

NEW YORK STATE DEPARTMENT OF HEALTH

A Request for Proposal for

The Office of Long Term Care (OLTC) and
The Office of Health Systems Management (OHSM)

RFP No. 0802151214

Quality Assurance for
Nursing Homes, Intermediate Care Facilities, Home Care Services Agencies, Adult Care
Facilities, Hospitals and Diagnostic and Treatment Centers

Schedule of Key Events

RFP Release Date	July 7, 2008
Letter of Interest Due (optional)	July 18, 2008
Registration for Bidders Conference Required by	July 18, 2008
Written Questions Due for Bidder's Conference	July 18, 2008
Bidders Conference	July 24, 2008
Final Date to Submit Written Questions	July 31, 2008
Response to Written Questions and Questions Received at Bidders Conference	August 18, 2008
Proposal Due Date	September 15, 2008

ATTACHMENTS – Part 1

ATTACHMENTS – Part 1
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Attachment A

Letter of Interest to Develop a Proposal in Response to RFP

Component 1 Component 2
Please check one box for the appropriate Component

This is to notify the New York State Department of Health of this Bidder's intention to develop a Proposal in response to this RFP. It is understood that this Letter of Interest is optional and not binding on either party but simply alerts the Department of Health of the Bidder's intentions and assures the Bidder will receive all further correspondence on this RFP.

This Notice should be returned via mail or fax to:

Ms. Priscilla Davis
NYS Department of Health
161 Delaware Avenue
Delmar, NY 12054
(518) 408-1132
Fax: (518) 408-1145
quality@health.state.ny.us

1. Name of Potential Proposing Organization:

2. Organization Address:

Street: _____

City: _____ State: _____ Zip: _____

Telephone: (____) _____ FAX: (____) _____

E-mail: _____

Authorized Signature

Date

Attachment B

**NEW YORK STATE
DEPARTMENT OF HEALTH**

BID FORM

PROCUREMENT TITLE: _____ FAU # _____

COMPONENT 1 COMPONENT 2

Please check one box for the appropriate Component

Bidder Name: _____

Bidder Address: _____

Bidder Fed ID No: _____

A. _____ bids a total first year price for Units __ through
(Name of Offerer/Bidder)
_____ of \$ _____ for Component () One () Two of this RFP.
(Check one box)

B. Affirmations & Disclosures related to State Finance Law §§ 139-j & 139-k:

Bidder affirms that it understands and agrees to comply with the procedures of the Department of Health relative to permissible contacts (provided below) as required by State Finance Law §139-j (3) and §139-j (6) (b).

Pursuant to State Finance Law §§139-j and 139-k, this Invitation for Bid or Request for Proposal includes and imposes certain restrictions on communications between the Department of Health (DOH) and an Offerer during the procurement process. An Offerer/Bidder is restricted from making contacts from the earliest notice of intent to solicit bids/Proposals through final award and approval of the Procurement Contract by the DOH and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is/are identified on the first page of this Invitation for Bid, Request for Proposal, or other solicitation document. DOH employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the Office of General Services Website at: <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

1a. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No Yes

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. 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. Bidder agrees to provide the following documentation either *with their submitted bid/Proposal or upon award* as indicated below:

With Bid

Upon Award

X

1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220-CA (for procurements greater than or equal to \$100,000)

X

2. A completed N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire either filed electronically or in paper form, together with the Vendor Responsibility Attestation (Attachment H)(for procurements greater than or equal to \$100,000)

X

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

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(e-mail Address)

Attachment C

**NEW YORK STATE
DEPARTMENT OF HEALTH**

NO-BID FORM

Component 1 Component 2
Please check one box for the appropriate Component

PROCUREMENT TITLE: _____ FAU # _____

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

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

- Please retain our firm on your mailing list.

(Firm Name)

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(e-mail Address)

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

Attachment D

Bidder's Assurances

Component 1

Component 2

Please check one box for the appropriate Component

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

- The Bidder accepts the terms and conditions of this Component as stated in the RFP.
- The bid is valid for a period of two hundred forty (240) calendar days from the date of submission of the Proposal.
- The Bidder agrees to be responsible to the Department for performance of all work specified in this Component of the RFP, including work assigned to subContractors.
- The Bidder assures that the detailed work plan and schedule of deliverables set forth by the organization as its Technical Proposal for this Component will fulfill all statewide requirements as described in the RFP and will provide for the dedicated qualified staff, space, expertise and capacity to fulfill contract deliverables for this Component.
- The Bidder assures that the organization and its employees, subContractors, consultants, volunteers, and subsidiaries, are not and will not be directly or indirectly involved with any provider or parties whose activities would represent a conflict of interest with respect to conducting the duties and responsibilities outlined in this Component of the RFP.
- The Bidder assures the organization and its employees, subContractors, consultants and volunteers will implement and maintain policies and procedures to assure the confidentiality of personally identifiable data and information or records pertaining to patient care including compliance with all pertinent Health Insurance Portability and Accountability Act (HIPAA) requirements, Article 27F of the Public Health Law, and the privacy and confidentiality requirements of the Medicaid program (Attachment P).
- The Bidder assures its ability to secure an indemnity (for at least \$5,000,000) to protect the organization and, in turn, the State against any loss of claim incurred as a result of carrying out the duties and responsibilities of this program.
- The Bidder assures that no funds were paid or will be paid, by or on behalf of the Bidder, to any person for the purpose of influencing or attempting to influence any officer or employee of the federal or state government with regard to obtaining a contract for this Component.
- The Bidder assures that it conforms to vendor responsibility requirements of State Finance Law. The Bidder has completed the Vendor Responsibility Questionnaire and Attestation (Attachment H).

Signature of Authorized Official

Date

Printed Name of Authorized Official

Attachment E

**Data Chart with Additional Information for Bidders
On Components 1 and 2**

Unit #	Survey Type	Average Total Hours Per Survey	FTEs Per Survey	Total Annual Surveys
ADULT CARE FACILITIES				
Facility Inspection				
5	Complete Inspection of ACF, ALR, SNALR	96.75	4.00	451
6	Complete Inspection EALR	104.50	5.00	89
7	Partial Inspection	41.00	2.00	233
8	ACF Complaint Intake	1.00	1.00	1058
9	Complaint Investigation	34.50	1.00	817
10	Pre-opening survey	134.50	5.00	16
Questionable Operations				
11	Complaint Investigation	22.50	1.00	38
Death Investigations				
12	Review or investigation	25.00	1.00	1012
Facility Closure				
13	Review and Monitor	81.00	1.00	13
ADULT DAY HEALTH CARE PROGRAMS				
Survey				
1	Desk Audit	10.00	1.00	168
2	Survey	75.00	1.00	60
Complaints				
3	Complaint Investigation	18.75	1.00	12
4	Complaint Intake	1.25	1.00	12
HOME CARE SERVICES AGENCIES				
Survey				
14	LHCSA Routine Operational Survey	30.00	2.00	200
16	Policy & Procedure Manual Review Initial	30.00	1.00	80
16	Policy & Procedure Manual Review Follow-up	50.00	1.00	50
15	Pre-opening Survey	37.00	2.00	40
Complaints				
17	Home Care and Hospice Complaint Intake	1.00	1.00	300
18	Home Care and Hospice Complaint Investigation Off-site	6.00	1.00	150
18	Home Care and Hospice Complaint Investigation On-site	12.00	1.00	150
HOSPITALS				
Survey				
45	D&TC Survey	37.50	2.00	51
51	Targeted Surveillance Team	37.50	3.00	100

Unit #	Survey Type	Average Total Hours Per Survey	FTEs Per Survey	Total Annual Surveys
Complaints				
46	Hospital & DTC Complaint Intake Program	2.50	1.00	3500
47	Hospital & DTC Complaint Investigation / Survey	30.00	1.00	200
48	Hospital Complaint Resolution	8.00	1.00	1500
Other				
49	NYPORTS Reviews -- Central Office	5.00	1.00	2552
50	NYPORTS Reviews -- Regional Offices	6.00	1.00	1164
ICF/MRs				
Re-Survey				
19	Fed Standard	240.50	4.75	15
20	Life Safety Code Review	35.50	1.00	15
21	Extended Surveys (Additional Hrs)	121.75	3.00	2
Complaints				
22	On-site Complaint Surveys	36.00	1.00	10
24	Complaint Intake and Investigation	18.00	1.00	25
Follow-up				
23	Fed Revisit-Health	37.50	2.00	20
OMR/DD Reviews				
25	Off-site Survey Reviews	1.25	1.00	650
MEDICAID WAIVER PROGRAMS				
Complaint Intake				
26	Care At Home Waiver	1.00	1.00	200
27	Long Term Home Health Care Program	1.00	1.00	6750
28	Nursing Home Transition & Diversion Waiver	1.00	1.00	1250
29	Traumatic Brain Injury Waiver	1.00	1.00	750
NURSING HOMES				
Re-Survey				
30	Fed Standard	220.25	4.50	642
31	Extended Surveys (Additional Hrs)	121.75	4.50	31
32	Staggered Surveys (Premium Hrs)	14.25	4.50	63
Complaints				
33	On-site Complaint Surveys	18.75	2.00	3624
34	Partial Extended Surveys (Additional Hrs)	107.25	2.00	23
41	Complaint Intake	1.25	1.00	8800
Off-site Investigations				
35	Off-site Complaints	4.00	1.00	3000
Initial				
36	Fed Initial Survey	85.25	2.00	2
Follow-up				
37	Fed Revisit-Health	13.25	4.50	680
38	Fed Revisit Complaint	11.25	2.00	355
39	State Monitoring Visits	32.25	1.00	43

Unit #	Survey Type	Average Total Hours Per Survey	FTEs Per Survey	Total Annual Surveys
40	Fed Revisit-Life Safety Code	5.50	2.00	476
	Other			
42	Informal Dispute Resolution - Regional Offices	7.50	1.00	75
42	Informal Dispute Resolution - Central Office	3.50	1.00	100
43	Random Quality Assurance Audits	5.50	1.00	180
44	Enforcements	6.00	1.00	100

Attachment F**TECHNICAL PROPOSAL FORMS**

The following Technical Proposal Forms are to be used in submitting a Proposal in response to this RFP. Please select and use the forms identified for the Component on which you are submitting a bid. If you are bidding on both Proposals, you must submit each set of forms separately:

All forms must be completed.

- A. Form TP-1-1 DIRECT STAFFING SUMMARY, Component 1
- B. Form TP-1-2 DIRECT STAFFING SUMMARY, Component 2
- C. Form TP-2 INDIRECT PERSONNEL SERVICES SUMMARY,
Components 1 and 2
- D. Form TP-3 QUALITY ASSURANCE PLAN, Components 1 and 2
- E. Form TP-4 FORMAT FOR REQUIRED INFORMATION FOR EACH
UNIT OF SERVICE, Components 1 and 2
- F. Checklist for Bidders (Optional)

**FORM TP-1-1
COMPONENT 1
DIRECT STAFFING SUMMARY**

For each activity, list all position titles that will be utilized for that activity including the percent of full time equivalent of each title and responsibilities and duties of each title. You may use this Word document as a form or use additional pages containing the information requested in a similar format, so long as complete information is provided and that staff titles, FTEs and responsibilities are associated with each of the individual Units listed.

ACTIVITY	UNIT #	TITLES	FTEs	RESPONSIBILITIES/DUTIES
ADULT DAY HEALTH CARE PROGRAM QUALITY ACTIVITIES				
Desk Audit	1			
Survey	2			
Complaint Investigation	3			
Complaint Intake	4			
ADULT CARE FACILITY QUALITY ACTIVITIES				
Complete Inspection – ACF, ALR, SNALR	5			
Complete Inspection EALR	6			

ACTIVITY	UNIT #	TITLES	FTEs	RESPONSIBILITIES/DUTIES
Partial Inspection, including ALR, EALR, SNALR	7			
Complaint Intake, including ALR, EALR, SNALR, ALP	8			
Complaint Investigation Survey, including ALR, EALR, SNALR, ALP	9			
Pre-opening Survey, including ALR and ALP	10			
Questionable Operations (Q-Op) Investigation	11			
ACF Death Investigations	12			
Monitoring Facility Closure	13			
HOME CARE SERVICES AGENCY QUALITY ACTIVITIES				
LHCSA Routine Operational Survey	14			
LHCSA Pre-opening Survey	15			
LHCSA Policy and Procedure Manual Review	16			

ACTIVITY	UNIT #	TITLES	FTEs	RESPONSIBILITIES/DUTIES
Home Care and Hospice Complaint Intake	17			
Home Care Complaint Investigation	18			
ICF/MR QUALITY ACTIVITIES				
ICF/MR Federal Standard Survey	19			
ICF/MR Life Safety Code Review	20			
ICF/MR Extended Survey	21			
On-Site Complaint Survey	22			
Federal Revisit – Health	23			
ICF/MR Complaint Intake and Investigation	24			
ICF/DD Certification Review	25			
MEDICAID WAIVER RELATED QUALITY ACTIVITIES				
Complaint Intake Related to Care At Home Waivers	26			

ACTIVITY	UNIT #	TITLES	FTEs	RESPONSIBILITIES/DUTIES
Complaint Intake Related to Long Term Home Health Care Waiver Program	27			
Complaint Intake Related to Nursing Home Transition and Diversion Waiver	28			
Complaint Intake Related to Traumatic Brain Injury Waiver	29			
NURSING HOME QUALITY ACTIVITIES				
Federal Standard Survey	30			
Extended Survey	31			
Staggered Survey	32			
On-site Complaint Survey	33			
Partial Extended Survey	34			
Off-site Complaint Investigation	35			
Federal Initial Survey	36			
Federal Revisit -- Health	37			

ACTIVITY	UNIT #	TITLES	FTEs	RESPONSIBILITIES/DUTIES
Federal Revisit - Complaint	38			
State Monitoring Visit	39			
Federal Revisit -- Life Safety Code	40			
Complaint Intake	41			
Informal Dispute Resolution	42			
Random Quality Assurance Audits	43			
Enforcements	44			

**FORM TP-1-2
COMPONENT 2
DIRECT STAFFING SUMMARY**

For each activity, list all position titles that will be utilized for that activity including the percent of full time equivalent of each title and responsibilities and duties of each title. You may use this Word document as a form or use additional pages containing the information requested in a similar format, so long as complete information is provided and that staff titles, FTEs and responsibilities are associated with each of the individual Units listed.

ACTIVITY	UNIT #	TITLES	FTE	RESPONSIBILITIES/DUTIES
DIAGNOSTIC AND TREATMENT CENTER QUALITY ACTIVITIES				
D&TC Survey	45			
HOSPITAL QUALITY ACTIVITIES				
Hospital and D&TC Complaint Intake	46			
Hospital and D&TC Complaint Investigation/Survey	47			
Hospital Complaint Resolution	48			
NYPORTS Reviews – Central Office	49			
NYPORTS Reviews – Regional Offices	50			
Targeted Surveillance Team	51			

**FORM TP-2
INDIRECT STAFFING SUMMARY**

For all contract deliverables, list all individual titles and the percent of full time equivalent of each tile(s) that will be utilized for administrative activities. The Department reserves the right to review and approve the titles and qualifications of Contractor staff performing administrative functions even though the Contractor may not bill directly for these activities. You may use this Word document as a form or use additional pages containing the information requested in a similar format, so long as complete information is provided.

COMPONENT 1 COMPONENT 2
Please check one box for the appropriate Component

ACTIVITY	TITLES (List individual titles)	% Of FTE FOR EACH TITLE
Administrative Activities		

**FORM TP-3
QUALITY ASSURANCE PLAN (PART D, SECTION 2, PARAGRAPH J)**

COMPONENT 1

COMPONENT 2

Please check one box for the appropriate Component

The Contractor will conduct quality assurance on an ongoing basis during each contract year. Using the form below, provide a description of the quality assurance plan proposed for the selected Component of the RFP for calendar year 2009, including a work plan and schedule of deliverables. The Bidder will be scored on the quality, feasibility and practicability of this Proposal as part of the Technical Proposal for the selected Component. See Part D, Section 2, paragraph j. of this RFP for further information about how to complete this form. Please use additional pages if necessary.

Quality Assurance Plan

Description

Work plan and schedule of deliverables

**Form TP-4
Components 1 and 2
Format for Required Information for Each Unit of Service**

<p>Information Required:</p>	<p>Enter Requested Information Below: Use as many pages as necessary or include required information on attached pages. If using attached pages, identify clearly what information is being provided in each section. Please do not leave any blanks. If a particular requirement is not applicable to this Unit please so indicate.</p> <p>FAILURE TO INCLUDE THE UNIT NUMBER AND NAME WILL RESULT IN DISQUALIFICATION.</p>
<p>Unit # and Name</p>	
<p>Document Bidder's experience in interpreting and applying statutes, rules, regulations, and policies and procedures appropriate to this Unit and representative of the appropriate provider type for this Unit in New York State</p>	
<p>Document Bidder's experience in interpreting and applying statutes, rules, regulations, and policies and procedures appropriate to this Unit and representative of the appropriate provider type for this Unit in states other than New York</p>	
<p>Document Bidder's experience performing survey, inspection, and other quality assurance activities as appropriate to this Unit in New York State</p>	
<p>Document Bidder's experience performing survey, inspection, and other quality assurance activities as appropriate to this Unit in states other than New York</p>	
<p>Document that the Bidder has at least three years' New York experience in conducting the activities required by this Unit of service by describing the Bidder's experience with each activity in this Unit</p>	

<p>Information Required:</p>	<p>Enter Requested Information Below: Use as many pages as necessary or include required information on attached pages. If using attached pages, identify clearly what information is being provided in each section. Please do not leave any blanks. If a particular requirement is not applicable to this Unit please so indicate.</p> <p>FAILURE TO INCLUDE THE UNIT NUMBER AND NAME WILL RESULT IN DISQUALIFICATION.</p>
<p>If the Bidder lacks New York experience with the activities required by this Unit, demonstrate three year's success in providing similar services in Government programs with the survey, investigation and / or intake responsibilities for this Unit</p>	
<p>Demonstrate the Bidder's ability to recruit and hire professional health care staff with the qualifications required by this Unit</p>	
<p>Describe a plan to successfully replace Contractor staff performing activities of this Unit within 45 days after termination</p>	
<p>If this Unit includes <u>federal quality activities</u>, document percentage of Contractor staff to be dedicated to survey and complaint investigation activities of this Unit who are or will be Surveyor Minimum Qualification Test (SMQT) certified as of January 1, 2009</p>	
<p>If this Unit includes <u>federal quality activities</u>, document Bidder's plan to provide for SMQT certification for all Contractor staff not certified as of January 1, 2009, during the period between 6 and 12 months after hire for each Contractor staff member. This plan must include the Bidder's prior history with obtaining SMQT certification for staff within these timeframes</p>	

<p>Information Required:</p>	<p>Enter Requested Information Below: Use as many pages as necessary or include required information on attached pages. If using attached pages, identify clearly what information is being provided in each section. Please do not leave any blanks. If a particular requirement is not applicable to this Unit please so indicate.</p> <p>FAILURE TO INCLUDE THE UNIT NUMBER AND NAME WILL RESULT IN DISQUALIFICATION.</p>
<p><u>If this Unit includes federal quality activities</u>, document Bidder's turn-over rate for SMQT-certified staff and/or SMQT-certified consultants employed by the Bidder in each year during the three year period ending December 31, 2007. This rate is the ratio of the number of SMQT staff/consultants employed in January of each year to the total number of SMQT staff/consultants employed at any time during the year.</p>	
<p><u>If this Unit includes federal quality activities</u>, and the Bidder's turn-over rate for SMQT staff exceeds 19%, Bidder must include a plan to stabilize SMQT staff during the term of the contract, so that a sufficient number of such staff will be available to perform federal services required by this Unit throughout each contract year.</p>	

OPTIONAL BIDDERS' CHECKLIST

<input checked="" type="checkbox"/>	Technical Proposal	Part of RFP
<input type="checkbox"/>	Transmittal Letter	D.2.a
<input type="checkbox"/>	Table of Contents	D.2.b
<input type="checkbox"/>	Executive Summary	D.2.c
<input type="checkbox"/>	Bidder's Assurances	Attachment D
<input type="checkbox"/>	HIPAA and Medicaid Confidentiality Agreements	D.2.k; Attachments O and P
<input type="checkbox"/>	Statement of Understanding of Department's Goals and Objectives	D.2.d
<input type="checkbox"/>	Statement of Understanding Scope of Work	D.2.e
<input type="checkbox"/>	Bidder's Technical Processes, Policies and Procedures	D.2.f
<input type="checkbox"/>	Bidder's Personnel Organization	D.2.g; Attachment F, Forms TP-1 and TP-2
<input type="checkbox"/>	Bidder's Organization, Experience and Capability	D.2.f
<input type="checkbox"/>	Statement of Data Security Measures	D.2.i
<input type="checkbox"/>	Work Plan and Deliverable Schedule	D.2.f
<input type="checkbox"/>	Units Proposal	D.2.f, D.2.h, C.3 or C.4, Attachment 7, Form TP-4
<input type="checkbox"/>	Quality Assurance Plan	D.2.j; Attachment 7, Form TP-3
	General Documentation	
<input type="checkbox"/>	Curricula Vitae, Licenses and Certifications for Staff Managing the Contract and Assigned to Contract Functions	D.2.l
<input type="checkbox"/>	Audited Financial Statements 2005, 2006 and 2007	D.2.m
<input type="checkbox"/>	Vendor Responsibility Questionnaire, if applicable	E.1.i, F.11
<input type="checkbox"/>	Vendor Responsibility Attestation	E.1.i, F.11, Attachment H
<input type="checkbox"/>	Proof of Incorporation, Copy of Partnership Agreement, DBA, or Authority to Do Business in New York	D.3
<input type="checkbox"/>	References	D.2.n
	Cost Proposal	
<input type="checkbox"/>	Bid Form	Attachment B
<input type="checkbox"/>	Annual Price Schedule – Unit Bids	Attachment G, Form CP-1
<input type="checkbox"/>	Additional Work Units and Hourly Fees	Attachment G, Form CP-2
<input type="checkbox"/>	Subcontractor Letters of Intent, if any	E.1.c
<input type="checkbox"/>	NYS DTF Contractor Certification Forms	F.16; Attachments J and K
<input type="checkbox"/>	Consultant Services Form A	F.12; Attachment I
<input type="checkbox"/>	Any Other Relevant Financial Information	D.3

Attachment G
COST PROPOSAL FORMS

The following Cost Proposal Forms are to be used in submitting a Proposal in response to this RFP. Please select and use the forms identified for the Component on which you are submitting a bid. If you are bidding on both Proposals, you must submit each set of forms separately:

Note: All forms must be completed.

- | | | |
|----|-------------|--|
| A. | Form CP-1-1 | ANNUAL PRICE SCHEDULE, Component 1 |
| B. | Form CP-1-2 | ANNUAL PRICE SCHEDULE, Component 2 |
| C. | Form CP-2-1 | PRICE SHEET FOR ADDITIONAL WORK, Component 1 |
| D. | Form CP-2-2 | PRICE SHEET FOR ADDITIONAL WORK, Component 2 |

**FORM CP-1-1
COMPONENT 1
ANNUAL PRICE SCHEDULE**

UNIT #		PROJECTED # OF ANNUAL SURVEYS	UNIT PRICE	COLUMN "C"
	SURVEY TYPE			
	Adult Day Health Care Program Quality Activities			
1	Desk Audit	168		
2	Survey	60		
3	Complaint Investigation	12		
4	Complaint Intake	12		
	Adult Care Facility Quality Activities			
5	Complete Inspection – ACF, ALR, SNALR	451		
6	Complete Inspection EALR	89		
7	Partial Inspection, including ALR, EALR, SNALR	233		
8	Complaint Intake, including ALR, EALR, SNALR, ALP	1058		
9	Complaint Investigation Survey, including ALR, EALR, SNALR, ALP	817		
10	Pre-opening Survey, including ALR and ALP	16		
11	Questionable Operations (Q-Op) Investigation	38		
12	ACF Death Investigations	1012		
13	Monitoring Facility Closure	13		
	Home Care Services Agency Quality Activities			
14	LHCSA Routine Operational Survey	200		
15	LHCSA Pre-opening Survey	40		
16	LHCSA Policy and Procedure Manual Review Initial	80		
16	LHCSA Policy and Procedure Manual Review Follow-up	50		
17	Home Care and Hospice Complaint Intake	300		
18	Home Care Complaint Investigation	300		
	ICF/MR Quality Activities			
19	ICF/MR Federal Standard Survey	15		

UNIT #		PROJECTED # OF ANNUAL SURVEYS	UNIT PRICE	COLUMN "C"
	SURVEY TYPE			
20	ICF/MR Life Safety Code Review	15		
21	ICF/MR Extended Survey	2		
22	On-Site Complaint Survey	10		
23	Federal Revisit – Health	20		
24	ICF/MR Complaint Intake and Investigation	25		
25	ICF/DD Certification Review	650		
	Medicaid Waiver Related Quality Activities			
26	Complaint Intake Related to Care At Home Waivers	200		
27	Complaint Intake Related to Long Term Home Health Care Waiver Program	6750		
28	Complaint Intake Related to Nursing Home Transition and Diversion Waiver	1250		
29	Complaint Intake Related to Traumatic Brain Injury Waiver	750		
	Nursing Home Quality Activities			
30	Federal Standard Survey	642		
31	Extended Survey	31		
32	Staggered Survey	63		
33	On-site Complaint Survey	3624		
	Nursing Home Quality Activities (con't.)			
34	Partial Extended Survey	23		
35	Off-site Complaint Investigation	3000		
36	Federal Initial Survey	2		
37	Federal Revisit -- Health	680		
38	Federal Revisit - Complaint	355		
39	State Monitoring Visit	43		
40	Federal Revisit -- Life Safety Code	476		
41	Complaint Intake	8800		
42	Informal Dispute Resolution	175		
43	Random Quality Assurance Audits	180		
44	Enforcements	100		
	TOTAL COLUMN C			

**FORM CP-1-2
COMPONENT 2
ANNUAL PRICE SCHEDULE**

UNIT #		PROJECTED # OF ANNUAL SURVEYS	UNIT PRICE	COLUMN "C"
	SURVEY TYPE			
	Diagnostic and Treatment Center Quality Activities			
45	D&TC Survey	51		
51	Targeted Surveillance Team	100		
	Hospital Quality Activities			
46	Hospital and D&TC Complaint Intake	3500		
47	Hospital and D&TC Complaint Investigation / Survey	200		
48	Hospital Complaint Resolution	1500		
49	NYPORTS Reviews – Central Office	2552		
50	NYPORTS Reviews – Regional Offices	1164		
51	Targeted Surveillance Team	100		
	TOTAL COLUMN C			

**FORM CP-2-1
COMPONENT 1
ADDITIONAL WORK UNITS & HOURLY FEES**

PART I – HOURLY UNITS		
Description	Unit #	Unit Price
Testimony in Court (The Bidder may bid a single hourly rate for all types of court testimony under Component 1 or may delineate the bid by survey type, provider type, part of the state, or any other distribution so long as the qualifications are clearly and separately stated for each type. If the Bidder is offering more than a single bid, please list all types and parameters separately below. Please use additional pages if necessary, but please retain the formatting and content of this page.)	Hourly Unit #1-A	
Additional On-site Surveys (The Bidder may bid a single hourly rate for all types of additional on-site surveys under Component 1 or may delineate the bid by survey type, provider type, part of the state, or any other distribution so long as the qualifications are clearly and separately stated for each type. If the Bidder is offering more than a single bid, please list all types and parameters separately below. Please use additional pages if necessary, but please retain the formatting and content of this page.)	Hourly Unit # 1-B	
Miscellaneous Document Review	Hourly Unit # 1-C	
Additional reviews of revised policy & procedure manuals (The Bidder may bid a single hourly rate for all types of additional policy and procedure manual reviews under Component 1 or may delineate the bid by provider type, part of the state, or any other distribution so long as the qualifications are clearly and separately stated for each type. If the Bidder is offering more than a single bid, please list all types and parameters separately below. Please use additional pages if necessary, but please retain the formatting and content of this page.)	Hourly Unit # 1-D	

PART II -- Unit #1-E	
INFORMATION AND REFERRAL (Describe below the Bidder's Proposal(s) for receiving payment for information and referral as described in Units 1-Ea through 1-Ee. If offering more than one Proposal, please show explicitly the distinction between Proposals and separate the price for each Proposal. Please use additional pages as needed for a complete Proposal.)	Total Price
Unit 1-Ea Adult Day Health Care Program Activities	
Unit 1-Eb Adult Care Facility Activities	
Unit 1-Ec Home Care Agency Activities	
Unit 1-Ed Medicaid Waiver Related Activities	
Unit 1-Ee Nursing Home Activities	

PART III				
ADDITIONAL UNITS – DIRECT STAFFING				
For each activity in Parts I and II, list all position titles that will be utilized for that activity including the percent of full time equivalent of each title and responsibilities and duties of each title. You may use this Word document as a form or use additional pages containing the information requested in a similar format, so long as complete information is provided and that staff titles, FTEs and responsibilities are associated with each of the individual Units listed.				
Activity	Unit #	Titles	FTEs	Responsibilities/Duties
Testimony in Court	1-A			
Additional On-site Surveys	1-B			
Miscellaneous Document Review	1-C			
Additional reviews of revised policy & procedure manuals	1-D			
Information and Referral	1-E a-e			

PART IV		
ADDITIONAL HOURLY STAFF		
Staff Titles	Price per Hour	Describe Responsibilities / Duties
RN surveyors		
RN Complaint Intake Staff		
MSW surveyors		
MSW Complaint Intake Staff		
Sanitarian		
Nutritionist		
Nurse intake staff other than RN		
Non-professional staff		
Supervising RN		
Pharmacist		
Physician		
If there are additional titles that the Bidder proposes to use in its contract, please list those titles below and describe their duties / responsibilities and the price per hour that would be charged. Please use additional pages if necessary.		

**FORM CP-2-2
COMPONENT 2
ADDITIONAL WORK UNITS & HOURLY FEES**

PART I – HOURLY UNITS		
Description	Unit #	Unit Price
<p>Testimony in Court (The Bidder may bid a single hourly rate for all types of court testimony under Component 1 or may delineate the bid by survey type, provider type, part of the state, or any other distribution so long as the qualifications are clearly and separately stated for each type. If the Bidder is offering more than a single bid, please list all types and parameters separately below. Please use additional pages if necessary, but please retain the formatting and content of this page.)</p>	<p>Hourly Unit # 2-A</p>	
<p>Additional On-site Surveys (The Bidder may bid a single hourly rate for all types of additional on-site surveys under Component 1 or may delineate the bid by survey type, provider type, part of the state, or any other distribution so long as the qualifications are clearly and separately stated for each type. If the Bidder is offering more than a single bid, please list all types and parameters separately below. Please use additional pages if necessary, but please retain the formatting and content of this page.)</p>	<p>Hourly Unit # 2-B</p>	
<p>Miscellaneous Document Review</p>	<p>Hourly Unit # 2-C</p>	

PART II				
ADDITIONAL UNITS – DIRECT STAFFING				
<p>For each activity in Parts I, list all position titles that will be utilized for that activity including the percent of full time equivalent of each title and responsibilities and duties of each title. You may use this Word document as a form or use additional pages containing the information requested in a similar format, so long as complete information is provided and that staff titles, FTEs and responsibilities are associated with each of the individual Units listed.</p>				
Activity	Unit #	Titles	FTEs	Responsibilities/Duties
Testimony in Court	2-A			
Additional On-site Surveys	2-B			
Miscellaneous Document Review	2-C			

PART III		
ADDITIONAL HOURLY STAFF		
Staff Titles	Price per Hour	Describe Responsibilities / Duties
RN surveyors		
RN Complaint Intake Staff		
MSW Complaint Intake Staff		
Nurse intake staff other than RN		
Non-professional staff		
Supervising RN		
Pharmacist		
Physician		
If there are additional titles that the Bidder proposes to use in its contract, please list those titles below and describe their duties / responsibilities and the price per hour that would be charged. Please use additional pages if necessary.		

**Attachment H
Vendor Responsibility Attestation**

Component 1 Component 2
Please check one box for the appropriate Component

To comply with the Vendor Responsibility Requirements outlined in Section F, Administrative, 10. Vendor Responsibility, 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. (Please specify.)

Signature of Organization Official: _____

Print/type Name: _____

Title: _____

Organization: _____

Date Signed: _____

Attachment I

State Consultant Services
FORM A

OSC Use Only
Reporting Code:
Category Code:
Date Contract Approved:

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

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

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

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared: / /

Page of
(use additional pages if necessary)

(Sample Letter to Vendors Regarding Submission of Form B)

Dear Contractor:

Chapter 10 of the Laws of 2006 mandates that State Contractors report annually by employment category, the number of persons employed to provide services under a contract for consulting services; the number of hours worked; and the amount paid to the Contractor by the State as compensation for work performed. This report is to include work performed by subContractors.

This letter serves as a reminder that Form B – State Consultant Services Contractor’s Annual Employment Report is due to the following state entities on or before May 15, 2009.

**New York State Department of Health
Division of Home and Community Based Services
161 Delaware Avenue
Delmar, New York 12054
ATTN: Priscilla Davis**

**NYS Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th floor
Albany, NY 12236
Attention: Consulting Reporting or via fax at
(518) 474-8030 or (518) 473-8808**

**NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239
Attention: Consultant Reporting**

Form B – State Consultant Services Contractor’s Annual Employment Report and instructions on completing the form are enclosed. If you have questions, please contact your contract manager.

State Consultant Services
FORM B

OSC Use Only
Reporting Code:
Category Code:

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

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

Scope of Contract (Chose one that best fits):

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

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

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared: / /

Page of
(use additional pages if necessary)

Instructions

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

- Form A: This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid Proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.
- Form B: This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15th of each year to the following three addresses:
1. The designated payment office (DPO) outlined in the consulting contract.
 2. NYS Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, NY 12236
Attn: Consultant Reporting
or via fax to –
(518) 474-8030 or (518) 473-8808
 3. NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239
Attn: Consultant Reporting

Completing the Reports:

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

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

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

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

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

Attachment J

NYS Taxation and Finance Form ST-220-TD

This form may be accessed electronically at:

http://www.tax.state.ny.us/pdf/2007/fillin/st/st220td_507_fill_in.pdf

Attachment K

NYS Taxation and Finance Form ST-220-CA

This form may be accessed electronically at:

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

Attachment L

Standard Form of NYS Miscellaneous Services Contract

MISCELLANEOUS / CONSULTANT SERVICES

STATE AGENCY (Name and Address):

NYS COMPTROLLER'S NUMBER:

ORIGINATING AGENCY CODE:12000

CONTRACTOR (Name and Address):

TYPE OF PROGRAM(S):

CHARITIES REGISTRATION NUMBER:

CONTRACT TERM

FROM:

TO:

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

FUNDING AMOUNT FOR CONTRACT TERM:

FEDERAL TAX IDENTIFICATION NUMBER:

MUNICIPALITY NO. (if applicable):

STATUS:

CONTRACTOR IS () IS NOT () A SECTARIAN ENTITY

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

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

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

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT

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

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

STATE OF NEW YORK
AGREEMENT

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

WITNESSETH:

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

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

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

I. Conditions of Agreement

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

II. Payment and Reporting

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

III. Term of Contract

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

IV. Proof of Coverage

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

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

- 1. 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
- 2. C-105.2 – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR
- 3. SI-12 – Certificate of Workers' Compensation Self-Insurance, OR GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance.

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

- 1. 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
- 2. DB-120.1 – Certificate of Disability Benefits Insurance OR
- 3. DB-155 – Certificate of Disability Benefits Self-Insurance

APPENDIX X

Agency Code _____
Period _____

Contract No. _____
Funding Amount for Period _____

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through _____, having its principal office at _____, hereinafter referred to as the STATE), and _____ (hereinafter referred to as the CONTRACTOR), for modification of Contract Number as amended in attached Appendix(ices).

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

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

CONTRACTOR SIGNATURE _____

STATE AGENCY SIGNATURE _____

By: _____

By: _____

Printed Name

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

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

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

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

(Signature and office of the individual taking acknowledgement)

STATE COMPTROLLER'S SIGNATURE

Title: _____

Date: _____

Attachment M

Appendix A: Standard Clauses for All New York State Contracts

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

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

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

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

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

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

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

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

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

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

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

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

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Attachment N

Appendix D: General Specifications

APPENDIX D
GENERAL SPECIFICATIONS

- A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:
- All specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specification, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.
- B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, telegram, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.
- C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety be liable to the State of New York for any excess cost on account thereof.
- D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.
- E. The Department of Health will make no allowances or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.
- F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.
- G. The successful bidder will be required to complete the entire work, or any part thereof as the case may be, to the satisfaction of the Department of

Health in strict accordance with the specifications and pursuant to a contract therefore.

- H. Contractor will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
- I. **Non-Collusive Bidding**
By submission of this proposal, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - a. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
 - b. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
 - c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

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

The fact that a bidder has published price lists, rates, or tariffs covering items being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price being bid, does not constitute, without more, a disclosure within the meaning of the above quoted certification.

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

- J. A bidder may be disqualified from receiving awards if such bidder or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its or its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
- K. The Department reserves the right to make awards within ninety (90) days after the date of the bid opening, during which period bids shall not be withdrawn unless the bidder distinctly states in the bid that acceptance thereof must be made within a shorter specified time.
- L. **Work for Hire Contract**
Any contract entered into resultant from this request for proposal will be considered a "Work for Hire Contract." The Department will be the sole owner of all source code and any software which is developed or included in the application software provided to the Department as a part of this contract.
- M. **Technology Purchases Notification --** The following provisions apply if this Request for Proposal (RFP) seeks proposals for "Technology"
 - 1. For the purposes of this policy, "technology" applies to all services and commodities, voice/data/video and/or any related requirement, major software acquisitions, systems modifications or upgrades, etc., that result in a technical method of achieving a practical purpose or in improvements of productivity. The purchase can be as simple as an order for new or replacement personal computers, or for a consultant to design a new system, or as complex as a major systems improvement or innovation that changes how an agency conducts its business practices.

2. If this RFP results in procurement of software over \$20,000, or of other technology over \$50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.
3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.
4. The responses to this RFP must include a solution to effectively handle the turn of the century issues related to the change from the year 1999 to 2000.

N. YEAR 2000 WARRANTY

1. Definitions

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

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

2. Warranty Disclosure

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

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

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

3. Warranty Statement

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

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

In the event of any breach of this warranty, Vendor shall restore the Product to the same level of performance as warranted herein, or repair or replace the Product with conforming Product so as to minimize interruption to Authorized User's ongoing business processes, time being of the essence, at Vendor's sole cost and

expense. This warranty does not extend to correction of Authorized User's errors in data entry or data conversion.

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

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

- O. No Subcontracting
Subcontracting by the contractor shall not be permitted except by prior written approval and knowledge of the Department of Health.
- P. Superintendence by Contractor
The Contractor shall have a representative to provide supervision of the work which Contractor employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the Contractor.
- Q. Sufficiency of Personnel and Equipment
If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the Contractor to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.
- R. Experience Requirements
The Contractor shall submit evidence to the satisfaction of the Department that it possesses the necessary experience and qualifications to perform the type of services required under this contract and must show that it is currently performing similar services. The Contractor shall submit at least two references to substantiate these qualifications.
- S. Contract Amendments
This agreement may be amended by written agreement signed by the parties and subject to the laws and regulations of the State pertaining to contract amendments. This agreement may not be amended orally.

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

T. Provisions Upon Default

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

U. Termination Provision

Upon termination of this agreement, the following shall occur:

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

V. Conflicts

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

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT

The New York State Department of Health recognizes the need to take

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

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

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

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

X. Contract Insurance Requirements

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:
 - a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the

contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).

- b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.
 - i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
 - ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
 - iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

Y. Certification Regarding Debarment and Suspension

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

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

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

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

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of

those regulations.

- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non-procurement Programs.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
 - a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
 - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Z. Confidentiality Clauses

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.
2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.

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

AA. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15th following the end of each state fiscal year included in this contract term. This report must be submitted to:
 - a. The NYS Department of Health, at the STATE's designated payment office address included in this AGREEMENT; and

- b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany NY 12236 ATTN: Consultant Reporting - or via fax at (518) 474-8030 or (518) 473-8808; and
- c. The NYS Department of Civil Service, Alfred E. Smith Office Building, Albany NY 12239, ATTN: Consultant Reporting.

BB. Provisions Related to New York State Procurement Lobbying Law

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

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

- 1. CONTRACTOR shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

Attachment O

Appendix H: HIPAA Business Associate Agreement – Confidentiality Agreement

Appendix H

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

I. Definitions:

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

II. **Obligations and Activities of the Business Associate:**

- (a) **The Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as required by law.**
- (b) **The Business Associate agrees to use the appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of the Covered Entity pursuant to this Agreement.**
- (c) **The Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Agreement.**
- (d) **The Business Associate agrees to report to the Covered Program, any use or disclosure of the Protected Health Information not provided for by this Agreement, as soon as reasonably practicable of which it becomes aware. The Business Associate also agrees to report to the Covered Entity any security incident of which it becomes aware.**
- (e) **The Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from,**

or created or received by the Business Associate on behalf of the Covered Program agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.

- (f) The Business Associate agrees to provide access, at the request of the Covered Program, and in the time and manner designated by the Covered Program, to Protected Health Information in a Designated Record Set, to the Covered Program or, as directed by the Covered Program, to an Individual in order to meet the requirements under 45 CFR 164.524, if the business associate has protected health information in a designated record set.
- (g) The Business Associate agrees to make any amendment(s) to Protected Health Information in a designated record set that the Covered Program directs or agrees to pursuant to 45 CFR 164.526 at the request of the Covered Program or an Individual, and in the time and manner designated by Covered Program, if the business associate has protected health information in a designated record set.
- (h) The Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of, the Covered Program available to the Covered Program, or to the Secretary of Health and Human Services, in a time and manner designated by the Covered Program or the Secretary, for purposes of the Secretary determining the Covered Program's compliance with the Privacy Rule.
- (i) The Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (j) The Business Associate agrees to provide to the Covered Program or an Individual, in time and manner designated by Covered Program, information collected in accordance with this Agreement, to permit Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

III. Permitted Uses and Disclosures by Business Associate

(a) General Use and Disclosure Provisions

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

(b) Specific Use and Disclosure Provisions:

- (1) Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.**
- (2) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the business associate or to carry out its legal responsibilities and to provide Data Aggregation services to Covered Program as permitted by 45 CFR 164.504(e)(2)(i)(B). Data Aggregation includes the combining of protected information created or received by a business associate through its activities under this contract with other information gained from other sources.**
- (3) The Business Associate may use Protected Health Information to report violations of law to appropriate federal and State authorities, consistent with 45 CFR §164.502(j)(1).**

IV. Obligations of Covered Program

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

- (a) The Covered Program shall notify the Business Associate of any limitation(s) in its notice of privacy practices of the Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.**
- (b) The Covered Program shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.**
- (c) The Covered Program shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Program has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction**

may affect the Business Associate's use or disclosure of Protected Health Information.

V. Permissible Requests by Covered Program

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

VI. Term and Termination

- (a) *Term.* The Term of this Agreement shall be effective during the dates noted on page one of this agreement, after which time all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in The Agreement.
- (b) *Termination for Cause.* Upon the Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for the Business Associate to cure the breach and end the violation or may terminate this Agreement and the master Agreement if the Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or the Covered Program may immediately terminate this Agreement and the master Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible.
- (c) *Effect of Termination.*
 - (1) Except as provided in paragraph (c)(2) below, upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Program, or created or received by the Business Associate on behalf of the Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information.
 - (2) In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the

Parties that return or destruction of Protected Health Information is infeasible, the Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

VII. Violations

- (a) It is further agreed that any violation of this agreement may cause irreparable harm to the State, therefore the State may seek any other remedy, including an injunction or specific performance for such harm, without bond, security or necessity of demonstrating actual damages.**
- (b) The business associate shall indemnify and hold the State harmless against all claims and costs resulting from acts/omissions of the business associate in connection with the business associate's obligations under this agreement.**

Miscellaneous

- (a) *Regulatory References.* A reference in this Agreement to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.**
- (b) *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Program to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.**
- (c) *Survival.* The respective rights and obligations of the Business Associate under Section VI of this Agreement shall survive the termination of this Agreement.**
- (d) *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Covered Program to comply with the HIPAA Privacy Rule.**
- (e) If anything in this agreement conflicts with a provision of any other agreement on this matter, this agreement is controlling.**
- (f) *HIV/AIDS.* If HIV/AIDS information is to be disclosed under this agreement, the business associate acknowledges that it has been informed of the confidentiality requirements of Public Health Law Article 27-F.**

Attachment P

Medicaid Confidential Data / Protected Health Information
Privacy Language

Appendix I

Medicaid Confidential Data / Protected Health Information

Medicaid Confidential Data (MCD) includes, but is not limited to, names and addresses of Medicaid Bidders/beneficiaries, the medical services provided, social and economic conditions or circumstances, the Department's evaluation of personal information, medical data, including diagnosis and past history of disease and disability, any information regarding income eligibility-and amount of medical assistance payment, income information, and/or information regarding the identification of third parties. Income information received from the Social Security Administration or the Internal Revenue Service must be safeguarded according to the requirements of the agency that furnished the data. MCD also includes any information received in connection with the identification of legally liable third party resources under 42 C.F.R. § 433.138. Each element of MCD is confidential regardless of the document or mode of communication or storage in which it is found.

NOTE that this contract involves the MCD of beneficiaries and possibly Bidders, both of which are confidential pursuant to Section 367b(4) of the N.Y. Social Services Law, 42 U.S.C. Section 1396(a)(7), Section 1902(a)(7) of the Social Security Act and 42 C.F.R. Section 431.300 et seq.

NO DISCLOSURE OF MCD IN YOUR POSSESSION CAN BE MADE TO ANY OTHER PERSON OR ENTITY WITHOUT THE PRIOR WRITTEN PERMISSION OF THE NEW YORK STATE DEPARTMENT OF HEALTH (NYSDOH), MEDICAID CONFIDENTIAL DATA REVIEW COMMITTEE (MCDRC). LIKEWISE, NO USE(S), OTHER THAN THE USE(S) OF MCD APPROVED IN THIS CONTRACT AND DATA EXCHANGE AGREEMENT, CAN BE MADE OF THE MCD WITHOUT THE PRIOR WRITTEN APPROVAL OF NYSDOH, MCDRC.

Also, pursuant to Section 367b(4) of the NY Social Services Law, information relating to persons APPLYING FOR medical assistance shall also be considered confidential and shall not be disclosed to persons or agencies without the prior written approval of the New York State Department of Health.

AIDS/HIV Related Confidentiality Restrictions:

ALSO NOTE that MCD may contain HIV related confidential information, as defined in Section 2780(7) of the N.Y. Public Health Law. As required by N.Y. Pub. Health Law Section 2782(5), the New York State Department of Health hereby provides you with the following notice:

HIV/AIDS NOTICE

This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you

from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is NOT sufficient authorization for further disclosure.

The Contractor agrees that any further disclosure of MCD requires the prior, written approval of the New York State Department of Health (NYSDOH), Medicaid Confidential Data Review Committee (MCDRC). The Contractor will require and ensure that any approved agreement, contract or document with a subContractor or employee contains the above Notice and a statement that the subContractor, employee or other party may not disclose the MCD without the prior, written approval of the NYSDOH MCDRC.

Alcohol and Substance Abuse Related Confidentiality Restrictions

Alcohol and substance abuse information is confidential pursuant to 42 C.F.R. Part 2. General authorizations are ineffective to obtain the release of such data. The federal regulations provide for a specific release for such data.

ANY AGREEMENT, CONTRACT OR DOCUMENT WITH A SUBCONTRACTOR OR EMPLOYEE MUST CONTAIN ALL OF THE ABOVE PROVISIONS PERTAINING TO CONFIDENTIALITY. IT MUST CONTAIN THE HIV/AIDS NOTICE AS WELL AS A STATEMENT THAT THE SUBCONTRACTOR, EMPLOYEE OR OTHER PERSON MAY NOT USE OR DISCLOSE THE MCD WITHOUT THE PRIOR WRITTEN APPROVAL OF THE NYSDOH, MCDRC.

Bidder/Contractor

Signature.....Date...../...../.....

Name Printed.....

Company.....

SubContractor / Employee

Signature.....Date...../...../.....

Name Printed.....

Company.....

The Contractor must maintain a copy of this agreement in its permanent records for each employee performing services pursuant to any contract awarded pursuant to RFP # 0802151214.