box 509  
Albany, NY 12201-0509

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 will be made for actual services delivered and upon acceptance of each deliverable product. Final payment will be made upon acceptance of the final report.

## **6. Term of Contract**

This agreement shall be effective upon approval of the NYS Office of the State Comptroller for a contract period of five years, projected to commence on 04/01/08 and end on 03/31/13.

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.

## **7. 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.

## **8. Vendor Responsibility Questionnaire**

New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use

the New York State VendRep System, see the VendRep System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto: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](http://www.osc.state.ny.us/vendrep) or may contact the Department of Health or the Office of the State Comptroller for a copy of the paper form. Bidders must also complete and submit the Vendor Responsibility Attestation (Attachment 9).

## **9. State Consultant Services Reporting**

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

The winning bidders for procurements involving consultant services must complete a "State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term" in order to be eligible for a contract (Attachment 10).

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 (Attachment 11).

**NOTE: Do not include Attachments 10 and 11 with your proposal. These documents will be requested as a part of the contracting process should you receive an award.**

## **10. Lobbying Statute**

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

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

- c. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d. authorizes the Temporary State Commission on Lobbying 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 Temporary State Commission on lobbying;
- 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 Temporary State Commission

on Lobbying (Lobbying Commission) 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 Lobbying Commission.

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

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

## **12. Information Security Breach and Notification Act**

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

### **13. New York State Tax Law Section 5-a**

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

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

Contractor must complete and submit directly to the New York State Taxation and Finance, Contractor Certification Form ST-220-TD attached hereto. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s), a new form (ST-220-TD) must be filed with DTF (Attachment 12).

Contractor must complete and submit to the Department of Health the form ST-220-CA attached hereto, certifying that the contractor filed the ST-220-TD with DTF (Attachment 13). 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.

### **F. 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

- 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
- 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**:
      - **WC/DB-100**, 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**:
      - **WC/DB-100**, 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)

**NOTE: Do not include the Workers' Compensation and Disability Benefits forms with your application. These documents will be requested as a part of the contracting process should you receive an award.**

## **G. ATTACHMENTS**

1. Technical Proposal Cover Page
2. Cost Proposal Cover Page
3. Bid Proposal by Deliverable (2 forms – Detail and Summary)
4. Bid Form
5. No-Bid Form
6. Appendix A – Standard Clauses for All New York State Contracts
7. Appendix D – General Specifications
8. Proposal Checklist
9. Vendor Responsibility Attestation
10. State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term
11. State Consultant Services Form B, Contractor's Annual Employment Report
12. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-TD
13. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-CA

**ATTACHMENT 1**  
**TECHNICAL PROPOSAL COVER PAGE**

RFP #: \_\_\_\_\_

Proposal for Merit Peer Review Services  
for Stem Cell Research Applications

Bidder's Organization Name: \_\_\_\_\_

Bidder's Organization Address: \_\_\_\_\_  
\_\_\_\_\_

Federal Employer's Identification Number: \_\_\_\_\_

Original  or Copy

Individual to Contact Regarding this Proposal:

Name: \_\_\_\_\_

Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Organization Director:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I hereby certify that the information provided in the enclosed proposal is accurate to the best of my knowledge and that the proposal will remain valid for at least 90 days from the date of submission.

Authorized Official Name \_\_\_\_\_ Title: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**ATTACHMENT 2**

**COST PROPOSAL COVER PAGE**

RFP #: \_\_\_\_\_

**Proposal for Merit Peer Review Services  
for Stem Cell Research Applications**

Bidder's Organization Name: \_\_\_\_\_

Bidder's Organization Address: \_\_\_\_\_  
\_\_\_\_\_

Federal Employer's Identification Number: \_\_\_\_\_

Original  or Copy

Individual to Contact Regarding this Proposal:

Name: \_\_\_\_\_

Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Organization Fiscal Officer authorized to negotiate contracts on behalf of the bidder:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I hereby certify that the information provided in the enclosed proposal is accurate to the best of my knowledge and that the proposal will remain valid for at least 90 days from the date of submission.

Authorized Official Name \_\_\_\_\_ Title: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**ATTACHMENT 3**

Bidder's Organization Name \_\_\_\_\_

**BID PROPOSAL BY DELIVERABLE AND ACTIVITY**

*Present total bid price for each deliverable and sub-activity for one peer review panel conducted in the contract year beginning April 1, 2008.*

Deliverable Products	Completion Timeframe (# of work days per activity described)	Total Cost to review 5-40 RFAs	Total Cost to review 41-70 RFAs	Total Cost to review 71- 100 RFA's
1) Receive applications and screen for compliance with ESSCB-related criteria and other application requirements.				
Activity description (insert lines if needed):				
a)				
b)				
c)				
d)				
Subtotal				
2) Arrange for the performance of independent scientific and technical merit peer review of research applications by qualified individuals. Provide support services such as conference management and travel logistics.				
Activity description (insert lines if needed):				
a)				
b)				
c)				
d)				
Subtotal				

Deliverable Products	Completion Timeframe (# of work days per activity described)	Total Cost to review 5-40 RFAs	Total Cost to review 41-70 RFAs	Total Cost to review 71- 100 RFA's
3) Implement and follow procedures that provide for an established and systematic process of reviewing applications to ensure compliance with ethical standards of conduct and high quality research.				
Activity description (insert lines if needed):				
a)				
b)				
c)				
d)				
Subtotal				
4) Provide written reports and summaries of each peer review process conducted.				
Activity description (insert lines if needed):				
a)				
b)				
c)				
d)				
Subtotal				
5) Provide post-meeting reports, semi-annual progress reports, and other required reports.				
Activity description (insert lines if needed):				
a)				
b)				
c)				
d)				
Subtotal				
<b>TOTAL</b>				

## YEARS 1-5 BID PROPOSAL BY DELIVERABLE (SUMMARY)

Deliverable Products	Year 1			Year 2			Year 3		
	5-40 RFA's	41-70 RFA's	71-100 RFA's	5-40 RFA's	41-70 RFA's	71-100 RFA's	5-40 RFA's	41-70 RFA's	71-100 RFA's
1) Receive applications and screen for compliance.									
2) Arrange for the performance of scientific and technical merit peer review of research applications. Provide support services such as conference management and travel logistics.									
3) Implement and follow procedures that provide for an established and systematic process of reviewing applications to ensure compliance and quality.									
4) Provide written reports and summaries of each peer review process conducted.									
5) Provide written post-meeting reports, semi-annual progress reports, and a final report.									

Deliverable Products	Year 4			Year 5			Year 1-5 Totals		
	5-40 RFA's	41-70 RFA's	71-100 RFA's	5-40 RFA's	41-70 RFA's	71-100 RFA's	5-40 RFA's	41-70 RFA's	71-100 RFA's
1) Receive applications and screen for compliance.									
2) Arrange for the performance of scientific and technical merit peer review of research applications. Provide support services such as conference management and travel logistics.									
3) Implement and follow procedures that provide for an established and systematic process of reviewing applications to ensure compliance and quality.									
4) Provide written reports and summaries of each peer review process conducted.									
5) Provide written post-meeting reports, semi-annual progress reports, and a final report.									

**GRAND TOTAL**

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_



1b. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No

Yes

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

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

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

No

Yes

2b. If yes, please provide details below.

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

C. 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 their 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-CA (for procurements greater than or equal to \$100,000)



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

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\_\_\_\_\_

\_\_\_\_\_  
(Officer Signature)

(Date)

\_\_\_\_\_

\_\_\_\_\_  
(Officer Title)

(Telephone)

\_\_\_\_\_  
(e-mail Address)

**ATTACHMENT 5  
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.

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. 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- 7<sup>th</sup> 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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June, 2006

**Attachment 7**  
**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 nonprocurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

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

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

##### Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Nonprocurement Programs.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
  - a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
  - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## Z. Confidentiality Clauses

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.
2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise

disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.

3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.
4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.
5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.
6. All subcontracts shall contain provisions specifying:
  - a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and
  - b. that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

#### AA. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual

Employment Report" no later than May 15<sup>th</sup> 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, 11<sup>th</sup> 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.

**ATTACHMENT 8**  
**PROPOSAL CHECKLIST**

**Mandatory items are indicated by bold text.**

- Signed original and 6 copies of the proposal package**

**Technical Proposal**

- Completed and Signed Technical Proposal Cover Page (Attachment 1)**
- Bidder Experience**
  - **A minimum of 3 letters of reference**
  - **A minimum of 5 years' experience in peer review of research and education applications**
- Approach
- Bidder Qualifications and Staffing
- Access to Reviewers and Meeting Environment
- Appendix Material

**Cost Proposal**

- Cost Proposal in a sealed and properly marked envelope**
- Completed and Signed Cost Proposal Cover Page (Attachment 2)**
- Bid Proposal by Deliverable and Activity (Attachment 3 – four page form)**
- Completed and Signed Bid Form (Attachment 4)**

**ATTACHMENT 9**  
**Vendor Responsibility Attestation**

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

**Choose one:**

- An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: <https://portal.osc.state.ny.us> within the last six months.
  
- A hard copy Vendor Responsibility Questionnaire is included with this proposal/bid and is dated within the last six months.
  
- A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations.

Signature of Organization Official: \_\_\_\_\_

Print/type Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**ATTACHMENT 10**

**ATTACHMENT 11**

**ATTACHMENT 12**

**ATTACHMENT 13**