

**NEW YORK STATE DEPARTMENT OF HEALTH**

**A Request for Proposal for**

**Office of Health Insurance Programs  
RFP # 0905111208**

**Radiology Management Program**

**Schedule of Key Events**

Written Questions Due	July 27, 2009
Questions and Answers Posted	August 11, 2009 (on or about)
Proposal Due Date	September 2, 2009 by 3:00 pm
Estimated Contract Start Date	December 1, 2009

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

### **DESIGNATED CONTACTS:**

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

Jonathan Mahar  
Bureau of Accounts Management  
Grants and Procurement Unit, Room 1325  
Albany, NY 12231  
Phone: (518) 474-7896  
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Email: [jpm12@health.state.ny.us](mailto:jpm12@health.state.ny.us)

### **PERMISSABLE SUBJECT MATTER CONTACTS:**

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

- Submission of written proposals or bids:
- Submission of Written Questions:
- Debriefings:
- Negotiation of Contract Terms after Award:
  - Mr. Joseph Zeccolo  
New York State Department of Health  
Office of Health Insurance Programs  
ESP Corning Tower, Rm. 2019  
Albany, New York 12237  
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*For further information regarding these statutory provisions, see the Lobbying Statute summary in Section E, 10 of this solicitation.*

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## **A. INTRODUCTION**

The Department of Health (DOH) is modernizing its Medicaid utilization management system to ensure the safety of its beneficiaries, improve their access to evidence based care, and reduce unnecessary costs through identification of inappropriate resource utilization. DOH's Office of Health Insurance Programs (OHIP) is responsible for overall administration of the Medicaid program.

In June 2008, the United States Government Accountability Office issued a report regarding rapid spending growth and the shift in the performance of imaging services to physician offices. That report stated that Medicare spending for imaging services paid for under the physician fee schedule more than doubled from 2000-2006. Spending on advanced imaging, such as CT scans, MRIs and nuclear medicine rose substantially faster than more routine imaging services such as ultrasound and x-rays. At the same time, the proportion of spending on imaging services performed in-office rose from 58 percent to 64 percent. NYS Medicaid, similar to Medicare, does not currently have front end controls to manage imaging costs. It should be noted that most, if not all, major health insurance carriers rely on prior authorization to manage spending growth on high cost imaging procedures.

Accordingly, DOH will procure a radiology management contractor through the Request for Proposal (RFP) process to implement a program to manage utilization of more costly high tech imaging studies.

Through this RFP, the Department seeks to select a contractor to develop, implement and operate a radiology management program for prior authorization of advanced medical imaging studies for Medicaid beneficiaries receiving services through the Fee for Service program who are not Medicare dual eligible, and/or enrolled managed care.

The Department expects that such a program will achieve the following:

- Access to quality care for MA beneficiaries by ensuring that they receive the most clinically appropriate imaging studies;
- Application of nationally accepted, evidence-based clinical criteria to determine medical necessity of imaging studies;
- Education of prescribers regarding medically appropriate imaging studies; and
- Cost savings through elimination of inappropriate imaging utilization.

## 1. Scope of the Project

This RFP is for the development, implementation and operation of a radiology management program for prior authorization of non-emergency outpatient advanced imaging studies including, but not limited to, hospital outpatient, free standing clinics and private physician offices, covered under the Medicaid program.

**a. Population Served.** Medicaid beneficiaries receiving services through the Fee for Service delivery system will be included in the radiology prior authorization program. For dual eligible, Medicare is the primary payer. Therefore, Medicaid will defer to the coverage decision made by Medicare and will not require prior authorization for advanced imaging studies.

Medicaid and Family Health Plus eligible persons enrolled in a managed care plan are also not included in the scope of this Project.

**b. Covered Services.** This RFP covers all non-emergency outpatient advanced imaging studies requested for New York State Medicaid beneficiaries in the Fee for Service program. Medicaid beneficiaries enrolled in managed care plans and Medicare dual eligible beneficiaries are not covered under this RFP.

The selected Contractor will be responsible for prior authorizing requests for the following non-emergency advanced imaging studies provided in outpatient settings (including but not limited to freestanding clinics, hospital outpatient, and private physician offices):

- Computerized Tomography (CT) scans
- Magnetic Resonance Images (MRI)
- Magnetic Resonance Angiograms (MRA)
- Positron Emission Tomography (PET) scans
- Nuclear Cardiology
- Other identified over utilized or high-cost radiology services

The Department reserves the right to modify the list, through either addition or deletion, of imaging study procedures subject to prior authorization over the term of the contract.

See Attachment 12 for data on the volume by procedure code, allowed amount and total payment for non- emergency radiology procedures provided in outpatient settings.

This scope of work will also include the development of utilization profiles for referring Medicaid providers, and the identification of providers demonstrating a pattern of inappropriate radiology referrals. The contractor will manage utilization through direct communication with providers to ensure evidence based care and the appropriate allocation of resources.

## **B. BACKGROUND**

DOH is the single state agency responsible for management of New York State's Medicaid program. Within DOH, the OHIP, in conjunction with 58 local districts, administers Medicaid. Depending on the eligibility of the beneficiary, Medicaid costs are generally shared by the federal, State, and local governments (county governments and New York City). New York's Medicaid spending is estimated to be \$45 billion per year.

The need for ensuring the best possible care management for Medicaid beneficiaries in the most efficient manner has required a reevaluation of the program's key utilization management controls.

**The Department's prior authorization programs** - The Department is responsible for the development and implementation of prior authorization requirements and guidelines to determine medical necessity. Although the Department has prior authorization programs, radiology procedures are not currently subject to prior approval.

Services currently subject to the Department's prior approval are private duty nursing, certain durable medical equipment, certain pharmacy services, and certain dental procedures.

**Denials and Beneficiary Appeal Rights** - A decision to deny services on the basis that services are not medically necessary can only be made by a physician reviewer. If a prior authorization request for service is denied or approved other than as requested, the beneficiary has the right to appeal the Department's decision. The recipient has 60 days from the date of the notice of the prior authorization decision to submit the appeal in writing. The Office of Temporary and Disability Assistance (OTDA) conducts Fair Hearings when beneficiaries exercise their right to appeal the Department's decision.

In accordance with Social Services Law, Article 5, Title 11, Section 365-a, subdivision 8. *When a non-governmental entity is authorized by the Department pursuant to contract or subcontract to make prior authorization or prior approval determinations that may be required for any item of medical assistance, a recipient may challenge any action taken or failure to act in connection with a prior authorization or prior approval determination as if such determination were made by a government entity, and shall be entitled to the same medical assistance benefits and standards and to the same notice and procedural due*

*process rights including a right to a fair hearing and aid continuing pursuant to section twenty-two of this chapter, as if the prior authorization or prior approval determination were made by a government entity.*

## **C. DETAILED SPECIFICATIONS**

### **1. Eligible Bidders**

Eligible bidders must have successful work experience performing radiology prior approval and utilization reviews, and be authorized to do business in New York State. Eligible bidders need to be able to provide the data analytics capable of aggregating health care data across a broad Medicaid beneficiary population, and provide updated utilization review criteria derived from nationally recognized evidence based medical information sources.

The selected Contractor must have a current certification or accreditation from the National Committee for Quality Assurance (NCQA) or Utilization Review Accreditation and Certification (URAC) and maintain such certification throughout the course of the contract.

The radiology prior authorization program must comply with all applicable Federal and State statutes, regulations, amendments and the State Plan Amendment approved by the Centers for Medicare and Medicaid Services.

### **2. Performance Requirements**

DOH will award a contract through the RFP process to an organization qualified to perform radiology management services for Medicaid beneficiaries as defined in Section A. 1. a., Scope of Project, Population Served. The selected Contractor is subject to all requirements and responsibilities specified in the RFP, regardless of whether the tasks are performed by individuals or entities with whom the selected Contractor subcontracts.

The contractor chosen as a result of this RFP process must agree to the following:

**a. Recommend Prior Authorization Guidelines** - The Contractor shall recommend, for the Department's approval, prior authorization guidelines to be used to determine medical necessity for advanced imaging studies. Guidelines must be based on nationally accepted evidence-based clinical criteria.

**b. Educate Stakeholders** - The Contractor shall assist and support the Department in making the guidelines publically available, and in educating stakeholders regarding the guidelines and prior approval processes. Stakeholders may include, among others, beneficiaries, providers, advocacy groups, legislators, and Department staff.

**c. Review Prior Authorization Requests** - Contractor must review requests for prior authorization for all radiology procedure codes listed in Attachment 12 as amended by the Department from time to time, when the procedure is provided in an outpatient setting. Reviews will be conducted by licensed physicians and nurses using the Department approved guidelines for determining medical necessity. The selected Contractor:

i. will ensure that board-certified radiologists make all decisions to deny covered services or approve services other than as requested on the basis that services are not medically necessary.

ii. will be given limited access to the State's Medicaid Management Information system, through EMedNY Thin Client screens. Contractor will enter prior authorization information and decisions into the prior authorization screens in the EMedNY system.

iii. must verify through the New York State Medicaid eligibility system the eligibility of each recipient for whom the service is requested to confirm that the recipient is Medicaid eligible and a participant in the Fee-For-Service program, and not dual eligible. Additionally, Contractor must confirm any third party payer resources.

iv. will utilize the Department's approval and denial codes and must enter narrative descriptions of the reasons for the decisions, written at a fourth grade reading level language and consistent with the Department's recipient and provider prior authorization notice templates. The notices will be sent to the providers via the EMedNY system.

v. must comply with the following prior authorization process timeframes:

- All requests for prior authorization must be reviewed and decision made, or additional information requested within two (2) business days of the receipt of the request. 95% of the requests must be completed at the time of the telephone or web portal interface.
- If a provider does not submit additional information within 35 calendar days of the request for additional information, the request will be denied.
- The information required for the Department's prior authorization notices must be entered into EMedNY the same day as the determination or request for additional information is made.

vi. must be capable of receiving prior authorization via telephone, via paper format (either mail or fax delivery) and via Internet. Turn around times from receipt of request to determination must be tracked and reported.

**d. Operate a Call Center** - Contractor must maintain a call center with its own toll-free telephone line for prescribers requesting prior authorization, and for beneficiaries, prescribers, and providers to call with inquiries regarding the status of a prior authorization request, and for any other inquiries or complaints regarding prior authorization of advanced imaging studies including appeals related to denials and interpretation of guidelines.

Call Center must be located within a 25 mile radius of the New York State Capitol building, in Albany, to accommodate frequent meetings between the Contractor and the Department and to keep travel costs at a minimum.

At a minimum, Call Center must be open Monday – Friday 8:00 AM to 6:00 PM Eastern Time, with the exception of Thanksgiving Day, Christmas Day, New Years Day, Memorial Day, 4<sup>th</sup> of July and Labor Day. Call abandonment rates, average speed to answer, and average call wait times must be tracked and reported. Contractor shall provide sufficient staff, facilities and technology to meet performance standards outlined in section 5. If an automated voice response system is used as an initial response to inquiries an option must exist that allows the caller to speak directly with a live operator.

**e. Handle Inquiries and Complaints** - The Contractor must agree to the following:

- i. Maintain a process for responding to inquiries and complaints.
  - Respond to inquiries and address complaints about request for service within two (2) business days,
  - Track recipient, prescriber and provider inquiries and complaints, including response timeframes.
  - Formal escalation process including notification of appropriate DOH personnel.

In instances where the inquiry complaint is about the selected Contractor, the project Manager must be available to discuss the inquiry or complaint with the Department.

- ii. Have in place appropriate **alternative mechanisms** for communicating effectively with persons with visual, hearing, speech, physical or developmental disabilities. These alternative mechanisms include Braille or audio tapes for the visually impaired, TTY access for those with certified speech or hearing disabilities, and the use of American Sign Language and/or integrative technologies.

iii. Must also offer fax or internet communication methods for recipient, prescriber and provider inquiries and complaints.

**f. Represent the Department in Fair Hearings** - Authorization decisions made by the Contractor are considered the decisions of the Department. Beneficiaries have the right to appeal the Department's decision to deny or modify (approve other than as requested) requests for prior authorization of advanced imaging studies. Contractor must make qualified personnel available at the time of a Fair Hearing to testify on behalf of the Department related to denial or modification of radiologic services. Contractor must prepare in advance for the Fair Hearings and must provide any materials it intends to introduce at the Fair Hearing to the beneficiary and or their representative, and OTDA for review upon oral or written request but no less than five business days prior to the Fair Hearing. The beneficiary and or their representative are entitled to a pre-hearing conference so as to eliminate the need to hold a Fair Hearing. Contractor is required to act promptly (or in a timely manner) with any definitive and final administrative decisions.

**g. Educate Prescribers** - Contractor must educate prescribers when the Contractor denies or approves other than as "requested" requests for prior authorization of advanced imaging studies by explaining why the requested study is not medically necessary and, if applicable, which study is the appropriate one given the beneficiary's symptoms.

**h. Perform Quality Assurance Monitoring** - Contractor must monitor the quality of its radiology prior authorization review operations, including performing interrater reliability testing of review decision by physician reviewers and call center staff.

**i. Monitor Trends in Advanced Imaging** - Contractor must have a process to monitor trends in the advanced imaging industry, including changes in nationally accepted clinical guidelines to determine medical necessity of advanced imaging studies. Based on its monitoring, the Contractor must recommend to the Department changes in clinical guidelines that the Department may want to consider for the radiology prior authorization program and recommend clinical guidelines for the new advanced imaging studies that the Department will include in the radiology prior authorization program.

**j. Provider Communications** – 45 days prior to the initiation of the prior authorization program, Contractor will develop a reference manual for prescribers and providers. The manual will provide guidelines for medical necessity of advanced imaging studies, as well as procedures to obtain prior authorization, seek clarification on guidelines, and procedures to file complaints. Contractor will develop and implement outreach program to train prescribers and providers on

the radiology management program. Contractor will hold initial orientations and ongoing seminars with key stakeholders, as requested by the Department.

**k. Information Technology and Management Information System -**

Contractor will have limited access to the Department's eligibility verification and prior authorization system EMedNY. Contractor will have access to beneficiary eligibility and authorization history. Contractor will maintain its own MIS system to track requests, respond to provider and beneficiary inquiries and support the appeal process. Contractor must meet the following minimum requirements:

- i. All Call Center and Reviewer staff must have computers that can access EMedNY,
- ii. Sufficient telecommunication capabilities, including electronic mail, to meet the requirements of the RFP,
- iii. Ability to access EMedNY and any other systems of the Department and its contractors to ensure the delivery of accurate and timely data and information related to the radiology prior authorization program,
- iv. Capability to receive, store, analyze and report on data sufficient to meet the requirements of the RFP.

**l. Security** - Contractor must have a HIPAA-compliant system with effective security measures to prevent the unauthorized use of, or access to, data. See Attachment 13, NYSDOH Data Security Requirements.

**m. HIPAA Compliance** - The contractor is required to be HIPAA compliant in transmissions and coding procedures, and use only HIPAA compliant data systems and comply with all aspects of HIPAA security, confidentiality and transactions requirements. See Attachment 13, NYSDOH Data Security Requirements.

**n. Encryption** - Any Medicaid data sent over a public network must be encrypted according to Federal Information Processing Standards (NIST-FIPS) featuring Triple-DES encryption or the Advanced Encryption Standard (AES). See Attachment 13, NYSDOH Data Security Requirements.

**o. Disaster Recovery** - The contractor is required to maintain and annually test a disaster recovery plan designed to minimize any disruption of the contractor's services. It is the sole responsibility of the contractor to maintain adequate backup to ensure continued automated and manual processing of services/transactions required under this contract. See Attachment 13, NYSDOH Data Security Requirements.

**p. Reports** - The contractor is responsible for establishing and maintaining a

system to produce quarterly, annual and / or other reports as may be required by the Department; including reports related to beneficiary, provider, and Contractor service profiles; and reports identifying cost savings through appropriate utilization management.

Quarterly data reports are due thirty (30) days following the end of each quarter. Annual data reports are due thirty (30) days following the end of the contract year with content and a format prescribed by the Department.

Specific Reports: The contractor must provide specific reports on radiology management activities and determinations with the content and format prescribed by the Department. Specific reports requested by the Department must be completed within 45 days, unless a different timeframe is agreed to by the Department. Contractor must provide the Department with continual monitoring reports. At a minimum, these reports must include:

Call Center Performance Statistics:

- Total hours of daily call center access and downtime
- Call abandonment Rate
- Call waiting time
- Average speed to answer
- Report of nature of calls received (counts by type)
  - Provider calls (counts by reason for call)
  - Beneficiary calls (counts by reason)

Prior Authorization Statistics:

- Number/% of requests not processed with in the specified timeframes.
- Number/% of requests by procedure code and in total:
  - Number/% of requests requiring physician review
  - Number/% of approvals
  - Number/% of denials, by reason for denial
- Number/% of appeals and appeal outcomes

Inquiry and Complaint Statistics:

- Number and type of inquiries and complaints from beneficiaries
- Number and type of inquiries and complaints from providers
  
- Number of inquiries and complaints not responded to within the timeframes specified in the performance standards

Cost Savings Reports:

- Number of denials by procedure code and total dollars saved.
- Number of approved procedures and total claims dollars

Utilization Trend Reports:

Annual trend variation (number and costs by procedure, and future projections, recommended changes in program direction)

Quarterly trend variation (number and costs by procedure)

Ad Hoc Reports:

As requested by the Department

**q. Implementation and Administration** - Contractor is expected to begin implementation of the radiology management program prescribed in this RFP no later than 30 business days following approval by the Office of the State Comptroller (OSC) unless a later date is formally approved by DOH. The contract resulting from this RFP will be for an initial three (3) - year period. DOH has the option to extend the contract for a two year period.

**r. Database Development and Maintenance** - The Contractor agrees to enter into a Data Exchange agreement with DOH. Pursuant to that agreement, DOH will extract claims data appropriate to conduct trend analysis in a format determined by DOH. The contractor's database must be capable of accepting Medicaid program beneficiary data including eligibility data. The contractor will be responsible for performing necessary data transformation, loading and quality assurance activities to load the data into its system(s), and to follow up with DOH to correct any identified data errors. Installation and maintenance costs for direct connection (browser based, lease lines) will be at the expense of the contractor.

**s. Quality Assurance** - The contractor must have a utilization review decision making process that is supported by a team of health care professionals capable of analyzing and updating the retrospective utilization review criteria. It is expected that criteria revisions and systems updates would occur throughout the contract year. OHIP requires contractors to review their evidence based rules at least annually.

**t. Staffing Requirements** - At a minimum, the selected contractor's key personnel must include the following positions:

**Project Manager** - The Project Manager will serve as the primary contact person for the Department. The Project Manager must have experience with authorization of radiology services and oversight of a major contract including ensuring all policy and procedures and reporting requirements are met.

**Medical Director** - The Medical Director must be a board certified radiologist and licensed in New York State with previous experience in utilization management and quality assurance activities. The Medical Director will be responsible for recommending to the Department, nationally recognized, evidence-based clinical guidelines for determining the medical necessity of advanced imaging studies. The Medical Director will ensure compliance with the

Department's approved clinical guidelines and oversee interrater reliability testing of review decisions; oversight of fair hearing defense by physicians; and provide oversight of prior authorization decisions and communication between physician reviewers and prescribers regarding denials.

**Call Center Manager** - The Call Center Manager must have previous experience with a prior authorization call center. The Manager's responsibilities include Call Center staff training, productivity analysis and reporting, auditing for compliance with the Department's policies and clinical guidelines.

**Clinical Reviewers** - Clinical review team should include physicians representing specialties associated with medical imaging (including but not limited to radiology, cardiology, oncology, OB/GYN, ENT, neurology and orthopedics). Professional medical staff that directly contacts provider clinicians as a result of utilization review activities must possess a valid New York state license.

**Peer Consultants** -The contractor must also make peer consultants available to the project. "Peer consultants" are defined as persons with the same or equivalent professional degree as the health care professional that provided the justification for the medical necessity and/or the appropriateness of the setting, care, diagnosis and coding. A peer consultant may be the Contractor's medical director or any physician peer consultant, specialist or generalist, designated by the Contractor's medical director licensed in their state of practice and board certified in at least one specialty area.

The contractor shall ensure that all staff assigned to the project possess sufficient current knowledge of the requirements of this RFP and maintain a level of performance consistent with the highest professional standards. At a minimum, the Project Manager, Medical Director, Call Center Manager and Clinical Reviewers must be located at the Call Center as further set forth in Section C.2.D of this RFP.

Certifications and licensure for all medical professionals must be current and in good standing at all times during the term of the contract.

The Department reserves the right to request a replacement of equal or better qualification and skill level for any staff assigned to this program.

### **3. Contractor Payment**

The target population for the radiology management program will be Medicaid beneficiaries being served fee-for-service.

**The radiology management program will not include beneficiaries who are**

**eligible for both Medicaid and Medicare (dual eligible) or beneficiaries who are enrolled in a managed care plan.**

DOH estimates there will be approximately 370,209 (excluding dual eligible) Medicaid fee-for-service beneficiaries per month covered by the Project. The table shown in Attachment 12 to this RFP provides a breakdown by procedure code. This table is provided for informational purposes and is not a guarantee of enrollment volume or payment.

The selected radiology management contractor will be paid according to a monthly per enrollee fee determined through the competitive bid process for this RFP and upon the number of eligible beneficiaries enrolled on the 15<sup>th</sup> day of the month for which services are being billed. This payment will be the only compensation received by the contractor for performing the requirements of this RFP. A percentage of the fee will be withheld and paid based on achievement of performance standards as per Section E, Part-5, Payment.

DOH anticipates that there will be a maximum of \$2.5m available for the radiology management project in any 12-month period of the contract. The number of beneficiaries could increase or decrease during the three-year contract period due to economic or other factors.

DOH reserves the right to remove or add Medicaid enrollee populations, and /or modify the range of Medicaid services subject to the radiology management program.

DOH may also **increase or limit** the number of beneficiaries eligible for the radiology management program in any month or 12-month period for any reason, including contractor performance and State fiscal considerations.

The DOH will establish performance standards to be further delineated in Section E.5.

#### **4. Conflict of Interest**

As part of its bid submission, the offeror (and /or any subcontractor) must disclose all business relationships with ownership interest in entities including, providers of medical services, medical devices, medical equipment, pharmaceutical products, or any other medical products that may be ordered or prescribed by a medical practitioner; or organizations or trade associations representing such health plans or providers in New York State. In cases where such relationship(s) and/or interests exist, Offeror must describe how an actual or potential conflict of interest and/or disclosure of confidential information relating to this contract will be avoided.

The Department reserves the right to reject bids, at its sole discretion, based on any actual or perceived Conflict of Interest.

Each offeror and the successful contractor shall ensure that its officers, employees, agents, consultants and/or sub-contractors comply with the requirements of the New York State Public Officers Law ("POL"), as amended, including but not limited to Sections 73 and 74, as amended, with regard to ethical standards applicable to State employees.

In signing its Proposal, each offeror guarantees knowledge and full compliance with the provisions of the POL for purposes of this RFP and procurement. Failure to comply with these provisions may result in disqualification from the procurement process, or withdrawal of a proposed contract award, and criminal proceedings as may be required by law.

If, during the term of a resulting contract, the successful contractor becomes aware of a relationship, actual or potential, which may be considered a violation of the POL, or which may otherwise be considered a conflict of interest, the Contractor shall notify the Department in writing immediately. Failure to comply with these provisions may result in termination or cancellation of the resulting contract and criminal proceedings as may be required by law.

## **D. PROPOSAL REQUIREMENTS**

The requirements established by this Request for Proposal content and format will be used to evaluate the bidder's proposal. The bidder's compliance with the format prescribed herein, as well as the bidder's response to each specific requirement and question stated in the RFP, will be considered during the evaluation process. Proposals should provide a concise but complete description of the bidder's ability to meet the requirements of the RFP.

### **No financial bid or pricing information should be included in a bidder's Technical Proposal.**

Each page of the proposal should be numbered consecutively from the beginning of the proposal through all appended material. Narrative should be double spaced, using a 12 pitch font or larger, with minimum one (1) inch margins all around, and adhere to the maximum page limits.

#### **1. Technical Proposal**

Responses must address all Technical Proposal requirements. The Technical Proposal consists of narrative descriptions of how the bidder will manage all aspects of the Radiology Management described in Section C- Detailed Specifications of this RFP as outlined below. Bidders may provide additional information or recommendations relevant for consideration in the State's determination of award of this contract. Each bidder's Technical Proposal must

include separate responses to the following requirements pertaining to format and content:

**a. Transmittal Letter**

The bidder's response must include a transmittal letter signed by an official authorized to bind the bidder to the provisions of the RFP. The letter should include:

- i. a statement designating the name of the organization that will contract with the Department.
- ii. the name, title, address, phone number and e-mail address of the representative whom Department staff may contact during the review process.
- iii. a statement that the bidder has experience performing radiology management services.
- iv. is currently authorized to do business in New York State.
- v. disclosure of any business relationships and / or ownership interest that may represent a conflict of interest for the bidder as required by the Conflict of Interest specifications of Section C. 4., or stating that no conflict of interest relationship exists. In cases where such a relationship exists, describe how the potential conflict of interest and / or disclosure of confidential information relating to this contract will be avoided.
- vi. an affirmation that the proposal and all provisions of the proposal are to remain in effect for 365 calendar days commencing on the due date of the proposal.
- vii. a statement that the call center will be located within a 25 mile radius of the Capitol building in Albany, NY.

**b. Cover Page**

The bidder should submit a cover page titled Radiology Management RFP: Technical Proposal, signed by an official authorized to bind the bidder to the provisions of the RFP and the bidder's response, with the following information: (1) Organization Name, (2) Address, (3) Contact Person, (4) Telephone #, (5) FAX #, (6) email Address, (7) Federal Employer Identification Number.

**c. Executive Summary (2 page limit)**

The bidder's Technical Proposal must contain an Executive Summary which describes the bidder's understanding of the performance requirements outlined in Section C of the RFP, and how the bidder can assist DOH in accomplishing its radiology management objectives. Include affirmative statements that the bidder is currently authorized to do business in New York State; has experience providing a radiology prior authorization program; and can begin implementing the project according to the timeframe described in the RFP.

**d. Organizational Background and Experience (10 page limit)**

- i. Provide a description of the bidder's organization and its business mission, headquarters and branch office locations, parent and subsidiary organizations, and the relationship between the bidder's organization and any parent or subsidiary. The bidder must include the number of years the organization has been in the business of health care utilization review activity. The bidder must describe the overall ability of the organization to perform radiology management including the technologies, special techniques, skills or abilities of the organization necessary to accomplish the program requirements, data processing and analysis capabilities.
- ii. Describe in detail the bidder's experience in administering prior authorization programs for radiology services including programs for Medicaid beneficiaries. The experience / projects referenced should substantiate the bidder's qualifications and capabilities to perform the RFP's specifications described in Section C. Describe the work experience and other relevant background of up to five (5) key individuals who will be assigned to work under the contract resulting from this RFP, and provide references for verification that may be contacted by DOH.

The projects referenced in the descriptions above must be specifically identified and the name of the customer shown, including the name, address and telephone number of the responsible official of the customer, company or agency who may be contacted by the State.

In addition, the bidder must provide the following information:

List the **three (3) largest radiology prior authorization programs performed by the** bidder that are most similar to those required by the RFP. For each of these projects:

- Reference names and telephone numbers of the customer to contact for confirmation of the project performed by the bidder, its scope and the bidder quality of work.
  - Describe the project(s) and the project goals, summarize the project results, and describe the resources expended on the project. The bidders must include quantitative data, such as the prior approval requests reviewed, review determinations, and any achieved savings.
- iii. Provide the full name and address of any organization with which the bidder may/will subcontract for any services provided in the radiology management program and the mechanisms for assuring its effective and efficient operations. List responsible officers of each subcontractor, including those individuals authorized to negotiate for the subcontractor.

List any financial interest the bidder has in the proposed subcontractors. Documentation in the form of a letter of intent to subcontract must be provided by the proposed subcontractor(s) indicating their willingness to participate in radiology management program and enter into sub contractual relationship.

The same organizational background and experience description prescribed in section D.c.1 for the prime contractor must also be provided for all subcontractors listed in this section.

**e. Implementation and Administration (25 page limit)**

The contractor will be responsible for implementing and administering the radiology management program. Provide a detailed description of the bidder's ability to perform each of the Performance Requirement items specified in Section C.2 a through t of the RFP.

The bidder's responses must include a detailed description of how the Contractor would meet each of the following Performance Requirement items:

- i. **Recommend nationally accepted evidence-based prior authorization guidelines** based on nationally accepted evidence-based clinical criteria. Bidder must include description of how recommended guidelines will be developed including sources and frequency of update.
- ii. **Educate Stakeholders.** Describe how bidder will assist and support the Department to educate stakeholders regarding the guidelines and prior approval processes. Stakeholders include, among others, beneficiaries, providers, advocacy groups, legislators, and Department staff. Description should include both activities supporting the initial roll out of the program as well as ongoing activity once the program is fully operational.
- iii. **Review Prior Authorization Requests.** Describe in detail bidder's process for reviewing requests for prior authorization of outpatient high tech radiology within the designated timeframes for the Department. Include any proposed mechanisms to fast track prior approvals based on individual provider performance or individual beneficiary clinical needs. Description must include process for notifying providers of determination. Description of the minimum credentials for clinical review staff must be included in description.
- iv. **Receiving prior authorization via telephone, via paper format (either mail or fax delivery) and via Internet.** Describe all mediums available for receipt of prior authorization requests, as well as tracking

and reporting mechanism for turn around time from receipt to determination. Provide description of emergency back up plans in the event of telephone or system outages or building access problems.

- v. **Operate a Call Center for Prescribers Requesting Prior Authorization and Beneficiary, Prescriber, Provider inquiries regarding status or complaints.** Describe arrangements for a call center, with a toll-free telephone line for prescribers requesting prior authorization, for inquiries regarding the status of a prior authorization request, and for any other inquiries regarding prior authorization of advanced imaging studies including appeals related to denials and interpretation of guidelines. Provide a description of Call Center capacity including capacity of volume of reviews on a weekly basis and total number of covered lives handled by Call Center. Include Staff qualifications, and training programs, performance and quality monitoring, geographic location of call center (must be within a 25 mile radius of the Capitol building in Albany, New York), and days/hours of operation. Provide a description of emergency back up plans in the event of telephone or system outages or building access problems.
- vi. **Handle Inquiries and Complaints.** Describe in detail bidder's processes for handling inquiries and complaints received via telephone, fax, internet or postal service in accordance with the Department's performance requirements stated in Section C.2e. Include logging and tracking process and average turn around times.
- vii. **Represent the Department in Fair Hearings.** Authorization decisions made by the Contractor are considered the decisions of the Department. Describe in detail the bidder's experience in preparing fair hearing materials for State Medicaid programs in a timely manner and the minimum qualifications of Contractor staff that will represent the Department at hearings.
- viii. **Educate Prescribers When Prior Approval is Denied or Modified.** Describe the process for outreach to prescribers when the Contractor denies or approves other than as requested, requests for prior authorization.
- ix. **Perform Quality Assurance Monitoring.** Describe in detail the Contractor's quality assurance program. Include processes for monitoring reviewer decision reliability.
- x. **Monitor Trends in Advanced Imaging.** Describe Contractors process for tracking and monitoring trends in imaging technology and changes in nationally accepted clinical guidelines.

- xi. **Provider Communications.** Describe how bidder will communicate the program to providers, including development and distribution of radiology management provider manual of applicable policies and procedures. Describe how manual will be updated and changes conveyed to providers.
- xii. **Information Technology and Management Information System.** Describe information technology and management information system capabilities in detail in response to requirements stated in Section C.2m. Include the plan to develop, test and implement an electronic interface with eMedNY to assure timely transmission and uploading of prior approval data.
- xiii. **Security.** Describe system security measures to prevent unauthorized use of, or access to, data. Standards must at a minimum be HIPAA-compliant.
- xiv. **HIPAA Compliance.** Describe process to ensure HIPPA compliant transmissions and coding procedures.
- xv. **Encryption.** Describe processes to ensure compliance with Federal Information Processing Standards.
- xvi. **Disaster Recovery.** Describe the arrangements for call center and/or systems backup in the event of unplanned events such as power outages, building closures, and equipment failures. Include procedures for file backup.
- xvii. **Reports.** Describe how the bidder will meet the Department's reporting requirements as outlined in Section C.2.p.
- xviii. **Implementation and Administration.** Provide a detailed work plan for the implementation of the radiology management program within 45 days of approval by the Office of the State Comptroller.
- xix. **Database Development and Maintenance.** Describe contractor ability to the data management capabilities described in Section C2.r.
- xx. **Quality Assurance.** Describe the process for ongoing analysis and updating of clinical review criteria.
- xxi. **Staffing Requirements.**  
Provide resumes for the following key personnel:  
**Project Manager**

**Medical Director** (include copy of State licensure)

**Call Center Manager**

Provide job description with minimum requirements for the following:

**Clinical Reviewers**

Provide current listing of peer consultants, including medical specialty and State licensure for:

**Peer Consultants**

## **2. Financial Proposal**

The bidder should submit a cover page titled Radiology Management Program RFP: Financial Proposal, signed by an official authorized to bind the bidder to the provisions of the RFP. The following the following information should be included: (1) Organization Name, (2) Address, (3) Contact Person, (4) Telephone #, (5) FAX #, (6) eMail Address.

**The proposed M/WBE Utilization Plan for Subcontracting and Purchasing (Attachment 14) must be submitted with the Financial Proposal.**

### **a. Financial Bid Form**

The Financial Proposal, Attachment 1, Bid Form must contain a monthly per Medicaid enrollee fee for all services described in this RFP. Financial Proposal must compute the monthly per enrollee bids to the **\$0.XXXs** decimal point.

The pricing for the two (2) year contract extension will be subject to an annual monthly per Medicaid enrollee radiology management fee increase of the lesser of three percent (3%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C., 20212 for the 12 month period ending ninety (90) days prior to the renewal date for the two (2) year extension.

The cost proposal submitted on the Bid Form, Attachment 1, will become part of the successful bidder's Radiology Management Program contract and must be guaranteed by the contractor for the three-year contract period and the two-year contract extension period, subject to an annual increase in years 4 and 5 as stated above.

## **3. Method of Award**

Proposals deemed by DOH to be responsive to the Submission Requirements set forth in this RFP will be evaluated by DOH staff, assisted by other persons as DOH deems appropriate. DOH will select the bidder that submits the proposal that offers the best value as determined by the combined Technical Proposal and Financial Proposal score.

### **Vendor Selection**

This is a competitive procurement that will result in a contract to implement the

Radiology Management Program. At the discretion of DOH, any and all proposals may be rejected.

**a. Compliance Evaluation**

All responses to the RFP will be subject to an Initial Compliance Evaluation. All responses that pass the Initial Compliance Evaluation will be submitted to both the Technical Evaluation Committee and the Financial Evaluation Committee. Bidders that fail the Compliance Evaluation will be eliminated from the procurement process for this RFP.

In completing the Compliance Evaluation, DOH has the right to request additional information or request information that is necessary to satisfy the requirements of the Compliance Evaluation.

- i. The bidder has experience providing radiology utilization management determinations.
- ii. The bidder is currently authorized to do business in New York State.
- iii. The bidder (and /or any subcontractor) must disclose all business relationships with ownership interest in entities including, providers of medical services, medical devices, medical equipment, pharmaceutical products, or any other medical products that may be ordered or prescribed by a medical practitioner; or organizations or trade associations representing such health plans or providers in New York State. In cases where such relationship(s) and/or interests exist, the Bidder must describe how an actual or potential conflict of interest and/or disclosure of confidential information relating to this contract will be avoided.
- iv. Submitted on time and contains a signed transmittal letter.

**b. Technical Proposal Score (total - 75 points)**

DOH will evaluate and score proposals based on each bidder's ability to perform the Radiology Management Program as described in this RFP. The evaluation will be based on the bidder's written technical proposal; any responses to clarifying questions; information obtained through reference checks; DOH's and other State agencies' experience with the bidder or its proposed subcontractors.

**i. Organizational Background and Experience**

The bidder will be evaluated on how well the response demonstrates the ability of the organization to successfully implement the Radiology Management Program as described in the RFP, based on previous work experience and the organization's mission and technical capabilities.

**ii. Implementation and Administration**

The bidder will be evaluated on how well the response demonstrates the ability to successfully meet the Implementation and Administration Performance

Requirements for the Radiology Management Program as described in the RFP.

The following formula will be used to determine each bidder's final technical proposal score:

$t = (x / y) * 75$  where:

x = technical score of proposal being scored,

y = technical score of highest technical scoring proposal,

75 = total technical points available, and

t = normalized technical score for bidder being scored

### **c. Financial Proposal Score (Total – 25 points)**

The Financial Proposal score will be normalized based on a maximum score of 25 points and will be normalized against the financial proposal with the lowest price.

The following formula will be used to determine each bidder's final financial proposal score:

$t = (y / x) * 25$  where:

x = monthly cost of bid being scored,

y = monthly cost of lowest bid,

25 = Maximum total Financial Proposal score, and

t = Final normalized Financial Proposal score for bidder being scored

There is a maximum achievable total score of 100 (Technical Proposal score 75 plus Financial Proposal score 25). Bidders will be ranked from high to low according to their total combined Technical Proposal and Financial Proposal score. **The bidder with the highest total combined Technical Proposal score and Financial Proposal score will be selected.**

## **E. ADMINISTRATIVE**

### **1. Issuing Agency**

This Request for Proposal (RFP) is issued by the NYS Department of Health. The Department is responsible for the requirements specified herein and for the evaluation of all proposals.

### **2. Inquiries**

All substantive questions must be submitted in writing to:

Mr. Joseph Zeccolo  
New York State Department of Health  
Office of Health Insurance Programs  
Corning Tower, Rm. 2019  
Empire State Plaza  
Albany, New York 12237  
Phone: (518) 486-6830  
e-mail: [jxz02@health.state.ny.us](mailto:jxz02@health.state.ny.us)

To the degree possible, each inquiry should cite the RFP section and paragraph to which it refers.

Questions of a technical nature can be addressed in writing or via telephone by calling Joseph Zeccolo at the address or telephone number shown above. Questions are of a technical nature if they are limited to how to prepare your application (e.g., formatting) rather than relating to the substance of the application.

Prospective applicants should note that all clarification and exceptions, including those relating to the terms and conditions of the contract, are to be raised prior to the submission of an application.

Questions and answers, as well as any updates and/or modifications, will also be posted on the Department of Health's website at <http://www.nyhealth.gov/funding/> by the date identified on the cover sheet of this RFP. Bidders wishing to receive these documents by mail must send a request, in writing, to the Department at the address cited above.

After evaluation and selection of the vendor, all bidders will be notified in writing of the selection or non selection of their proposals. The name of the successful bidder may be disclosed. Press releases pertaining to this project shall not be made without prior written approval by the State and then only in conjunction with the issuing office.

### **3. Submission of Proposals**

Interested vendors should submit one original and six signed copies (no electronic submissions) of their Proposal. The copies must be received by the Department of Health not later than **3:00 pm (eastern time) on 9/2/09**.

Responses to this solicitation should be clearly marked **Radiology Management - Request for Proposal Submission** and directed to:

New York State Department of Health  
Office of Health Insurance Programs

Corning Tower Building, Room 2019  
Empire State Plaza  
Albany, New York 12237

It is the bidders' responsibility to see that bids are delivered to the address shown above prior to the date and time of the bid due date. Late bids due to delay by the carrier or not received in the Department's mail room in time for transmission to room 2019 will not be considered.

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

**4. The Department of Health Reserves the right to**

- a. Reject any or all proposals received in response to this RFP.
- b. Waive or modify minor irregularities in proposals received after prior notification to the bidder.
- c. Adjust or correct cost or cost figures with the concurrence of bidder if errors exist and can be documented to the satisfaction of DOH and the State Comptroller.
- d. Negotiate with vendors responding to this RFP within the requirements to serve the best interests of the State.
- e. Eliminate mandatory requirements unmet by all offerers.
- f. If the Department of Health is unsuccessful in negotiating a contract with the selected vendor within an acceptable time frame, the Department of Health may begin contract negotiations with the next qualified vendor(s) in order to serve and realize the best interests of the State.

**5. Payment**

If awarded a contract, the contractor will be paid by the State's designated payment office:

NYS Department of Health  
Division of Provider Relations and Utilization Management  
150 Broadway

Suite 6E  
Albany, NY 12204

Payment by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

The radiology management contractor will be paid retrospectively on a monthly basis for the total number of Medicaid fee for service beneficiaries as defined in the Scope of Project, who were enrolled on the 15<sup>th</sup> of the month for which services are being billed, and in accordance with the monthly per enrollee fee determined through the competitive bid process for this RFP. No later than ten (10) business days following the close of the month for which services are being billed, the contractor will submit an invoice, based on the total number of eligible beneficiaries defined within the Scope of the Project. Enrollment counts will be reconciled and payments adjusted accordingly, on a semi-annual basis (starting with the end of the first full year of the contract with the final payment at the 6<sup>th</sup> month anniversary of the termination of the contract).

**Five percent (5%) of the monthly capitation fee will be withheld and applied to the Performance Payment Pool (PPP).** The PPP will be paid out on a semi-annual basis (starting the end of the first full year of the contract with the final payment by the 6<sup>th</sup> month anniversary of the termination of the contract. The PPP will be paid for each element as follows provided the Contractor has achieved the performance requirement for each month within the semi-annual PPP period.

**a. Call Center Performance:** (must meet all of the following for total value of 50% of the PPP withhold):

Ninety-five percent (95%) of all call line inquiry attempts in any calendar month, are answered.

Total number of busy signals and abandoned calls measured against the total calls attempted shall not exceed five percent (5%) in any calendar month.

90% of calls in any calendar month, must be answered within three (3) rings or fifteen (15) seconds

98% calls in any calendar month, shall not exceed two (2) minute hold time for operator

The average wait time on hold per calendar month shall not be in excess of thirty (30) seconds.

**b. Prior Authorization Timeline Performance** (must meet all of the following for total value of 50% of the PPP withhold).

100% of all requests in a calendar month must be reviewed and decision made, or additional information requested, within two (2) business days of the receipt of the request. 95% must be completed at the time of the telephone or web portal interface.

The monthly capitation payment combined with The Performance Payment Pool payments will be the total compensation received by the contractor for performing the requirements of this RFP.

## **6. Term of Contract**

This agreement shall be effective upon approval of the NYS office of the State Comptroller.

The contract resulting from this RFP will be for an initial three (3) year period. DOH has the option to extend the contract for one two year period.

This agreement may be canceled at any time by the Department of Health giving to the contractor not less than thirty (30) days written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

## **7. Debriefing**

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder's proposal, and will not include any discussion of other proposals. Requests must be received no later than three months from date of award announcement.

## **8. Vendor Responsibility Questionnaire**

New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us). Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact the Department of Health or the Office of the State Comptroller for a copy of the paper form. Bidders must also

complete and submit the Vendor Responsibility Attestation (Attachment 7).

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

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

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

Winning bidders must also agree to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" for each state fiscal year included in the resulting contract. This report must be submitted annually to the Department of Health, the Office of the State Comptroller, and Department of Civil Service. Both of these forms are included as attachments to this document.

## **10. Lobbying Statute**

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

- a. makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b. requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d. authorizes the Temporary State Commission on Lobbying to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e. directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been

- debarred and publish such list on its website;
- f. requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment;
  - g. expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts;
  - h. modifies the governance of the Temporary State Commission on lobbying;
  - i. provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
  - j. increases the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
  - k. establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii) activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new section 1-t was added to the Legislative Law establishing an Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York State Commission on Public Integrity regarding procurement lobbying, the Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Commission on Public Integrity.

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

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

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

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

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

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

sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

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

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

Contractor must complete and submit to the Department of Health the form ST-220-CA attached hereto, certifying that the contractor filed the ST-220-TD with DTF. Failure to make either of these filings may render an offerer non-responsive and non-responsible. Offerers shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

#### **14. Piggybacking**

New York State Finance Law section 163(10)(e) (see also <http://www.ogs.state.ny.us/procurecounc/pgbguidelines.asp>) allows the Commissioner of the NYS Office of General Services to consent to the use of this contract by other New York State Agencies, and other authorized purchasers, subject to conditions and the Contractor's consent.

#### **15. M/WBE Utilization Plan for Subcontracting and Purchasing**

The Department of Health (DOH) encourages the use of Minority and/or Women Owned Business Enterprises (M/WBE's) for any subcontracting or purchasing related to this contract. Bidders who are not currently a New York State certified M/WBE must define the portion of all consumable products and personnel required for this proposal that will be sourced from a M/WBE. The amount must be stated in total dollars and as a percent of the total cost necessary to fulfill the RFP requirement. Supportive documentation must include a detail description of work that is required including products and services.

The goal for usage of M/WBE's is at least 10% of monies used for contract activities (Minority-owned – 5%; Women-owned – 5%). In order to assure a

good-faith effort to attain this goal, the DOH requires that bidders complete the M/WBE Utilization Plan (Attachment 14) and submit this Plan with their bid documents.

Bidders that are New York State certified MBE's or WBE's are not required to complete this form. Instead, such bidders must simply provide evidence of their certified status.

Failure to submit the above referenced Plan (or evidence of certified M/WBE status) may result in disqualification of the vendor from consideration for award.

## F. APPENDICES

The following will be incorporated as appendices into any contract resulting from this Request for Proposal. This Request for Proposal will, itself, be referenced as an appendix of the contract.

- APPENDIX A - Standard Clauses for All New York State Contracts
- APPENDIX B - Request for Proposal
- APPENDIX C - Proposal  
The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.
- APPENDIX D - General Specifications
- APPENDIX E  
Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:
  - Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1**:
    - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
    - **C-105.2** – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
    - **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.

- Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2**:
  - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
  - **DB-120.1** – Certificate of Disability Benefits Insurance
  - **DB-155** – Certificate of Disability Benefits Self-Insurance
- Appendix H - Health Insurance Portability and Accountability Act (HIPAA) (if applicable)
- Appendix X – Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

## **G. ATTACHMENTS**

1. Bid Form
2. No Bid Form
3. Appendix A – Standard Clauses for All New York State Contracts
4. Appendix D – General Specifications
5. Appendix X
6. Appendix H – Health Insurance Portability and Accountability Act (HIPAA)
7. Vendor Responsibility Attestation
8. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-TD
9. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-CA
10. State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term
11. State Consultant Services Form B, Contractor's Annual Employment Report
12. Volume and Cost by Procedure Code
13. NYSDOH Data Security Requirements
14. M/WBE Procurement Forms



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.** Offerer/Bidder certifies that all information provided to the Department of Health with respect to State Finance Law §139-k is complete, true and accurate.

\_\_\_\_\_

(Officer Signature)

\_\_\_\_\_

(Date)

\_\_\_\_\_

(Officer Title)

\_\_\_\_\_

(Telephone)

\_\_\_\_\_

(e-mail Address)

**Attachment 2**

**NEW YORK STATE  
DEPARTMENT OF HEALTH**

**NO-BID FORM**

PROCUREMENT TITLE: \_\_\_\_\_ FAU # \_\_\_\_\_

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

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

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

- Please retain our firm on your mailing list.

\_\_\_\_\_  
(Firm Name)

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

\_\_\_\_\_  
(Date)

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

\_\_\_\_\_  
(Telephone)

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

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

### Attachment 3

## APPENDIX A 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 setoff 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.

## Attachment 4

### 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 judgment 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 judgment of the State Comptroller, have been satisfactorily performed by the Contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work which the Contractor was engaged in at the time of such termination, subject to audit by the State Comptroller.

U. Termination Provision

Upon termination of this agreement, the following shall occur:

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

V. Conflicts

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

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT

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

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

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

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

X. Contract Insurance Requirements

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:
  - a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).
  - b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.

- i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
- ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
- iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

Y. Certification Regarding Debarment and Suspension

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

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

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

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List

of parties Excluded from Federal Procurement and Nonprocurement Programs.

- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Z. Confidentiality Clauses

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

2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.
3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.
4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.
5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.
6. All subcontracts shall contain provisions specifying:
  - a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and
  - b. that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

AA. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15<sup>th</sup> following the end of each state fiscal year included in this contract term. This report must be submitted to:
  - a. The NYS Department of Health, at the STATE's designated payment office address included in this AGREEMENT; and
  - b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11<sup>th</sup> Floor, Albany NY 12236 ATTN: Consultant Reporting - or via fax at (518) 474-8030 or (518) 473-8808; and
  - c. The NYS Department of Civil Service, Alfred E. Smith Office Building, Albany NY 12239, ATTN: Consultant Reporting.

BB. Provisions Related to New York State Procurement Lobbying Law

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

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

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

DD. Lead Guidelines

All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the

State's acceptance of this contract.

**Attachment 5**

**Agency Code 12000  
APPENDIX X**

Contract Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

Amendment Number X-\_\_\_\_\_

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through NYS Department of Health, having its principal office at Albany, New York, (hereinafter referred to as the STATE), and \_\_\_\_\_ (hereinafter referred to as the CONTRACTOR), for amendment of this contract.

This amendment makes the following changes to the contract (check all that apply):

- \_\_\_\_\_ Modifies the contract period at no additional cost
- \_\_\_\_\_ Modifies the contract period at additional cost
- \_\_\_\_\_ Modifies the budget or payment terms
- \_\_\_\_\_ Modifies the work plan or deliverables
- \_\_\_\_\_ Replaces appendix(es) \_\_\_\_\_ with the attached appendix(es) \_\_\_\_\_
- \_\_\_\_\_ Adds the attached appendix(es) \_\_\_\_\_
- \_\_\_\_\_ Other: (describe) \_\_\_\_\_

This amendment *is* / *is not* a contract renewal as allowed for in the existing contract.

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

Prior to this amendment, the contract value and period were:

\$ \_\_\_\_\_  
(Value before amendment)

From \_\_\_\_ / \_\_\_\_ / \_\_\_\_ to \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
(Initial start date)

This amendment provides the following addition (complete only items being modified):

\$ \_\_\_\_\_

From \_\_\_\_ / \_\_\_\_ / \_\_\_\_ to \_\_\_\_ / \_\_\_\_ / \_\_\_\_

This will result in new contract terms of:

\$ \_\_\_\_\_  
(All years thus far combined)

From \_\_\_\_ / \_\_\_\_ / \_\_\_\_ to \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
(Initial start date) (Amendment end date)

Signature Page for:

Contract Number: \_\_\_\_\_ Contractor: \_\_\_\_\_

Amendment Number: X-\_\_\_\_\_

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

**CONTRACTOR SIGNATURE:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(signature)

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

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

STATE OF NEW YORK )  
 ) SS:  
County of \_\_\_\_\_ )

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 AGENCY SIGNATURE**

"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."

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(signature)

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

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

-----  
**ATTORNEY GENERAL'S SIGNATURE**

By: \_\_\_\_\_ Date: \_\_\_\_\_

**STATE COMPTROLLER'S SIGNATURE**

By: \_\_\_\_\_ Date: \_\_\_\_\_

## Attachment 6

## 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"), Health Information Technology for Economic and Clinical Health Act ("HITECH") and implementing regulations, including those at 45 CFR Parts 160 and 164 (the "Privacy Rule").

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. Such report shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed during any breach of such information.
- (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.
- (k) Effective February 17, 2010, the Business Associate agree to comply with the security standards for the protection of electronic protected health information in 45 CFR 164.308, 45 CFR 164.310, 45 CFR 164.312 and 45 CFR 164.316.

### 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.

#### VIII. Miscellaneous

- (a) *Regulatory References.* A reference in this Agreement to a section in the 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, HIPAA, Public Law 104-191, and HITECH, Public Law 111-5, Division A, Title XIII and Division B, Title IV.

- (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 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 7**

**Vendor Responsibility Attestation**

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

**Choose one:**

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

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

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

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

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

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

**Attachment 8**

**NYS Taxation and Finance Form ST-220-TD**

This form may be accessed electronically at:

[http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td_606_fill_in.pdf)

**Attachment 9**

**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](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf)

**Attachment 10**

State Consultant Services  
**FORM A**

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

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

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

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

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared:     /     /

Page     of  
(use additional pages if necessary)

## Instructions

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

- Form A: This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.
- Form B: This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15<sup>th</sup> 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, 11<sup>th</sup> 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](http://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 11**

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 15<sup>th</sup> of each year to the following three addresses:
4. the designated payment office (DPO) outlined in the consulting contract.
  5. NYS Office of the State Comptroller  
Bureau of Contracts  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236  
Attn: Consultant Reporting  
or via fax to -  
(518) 474-8030 or (518) 473-8808
  6. 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](http://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 12

Volume by Procedure Code, Allowed Amount and Total Payment  
Non-emergency Outpatient Radiology

	Claims	Dollars Paid	Proc Cd	Proc Cd Desc
\$500	64	\$21,970	70336	MAGNETIC IMAGE, JAW JOINT
\$120	74,316	\$4,981,235	70450	CT HEAD/BRAIN W/O DYE
\$145	950	\$75,999	70460	CT HEAD/BRAIN W/DYE
\$217	3,152	\$370,780	70470	CT HEAD/BRAIN W/O & W/DYE
\$120	2,728	\$212,460	70480	CT ORBIT/EAR/FOSSA W/O DYE
\$145	277	\$34,379	70481	CT ORBIT/EAR/FOSSA W/DYE
\$217	163	\$17,451	70482	CT ORBIT/EAR/FOSSA W/O&W/DYE
\$120	8,087	\$569,412	70486	CT MAXILLACIAL W/O DYE
\$145	561	\$54,822	70487	CT MAXILLACIAL W/DYE
\$217	89	\$10,941	70488	CT MAXILLACIAL W/O & W/DYE
\$140	1,114	\$89,849	70490	CT ST TISSUE NECK W/O DYE
\$170	3,438	\$354,825	70491	CT ST TISSUE NECK W/DYE
\$254	520	\$78,152	70492	CT SFT TSUE NCK W/O & W/DYE
\$217	896	\$83,355	70496	CT ANGIOGRAPHY, HEAD
\$254	592	\$58,457	70498	CT ANGIOGRAPHY, NECK
\$500	333	\$122,412	70540	MRI ORBIT/FACE/NECK W/O DYE
\$500	85	\$26,284	70542	MRI ORBIT/FACE/NECK W/DYE
\$500	846	\$242,236	70543	MRI ORBT/FAC/NCK W/O & W/DYE
\$500	2,878	\$588,605	70544	MR ANGIOGRAPHY HEAD W/O DYE
\$500	164	\$32,292	70545	MR ANGIOGRAPHY HEAD W/DYE
\$500	239	\$54,354	70546	MR ANGIOGRAPH HEAD W/O&W/DYE
\$500	777	\$142,451	70547	MR ANGIOGRAPHY NECK W/O DYE
\$500	289	\$49,174	70548	MR ANGIOGRAPHY NECK W/DYE
\$500	445	\$99,462	70549	MR ANGIOGRAPH NECK W/O&W/DYE
\$500	10,191	\$2,881,848	70551	MRI BRAIN W/O DYE
\$500	697	\$188,731	70552	MRI BRAIN W/DYE
\$500	11,157	\$3,145,163	70553	MRI BRAIN W/O & W/DYE
\$500	6	\$2,220	70557	MRI BRAIN W/O DYE
\$500	2	\$620	70558	MRI BRAIN W/DYE
\$140	13,430	\$1,123,265	71250	CT THORAX W/O DYE
\$170	19,150	\$1,844,291	71260	CT THORAX W/DYE
\$254	1,445	\$183,997	71270	CT THORAX W/O & W/DYE
\$140	4,319	\$293,365	71275	CT ANGIOGRAPHY, CHEST
\$500	82	\$25,090	71550	MRI CHEST W/O DYE
\$500	16	\$3,439	71551	MRI CHEST W/DYE
\$500	110	\$35,593	71552	MRI CHEST W/O & W/DYE
\$500	152	\$39,241	71555	MRI ANGIO CHEST W OR W/O DYE
\$140	7,351	\$502,662	72125	CT NECK SPINE W/O DYE
\$170	131	\$17,897	72126	CT NECK SPINE W/DYE
\$254	21	\$2,166	72127	CT NECK SPINE W/O & W/DYE
\$140	1,042	\$74,605	72128	CT CHEST SPINE W/O DYE
\$170	95	\$13,805	72129	CT CHEST SPINE W/DYE
\$254	19	\$1,673	72130	CT CHEST SPINE W/O & W/DYE
\$140	2,884	\$214,676	72131	CT LUMBAR SPINE W/O DYE

\$170	290	\$35,205	72132	CT LUMBAR SPINE W/DYE
\$254	36	\$3,871	72133	CT LUMBAR SPINE W/O & W/DYE
\$500	5,725	\$1,801,691	72141	MRI NECK SPINE W/O DYE
\$500	176	\$38,558	72142	MRI NECK SPINE W/DYE
\$500	2,115	\$556,419	72146	MRI CHEST SPINE W/O DYE
\$500	119	\$26,776	72147	MRI CHEST SPINE W/DYE
\$500	11,276	\$3,663,071	72148	MRI LUMBAR SPINE W/O DYE
\$500	199	\$50,217	72149	MRI LUMBAR SPINE W/DYE
\$500	1,520	\$397,995	72156	MRI NECK SPINE W/O & W/DYE
\$500	1,127	\$260,415	72157	MRI CHEST SPINE W/O & W/DYE
\$500	2,134	\$576,496	72158	MRI LUMBAR SPINE W/O & W/DYE
\$500	12	\$2,188	72159	MR ANGIO SPINE W/O&W/DYE
\$254	493	\$47,270	72191	CT ANGIOGRAPH PELV W/O&W/DYE
\$140	27,835	\$1,817,744	72192	CT PELVIS W/O DYE
\$170	37,978	\$2,858,850	72193	CT PELVIS W/DYE
\$254	3,751	\$435,763	72194	CT PELVIS W/O & W/DYE
\$500	755	\$243,739	72195	MRI PELVIS W/O DYE
\$500	174	\$52,965	72196	MRI PELVIS W/DYE
\$500	811	\$260,822	72197	MRI PELVIS W/O & W/DYE
\$500	115	\$28,039	72198	MR ANGIO PELVIS W/O & W/DYE
\$140	792	\$68,062	73200	CT UPPER EXTREMITY W/O DYE
\$170	117	\$10,659	73201	CT UPPER EXTREMITY W/DYE
\$254	21	\$2,517	73202	CT UPPR EXTREMITY W/O&W/DYE
\$254	13	\$1,989	73206	CT ANGIO UPR EXTRM W/O&W/DYE
\$500	336	\$107,932	73218	MRI UPPER EXTREMITY W/O DYE
\$500	15	\$3,277	73219	MRI UPPER EXTREMITY W/DYE
\$500	172	\$55,175	73220	MRI UPPR EXTREMITY W/O&W/DYE
\$500	3,511	\$1,234,434	73221	MRI JOINT UPR EXTREM W/O DYE
\$500	102	\$35,410	73222	MRI JOINT UPR EXTREM W/DYE
\$500	186	\$55,808	73223	MRI JOINT UPR EXTR W/O&W/DYE
\$500	20	\$4,376	73225	MR ANGIO UPR EXTR W/O&W/DYE
\$140	2,110	\$168,386	73700	CT LOWER EXTREMITY W/O DYE
\$170	922	\$63,359	73701	CT LOWER EXTREMITY W/DYE
\$254	74	\$8,566	73702	CT LWR EXTREMITY W/O&W/DYE
\$254	160	\$16,608	73706	CT ANGIO LWR EXTR W/O&W/DYE
\$500	1,199	\$394,695	73718	MRI LOWER EXTREMITY W/O DYE
\$500	73	\$19,590	73719	MRI LOWER EXTREMITY W/DYE
\$500	643	\$179,181	73720	MRI LWR EXTREMITY W/O&W/DYE
\$500	7,812	\$2,729,143	73721	MRI JNT LWR EXTRE W/O DYE
\$500	65	\$20,239	73722	MRI JOINT LWR EXTR W/DYE
\$500	376	\$104,842	73723	MRI JOINT LWR EXTR W/O&W/DYE
\$500	315	\$83,968	73725	MR ANG LWR EXT W OR W/O DYE
\$140	28,714	\$1,972,175	74150	CT ABDOMEN W/O DYE
\$170	35,590	\$2,813,427	74160	CT ABDOMEN W/DYE
\$254	8,997	\$1,142,615	74170	CT ABDOMEN W/O & W/DYE
\$254	692	\$69,364	74175	CT ANGIO ABDOM W/O & W/DYE
\$500	1,519	\$420,696	74181	MRI ABDOMEN W/O DYE
\$500	289	\$80,656	74182	MRI ABDOMEN W/DYE
\$500	2,051	\$645,088	74183	MRI ABDOMEN W/O & W/DYE

\$500	477	\$131,567	74185	MRI ANGIO, ABDOM W ORW/O DYE
\$254	237	\$30,370	75635	CT ANGIO ABDOMINAL ARTERIES
\$75	170	\$13,941	76380	CAT SCAN FOLLOW-UP STUDY
	12	\$1,304	76390	MR SPECTROSCOPY
	4	\$465	76497	CT EDURE
	2	\$185	76498	MRI EDURE
\$1,634	20	\$13,249	78459	HEART MUSCLE IMAGING (PET)
\$1,634	9	\$5,230	78491	HEART IMAGE (PET), SINGLE
\$1,634	364	\$561,829	78492	HEART IMAGE (PET), MULTIPLE
\$1,634	83	\$90,266	78608	BRAIN IMAGING (PET)
\$1,634	1	\$6	78609	BRAIN IMAGING (PET)
	<b>370,209</b>	<b>\$45,484,447</b>		<b>Total of all Claim Types</b>

## Attachment 13

# NYSDOH SECURITY REQUIREMENTS

## 1. INTRODUCTION

1.1. Organizations which bid to develop or maintain systems for the New York State Department of Health (NYSDOH) must present (i) a security plan document and (ii) security experience information as part of their bid proposal. The security experience information needs to include the bidder's experiences in managing and addressing IT and application security. The security plan document should address how the bidder will manage security of the system. Bidders' security plan must conform to requirements listed below, as well as those indicated throughout this RFP.

Bidders must describe controls addressing these security requirements and specify whether the vendor/contractor or NYSDOH is responsible for implementing and supporting these controls. Vendors and NYSDOH program area are required to work with NYSDOH CISO (New York State Department of Health Chief Information Security Officer) to satisfy these requirements.

An acceptable security plan is mandatory and the bidder's security plan will be scored. Individual components of the security plan are scored in a weighted fashion to evaluate how effectively a vendor will be addressing and managing security requirements. Bidder's security plan must meet a minimum acceptable weighted "security" score in order to 'pass' (This is a Pass/Fail requirement). The following are the evaluation criteria on which the components of a bidder's security plan will be scored. Specific requirements for each are detailed in Section 2.

1) Secure Transmission 2) Systems and Network Security 3) Application Security Requirements 4) Data integrity, 5) Data availability 6) Account management 7) Security Incident Management and Audit Requirements 8) Proprietary Information, Copyright and Software Licensing 9) Data Confidentiality

1.2. When the contract is for management and maintenance of an existing system, NYSDOH CISO-approved security may already be in place for many of the security components required. Gaps in these requirements within existing components will be the responsibility of the NYSDOH program area unless specified in the RFP. Bidders will have the responsibility to ensure new components are in compliance with the security standards in this document and throughout the RFP, as applicable.

NYSDOH program area will make it known in the RFP which requirements will be managed by NYSDOH. The vendor should describe measures to address all other security requirements in this document in their security plan, as well as indicating which will be handled by NYSDOH program area.

For example, if a component of the RFP's network account management and authentication is accomplished using the NYSDOH Health Commerce System (HCS) which is a NYSDOH CISO-approved system, the bidder can specify that particular network authentication requirement is satisfied by NYSDOH. The bidder should include a description of the bidder's understanding of how authentication is being handled and what the bidder's approach is regarding this requirement.

1.4 When the application/system is hosted internally, i.e., within the network of NYSDOH, network security policies will adhere to NYSDOH infrastructure as defined in Section 2.2.3 of this document, NYSDOH Network Configuration Policy. NYSDOH CISO performs vulnerability scans as required on internally hosted systems using standard approved tools. Vulnerabilities are expected to be corrected in a timely manner, with critical vulnerabilities fixed quickly. Bidder will work with the NYSDOH program area and/or CISO during security assessment, vulnerability fixes, and security testing.

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

- (a) Ability to scale to large number of users
- (b) Providing Data Integrity
- (c) Providing for security of the data
- (d) Built in audit capabilities

- (e) Providing point in time recovery
- (f) Providing back up and recovery capabilities
- (g) Providing logging information for back up, recovery and auditing
- (h) Providing support for large objects (blobs, etc)
- (i) Providing support for clustering and load balancing
- (j) Providing SSL connectivity
- (k) Providing data confidentiality
- (l) Providing data availability near 24/7/365 if required and arranged for.
- (m) Compliance with all NYSDOH security policies

If necessary and if it is applicable to this RFP, bidder can obtain more information on NYSDOH web server capabilities by contacting the NYSDOH contact person for this RFP.

If the system is to be hosted internally within NYSDOH, the bidder and NYSDOH program area will work with NYSDOH ISHSG system and network staff to ensure adequate services and capabilities exist for the proposed system. Program area will be responsible for funding additional services as needed and may pass this requirement to bidders in their RFP.

1.5 When the systems (databases, files, data, networks, and/or applications) are hosted outside NYSDOH network (i.e., hosted externally), bidder must satisfy all requirements detailed below:

1.5.1. Bidder will ensure that network and host security is defined and in accordance with NYSDOH Network Configuration Policy (section 2.2.3).

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

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

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

1.5.5 Bidder will document for NYSDOH CISO review and approval of how sessions are established.

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

1.5.7. Bidder will ensure that their network is eavesdrop-proof through the use of technologies including but not limited to secure hubs and/or switches. Wireless networks must use WPA2 or higher encryption, they must not broadcast SSIDs and they must ensure only authorized hosts can connect to the WLAN. Wireless may not be used for secure private e-commerce or external-class networks as defined in the Network Configuration Policy (section 2.2.3).

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

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

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

1.5.11. Bidder ensures that periodic network vulnerability scans and tests be performed. These scans and/or tests should include and not be limited to open ports scans and network intrusion detection. Bidder needs to address this requirement within the security plan, and the plan will be reviewed by NYSDOH CISO. For externally hosted systems, bidder needs to specify tools that will be used for vulnerability scans in the security assessment section. Within NYSDOH managed (internally hosted) networks, standard tools are used in systems like the Health Commerce System (HCS), and these tools were approved by NYSDOH CISO. Similar standard tools must be used by the bidder for scanning in externally hosted systems as well, and these tools will be reviewed for acceptability by NYSDOH CISO. After review, NYSDOH CISO must approve the tools that the bidder plans to use for vulnerability scanning. Bidders can request NYSDOH for the names of the scanning tools used in NYSDOH internally hosted applications/systems, if required. NYSDOH CISO reserves the right to run periodic vulnerability scans and review reports from scans as needed. Scans and tests will be performed prior to being implemented on production networks and after software of operating systems or configuration changes are made. Bidder agrees to provide all source code for periodic review by NYSDOH CISO. Bidder is contractually obligated to fix critical vulnerabilities identified during scans and follow NYSDOH CISO's security recommendations. Scans and test must be performed at least annually and more frequently for critical and/or high-risk systems, such as those exposed to external users and/or the Internet. Scan frequencies should be defined within the scope of work.

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

1.5.13. Bidder will describe and document the steps to physically secure the location of servers or workstations that will contain applications, source code and/or databases used during the length of this contract as described in this RFP. Bidder will describe and document how all these physical devices are protected.

1.5.14. Bidder will describe, document and perform periodic back-ups of data, databases, software, applications including and not limited to source code of anything defined within the scope of this RFP. Bidders are encouraged to address backup security, including the use to encryption of backup media.

1.5.15. Systems hosted outside NYSDOH-managed networks, including all hardware, software, networking components, applications, data, etc, must have the same level of security as that of systems hosted within NYSDOH networks. Some of the capabilities of servers hosted internally are highlighted in the section 1.4. Bidder needs to do periodic reviews and keep externally hosted system up to date to meet all security requirements. Bidder needs to work with NYSDOH CISO in making sure that the externally hosted system is at least as secure as NYSDOH-internally hosted systems. NYSDOH CISO reserves the right to review if bidder's externally hosted system is secure and if it satisfies NYSDOH security requirements completely.

1 Periodically NYSDOH may update security policies pertaining to systems hosted externally. NYSDOH will make updated standards and polices available to the bidder.

## 2 SECURITY REQUIREMENTS

### 2.1 SECURE TRANSMISSION

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

2.1.1. All information transfers must be secure from point to point as outlined in this section commensurate with data.

2.1.2. No sensitive or confidential information, current, historical, archived files or other information, will be allowed via unencrypted email.

2.1.3 Information transmission must be commensurate with sensitivity and confidentiality of the data. This secure transmission policy applies to all sensitive and confidential information and bidders must include details on how secure transmission is addressed, in their Security Plan.

2.1.4. Appropriate measures to protect information during transmission must be in place. These include but are not limited to: use of data encryption, and/or using transmission headers, checksums, digital signatures and control totals.

2.1.5. Assurance must exist in the security plan that information classified as “confidential” (as defined in this RFP, in HIPAA, NYSDOH policies related to data classification, and/or other NYS Laws and Regulations) must not be transmitted across an open or insecure network unless it is encrypted.

2.1.6. Encryption implementations must be approved by NYSDOH CISO before being utilized. The management of encryption keys and mechanisms must be planned and must conform to NYSDOH standards of encryption management agreed upon with NYSDOH CISO.

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

## 2.2 SYSTEMS AND NETWORK SECURITY

### 2.2.1 Server Requirements

Security requirements for server(s) used during the length of this RFP/Contract are included but not limited to what is outlined in this section.

All information must be stored on appropriately secured servers, as required in Section 2.2.3, Network Configuration Policy, and they need to have appropriate level of access control.

Systems used in the course of this contract must have appropriate physical controls and be described in the Security Plan.

NYSDOH uses and maintains anti-virus software to ensure virus and anti-malware protection steps are in place to ensure safe operation of the network(s). Bidder’s approach towards this should be included in the security plan. NYSDOH CISO reserves the right to review the virus protection solution and make recommendations to ensure proper virus protection/prevention.

### 2.2.2 Remote Access Control

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

2.2.2.2. All remote access must be logged at all times, including the ability to produce documentation and justification for any lapses in logging.

2.2.2.3. The use of modems attached to any permanently network-connected device is not allowed unless approved in writing by NYSDOH CISO.

### 2.2.3 Network Configuration Policy

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

All networks:

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

Untrusted networks:

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

#### Requirements:

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

#### External networks:

Definition: servers that require unauthenticated access from untrusted networks, such as the Internet. Example: Network containing public web or mail servers

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

#### E-commerce networks:

Definition: Servers that provide authenticated access from untrusted networks, such as the Internet. Example: Networks used to transact confidential information with clients and/or partners

- No client (user) machines should reside on an e-commerce network
- Devices should be protected by packet-filtering firewalls and/or firewall-grade routers
- Devices must run robust operating systems and be hardened against attack. Hardening includes loading of all applicable patches as they're released and removing unneeded services
- Network logs should be archived for a least 6 months
- Application logging must be activated where ever possible and reviewed at least every business day
- Confidential or sensitive information stored on devices in this network must be secured independently from network access security control (for example, separate password files) where ever possible
- Confidential or sensitive information stored on devices in this network must be encrypted using above-average encryption strength (currently 128-bit) except where the information is required for basic system operation and encryption beyond industry-standard levels (currently 56-bit) is not available (example: /etc/shadow)
- Confidential or sensitive information transferred to or across untrusted networks must be encrypted
- System and application standards designed to protect the systems, applications and network must be established by the system administrators
- Access to systems must be limited to needed parties and must be approved, where applicable, by data owners
- Inbound and outbound connectivity should be limited to needed services\*\*
- Inbound connectivity from untrusted networks must be authenticated. Authentication must be encrypted to industry-standard levels (at least 56-bit at time of writing).
- Authentication systems must be centrally managed

#### Private networks:

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

- Devices should be protected by packet-filtering firewalls and/or firewall-grade routers
- Devices should be maintained in a secure state.
- An automated virus-protect solution must be in operation
- Network logs should be archived for a least 6 months
- Application logging should be activated wherever possible and frequently reviewed by the individual(s) responsible for the application.
- Access to systems must be limited to needed parties and must be approved, where applicable, by data owners
- No inbound connectivity from untrusted networks is permitted

- Inbound connectivity from e-commerce networks is permitted provided the private network devices run robust operating systems and hardened against attack. Hardening includes loading of all applicable patches as they're released and removing unneeded services. The needed services cannot provide access beyond the scope of the need. \*\*
- Outbound connectivity should be limited to only to needed services\*\*
- Authentication is required for access to confidential or sensitive information. This includes information temporarily or permanently stored on PCs or other single-user devices

Secured private networks:

Definition: Servers that hold the organizations most sensitive information and are secured from all other types of networks Example: Network containing database servers containing credit card or patient-identifying data

- No client (user) machines should reside on a secured private network
- Devices should be protected by packet-filtering firewalls and/or firewall-grade routers
- Devices must run robust operating systems and be hardened against attack. Hardening includes loading of all applicable patches as they're released and removing unneeded services
- Network logs should be archived for a least 6 months
- Application logging must be activated where ever possible and reviewed at least every business day
- Confidential or sensitive information stored on devices in this network must be secured independently from network access security control (for example, separate password files) where ever possible
- System and application standards designed to protect the systems, applications and network must be established by the system administrators
- Access to systems must be limited to needed parties and must be approved, where applicable, by data owners
- Inbound and outbound connectivity should be limited to needed services\*\*
- No inbound connectivity from or through untrusted networks is permitted.
- Authentication systems must be centrally managed

Recommended Best Practices:

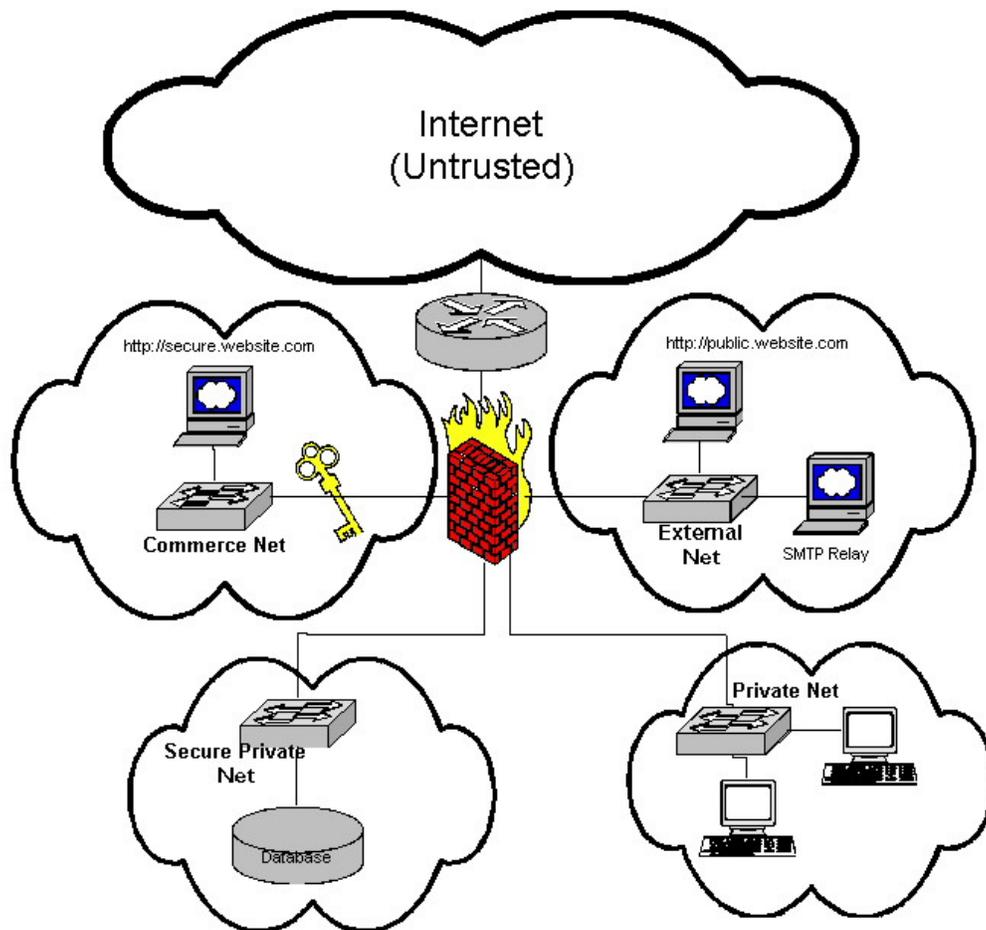
- Network Intrusion Detection Systems be deployed at strategic locations
- Network Mapping/Scanning be done at regular intervals to detect vulnerabilities

NYSDOH Auditing

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

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

# NYSDOH Network Configuration Policy Diagram



## 2.3 APPLICATION SECURITY REQUIREMENTS

Systems and application development must comply with NYSDOH security policies outlined in this document. When new application code is developed, contractor needs to document the security within their Software Development Life Cycle (SDLC) methodology. The NYSDOH CISO reserves the right to review the development plan and may apply additional requirements for promotion of applications.

NYSDOH CISO review and approval do not apply to emergency code fixes that need to be done during production emergencies, however NYSDOH program area staff is required to notify the NYSDOH CISO immediately when emergency fixes are applied and must work to correct any vulnerabilities discovered in these updates in a timely manner. Any new or updated application code is still expected to go through NYSDOH CISO periodic application security scanning and vulnerabilities must be corrected as specified by NYSDOH CISO in consultation with DOH management.

Applications will be scanned for security vulnerabilities by NYSDOH CISO. Periodically, the NYSDOH CISO may request a copy of the current software source code for its own internal security testing, archiving or other purposes. The winning bidder is expected to work with the NYSDOH CISO to manage security assessment and fix critical vulnerabilities that may jeopardize the security of the system, as specified by NYSDOH CISO and DOH program area. Bidders need to describe in their security plans, what their responsibilities regarding security testing and fixing of critical security vulnerabilities will be.

2.3.1. Testing Application security tests, reviews and audits must be conducted regularly to evaluate the security of systems and applications. Applications must be tested for vulnerabilities prior to promotion to production. Issues must be identified and rectified as found. When changes are made to related software or applications, testing will be performed again to ensure NYSDOH compliance.

2.3.1.1. Bidder needs to describe their proposed security testing procedures and include contractor's responsibilities for security testing in their security plan. Contractors working with systems on NYSDOH-managed networks are encouraged to use the source code analysis and application security scanning tools managed by the NYSDOH CISO, but may specify alternatives. Alternatives must be approved by NYSDOH CISO.

2.3.1.2. External application testing platforms, if currently in use, as well as software source code testing platforms that are used must be included in the security plan along with a description of the level of bidder's expertise in using these tools.

2.3.2.3. Use of live data for testing purposes: At no time should any application testing be performed on live data. Where ever possible, testing should be created to mimic live data but not contain any live information. Simulation of live data is suggested.

2.3.2. Application vulnerability areas include the following and should be addressed in your Security Plan as applicable.

2.3.2.1. Input Validation: ensure that all input validation be achieved in a manner to prevent any malicious requests or code from being processed.

2.3.2.2 Output Validation: ensure that all data retrieved from inter process operations has been appropriately validated.

2.3.2.3. Type Checking: Ensure that all data retrieved from inter process operations, including screen input, has been validated for the expected data type.

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

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

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

2.3.2.7. Caching SSL Pages: ensure all feasible precautions are taken to ensure that any cached SSL pages be removed upon exiting of the browser and/or the website.

2.3.2.8. Hidden Form Variables: ensure use of hidden form fields is limited; treat these fields with the same limited trust as other form fields and validate data provided in these fields as such.

2.3.2.9. Cookies: ensure that any cookies required for any and all web based applications will expire upon completion of the application. No cookies should be allowed to remain for an indefinite period of time. A Maximum Auth Cookie timeout will be required. Cookie values received from the client should be validated as with all other input. Authorization cookies must have an expiration time and comply with NYS Cyber Security Policy P03 002.

2.3.2.10. Tool Sets and External Code: ensure that at no time, freely available modules or programs (example: freeware, downloadable scripts, applications or modules) will be used during the scope of the RFP/Contract unless they have been thoroughly tested for application security vulnerabilities and concerns, and/or were approved by NYSDOH CISO. The source code of this program, module or tool must be available for application security scans. If the source code is unavailable, then this module, program or tool should not be included into any application or part of this RFP/Contract. Use of code, modules and/or programs obtained from external sources must be in compliance with licenses agreements.

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

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

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

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

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

2.3.7. NYSDOH encourages scanning application source code for security vulnerabilities on a regular basis and addressing vulnerabilities as discovered. Contractors are expected to address critical findings on a regular/ongoing basis.

2.3.8. NYSDOH CISO will conduct periodic reviews of adherence to application security policies, test procedures, guidelines and standards. The NYSDOH CISO and the contractor will work together towards achieving as vulnerability free an outcome of the scan as possible.

2.3.9. All applications must be tested for vulnerabilities prior to promotion into production. Results must be cleared with NYSDOH CISO. NYSDOH CISO approval is required prior to promotion into production.

## 2.4. Data Integrity

Data integrity is an integral part of any application or system. The Security Plan must include specific details related to preserving the integrity of data maintained in the system.

No unauthorized person or process shall be allowed to update data or in any way impact data integrity. Account management requirements should be satisfied completely. Account management is detailed in 2.6.

The following should be explained in the Security Plan:

2.4.1. Explain how the integrity of all information sources within the scope of this RFP is maintained.

2.4.2. Explain how authorization required for all production system input, is accomplished and tracked as appropriate.

2.4.3. Explain how the system is free from risks of undetected changes.

2.4.4 Explain how integrity of data is maintained on network systems. For internally hosted (NYSDOH) systems, NYSDOH runs periodic network scans and tests to help ensure the integrity of data and network systems.

2.4.5 Explain how a secure environment for the Source Code of any software defined as part of this RFP will be maintained.

2.4.6. Explain how the risks that data input could contain malicious exploits, such as file uploads, will be detected, mitigated and handled.

## 2.5. Data Availability

Data must be available to the degree specified in the RFP. The Security Plan must clearly describe the plan for ensuring Business Continuity, Disaster Recovery and Data Availability and the requirements/needs around each.

Data should be recoverable from backups when required. Measures must be in place to mitigate data loss. The security plan must specify the backup requirements, who is responsible for each component, how this will be achieved and how it will be verified, including the transfer of recent copies of backups to a physically and environmentally secure off-site storage location, if applicable.

Backup procedures and practices should be monitored regularly and any back up failures should be corrected immediately. Testing the backups should be done regularly to determine if data files and programs can be recovered. All recovery of information from back up and restoration procedures should be documented and appropriate staff well trained for executing successful recoveries during disasters and during situations of data loss.

Backup procedures and practices must comply with all security requirements included in this document, including data integrity and security of data transmission and access controls.

## 2.6. Account Management

Account management must be described in the security plan. This must address the requirements listed below which are found in NYS Cyber Security Policy P03-002 Part 10, Access Control Policy. This can be found at [www.cscic.state.ny.us/lib/policies](http://www.cscic.state.ny.us/lib/policies). It is the bidder's responsibility to obtain a copy of this policy. NYSDOH CISO reserves the right to review and approve the account management process.

Data systems hosted within NYSDOH's networks and made available to external entities must utilize the NYSDOH's existing account systems for at least primary authentication unless explicitly approved by NYSDOH CISO. Data systems to be hosted outside the NYSDOH's networks are encouraged to use these systems as well, however, vendor proposals must include plans to secure the inter-network communications and ensure security of this configuration. Vendors are welcome to use additional authentication and/or authorization controls but must document the need for such and provide details related to account management as described in this section. Access management systems different from standard approved NYSDOH systems, such as Healthcom Commerce System (HCS), must be reviewed and approved by the NYSDOH CISO.

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

2.6.2. Information owners are responsible for determining who should have access to protected resources within their jurisdiction, and what those access privileges will be (read, update, delete, etc.). These access privileges will be granted in accordance with the user's job responsibilities. Workforce members must not be allowed access to NYSDOH information systems until properly authorized.

2.6.3. Only appropriate information owners or their delegates will make authorized requests for the registration and granting of access rights for personnel onto NYSDOH systems. As such, information owners and delegates must be formally designated, approved by management and documented. NYSDOH CISO reserves the right to review the authorization process implemented.

2.6.4. A user management and access tracking process shall be established and documented to outline and identify all functions of user management Standards and procedures must exist for account management in accordance with NYS Cyber Security Policy P03-002 which include:

- a. Account provisioning, updating, de-provisioning and distribution (including, user identity verification, enrolling new users, deleting users and reviewing users)
- b. Authorization assignment and revocation
- c. Privileged account management (including granting, removing and periodic review)
- d. Authentication token (such as password) management (including reset) and distribution, including user identification procedures
- e. Access by third parties, such as sub-contractors, and vendors

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

2.6.6. For applications that interact with individuals that are not employed by NYSDOH, the information owner is responsible for ensuring an appropriate user management process is implemented. Standards for the registration of such external users must be defined, to include the credentials that must be provided to prove the identity of the user requesting registration, validation of the request and the scope of access that may be provided. These standards will be reviewed and approved by NYSDOH CISO. Guidelines given in "Identity and Access Management: Trust Model" (found at [www.oft.state.ny.us](http://www.oft.state.ny.us)) should be followed.

2.6.7. Logon banners are implemented where that feature exists to inform all users that the system is for NYSDOH business or other approved use consistent with NYSDOH policy, and that user activities may be monitored and the user should have no expectation of privacy. Logon banners are usually presented during the authentication process.

The standard approved NYSDOH banner is "Use of NYS Department of Health computers and related resources is restricted solely to the conduct of NYSDOH business. User IDs and passwords assigned to an individual are the responsibility of that individual and may not be shared with others. Compromise of user IDs and passwords to department computers must be immediately reported to NYSDOH CISO. Personal and unauthorized usage is prohibited unless stated otherwise by NYSDOH policy." Where not technically feasible due to length, the following legal notice may be used: "NYSDOH use only and subject to monitoring".

If possible, the notice should appear prior to authentication. If this is not possible, the notice should appear immediately after authentication.

#### 2.6.8. Password Management

2.6.8.1. Passwords are a common means of authenticating a user's identity to access an information system or service. Password standards must be implemented to ensure all authorized individuals accessing NYSDOH resources follow proven password management practices. These password rules must be mandated by automated system controls whenever possible unless explicitly approved otherwise by NYSDOH CISO. These password best practices include but are not limited to:

- a. passwords must not be stored in clear text;
- b. use passwords that are not easily guessed or subject to disclosure through a dictionary attack;
- c. passwords must be kept confidential and not shared;
- d. passwords must be changed at regular intervals with a maximum expiration of 90 days;
- e. change temporary passwords at the first logon;
- f. when technology permits, passwords must contain a mix of alphabetic, numeric, special, and upper/lower case characters and be a minimum of 8 characters;
- g. do not include passwords in any automated logon process (e.g., stored in a macro or function key, web browser or in application code)

2.6.8.2. To ensure good password management, password standards must be implemented on all platforms when technically feasible. Contractor's adherence to password management practices will be reviewed by NYSDOH CISO.

#### 2.7 Security Incident Management and Audit Requirements

NYSDOH CISO reserves the right to review, evaluate and audit for security compliance any component of the system described in this RFP to assess if security requirements are being followed. The NYSDOH CISO reserves the right to coordinate and/or conduct security assessments and will discuss outcomes of security scanning with the program area and/or contractor to work towards fixing critical security vulnerabilities.

The security plan will include specifics on the bidder's approach of how these audit requirements will be

accomplished taking into account items listed below:

2.7.1. System Logs must be available for the NYSDOH CISO to review and/or document how these will be reviewed on a periodic, ongoing basis.

2.7.2. Logs must be reviewed and documented every business day at least once every 24 hours. Assurance must be provided to certify the system is in conformance to Section 2.2.3 NYSDOH Network Configuration Policy of this document.

2.7.3. Systems must be monitored and when thresholds of specific security related events are reached NYSDOH must be notified. All suspicious or unusual events will be reported to the NYSDOH program area who will in turn notify the NYSDOH CISO of possible security incidents within 24 hours of discovery. Bidder's approach towards meeting the addressing of the requirement to monitor and detect security events and to execute proper responses to those events should be included in the security plan for evaluation and scoring.

2.7.4. Security Systems must be in place to record all security related events in an audit log. Where applications maintain their own authentication and/or authorization controls, the application must also maintain its own logs of authorized access privileges and unauthorized attempts at access. Account management requirements, outlined in 2.6, need to be followed. Typically these events include:

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

2.7.5. Audit logs including logging analysis tools, systems and outputs, must be managed and stored in a secure manner to ensure their integrity. No unauthorized access should be permitted. At no time should anyone have access to change a log file. No logs may be altered in anyway.

2.7.6. All Security Logs should be archived for at least 6 months, unless directed by other laws and/or regulations.

2.7.7. All users and administrators who are in relation to the scope of work as defined within this RFP must receive periodic security awareness training and are qualified to be working in a secure environment. Any updates to NYSDOH security policies should be communicated to these users and administrators.

2.7.8. All logs are to be made available to NYDOH CISO on an as needed or predetermined schedule for review.

2.7.9. A list of what software used in components of this RFP needs to be maintained and provided as required by NYSDOH CISO. NYSDOH CISO reserves the right to audit and review lists of software added and inspect code and assess compliance of security requirements. NYSDOH CISO may require code found to cause significant risk to NYSDOH be removed.

## 2.8 Proprietary Information, Copyright and Software Licensing

2.8.1. Software licenses must be reviewed on a periodic basis and the results must be reported to NYSDOH CISO to ensure that the terms of software licenses are being complied with.

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

2.8.3. Appropriate licenses for any products provided as part of this RFP must exist. Licenses purchased under this contract are owned by NYSDOH.

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

2.8.5. Any software including software developed, maintained, acquired or in any other way created during the length of this contract is the expressed property of the NYSDOH and can not be used for any other reason than its intended use without prior approval of NYSDOH.

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

2.8.7. Especially in the case of sensitive or confidential information, Contractor will ensure that all information at the expiration of this contract will be destroyed and documented as such. Documentation is to be supplied after all information is handed back to the NYSDOH and or subsequent contractor(s).

2.8.8. All media, not owned and maintained by NYSDOH, must be securely erased or rendered unreadable before disposal as approved by NYSDOH CISO. Storage media must be sanitized at or above US Department of Defense standards at the end of contract after information is migrated to the NYSDOH and or the successor of this contract.

### 2.9 Data Confidentiality

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

### 3. Updates to Policies

The standards, guidelines and policies described in this document will be revised periodically. Changes to policies will be included in change management or during re-bid. NYSDOH will notify of updates and changes to security policies.

#### References:

1 – NYS Cyber Security Policy P03-002 [www.cscic.state.ny.us/lib/policies](http://www.cscic.state.ny.us/lib/policies) 2 -Health Insurance Portability Accountability Act (HIPAA) 3 -[http://www.cert.org/tech\\_tips](http://www.cert.org/tech_tips)

## **Attachment 14**

### **New York State Department of Health M/WBE Procurement Forms**

The following forms are required to maintain maximum participation in M/WBE procurement and contracting:

1. Bidders Proposed M/WBE Utilization Form
2. Minority Owned Business Enterprise Information
3. Women Owned Business Enterprise Information
4. Subcontracting Utilization Form
5. M/WBE Letter of Intent to Participate
6. M/WBE Staffing Plan

**New York State Department of Health**

**BIDDERS PROPOSED M/WBE UTILIZATION PLAN**

<b>Bidder Name:</b>	
<b>RFP Title:</b>	<b>RFP Number</b>

**Description of Plan to Meet M/WBE Goals**

**PROJECTED M/WBE USAGE**

	<b>%</b>	<b>Amount</b>
<b>1. Total Dollar Value of Proposal Bid</b>	<b>100</b>	<b>\$</b>
<b>2. MBE Goal Applied to the Contract</b>		<b>\$</b>
<b>3. WBE Goal Applied to the Contract</b>		<b>\$</b>
<b>4. M/WBE Combined Totals</b>		<b>\$</b>

**New York State Department of Health**

**MINORITY OWNED BUSINESS ENTERPRISE (MBE)  
INFORMATION**

In order to achieve the MBE Goals, bidder expects to subcontract with New York State certified MINORITY-OWNED entities as follows:

<b>MBE Firm (Exactly as Registered)</b>	<b>Description of Work (Products/Services) [MBE]</b>	<b>Projected MBE Dollar Amount</b>
<b>Name</b>  <b>Address</b>  <b>City, State, ZIP</b>  <b>Employer I.D.</b>  <b>Telephone Number</b> ( ) -		<b>\$</b> _____
<b>Name</b>  <b>Address</b>  <b>City, State, ZIP</b>  <b>Employer I.D.</b>  <b>Telephone Number</b> ( ) -		<b>\$</b> _____
<b>Name</b>  <b>Address</b>  <b>City, State, ZIP</b>  <b>Employer I.D.</b>  <b>Telephone Number</b> ( ) -		<b>\$</b> _____



**New York State Department of Health  
SUBCONTRACTING UTILIZATION FORM**

Agency Contract: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Contract Number: \_\_\_\_\_ Dollar  
 Value: \_\_\_\_\_  
 Date Bid: \_\_\_\_\_ Date Let: \_\_\_\_\_ Completion  
 Date: \_\_\_\_\_

Contract Awardee/Recipient: \_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 Telephone

Description of Contract/Project  
 Location: \_\_\_\_\_

**Subcontractors Purchase with Majority Vendors:**

Participation Goals Anticipated: \_\_\_\_\_ % MBE \_\_\_\_\_ % WBE  
 Participation Goals Achieved: \_\_\_\_\_ % MBE \_\_\_\_\_ % WBE

**Subcontractors/Suppliers:**

Firm Name and City	Description of Work	Dollar Value	Date of Subcontract	Identify if MBE or WBE or NYS Certified

**Contractor's Agreement: My firm proposes to use the MBEs listed on this form**

Prepared By: (Signature of Contractor)	Print Contractor's Name:	Telephone #:	Date:
Grant Recipient Affirmative Action Officer Signature (If applicable):			

**FOR OFFICE USE ONLY**

Reviewed: By:	Date:
M/WBE Firms Certified: _____ Not Certified: _____	
CBO: _____	MCBO: _____

New York State Department of Health

MWBE ONLY

MWBE SUBCONTRACTORS AND SUPPLIERS  
LETTER OF INTENT TO PARTICIPATE

To: \_\_\_\_\_ Federal ID Number: \_\_\_\_\_  
(Name of Contractor)

Proposal/ Contract Number: \_\_\_\_\_

Contract Scope of Work: \_\_\_\_\_

The undersigned intends to perform services or provide material, supplies or equipment  
as: \_\_\_\_\_

Name of MWBE: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Designation:

MBE - Subcontractor

WBE - Subcontractor

MBE - Supplier

WBE - Supplier

Joint venture with:

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

Address: \_\_\_\_\_

Fed ID Number: \_\_\_\_\_

MBE

WBE

Are you New York State Certified MWBE? \_\_\_\_\_ Yes \_\_\_\_\_ No

The undersigned is prepared to perform the following work or services or supply the following materials, supplies or equipment in connection with the above proposal/contract. (Specify in detail the particular items of work or services to be performed or the materials to be supplied): \_\_\_\_\_

\_\_\_\_\_

at the following price: \$ \_\_\_\_\_

The contractor proposes, and the undersigned agrees to, the following beginning and completion dates for such work.

Date Proposal/ Contract to be started: \_\_\_\_\_

Date Proposal/ Contract to be Completed: \_\_\_\_\_

Date Supplies ordered: \_\_\_\_\_ Delivery Date: \_\_\_\_\_

The above work will not further subcontracted without the express written permission of the contractor and notification of the Office. The undersigned will enter into a formal agreement for the above work with the contractor ONLY upon the Contractor's execution of a contract with the Office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of M/WBE Contractor

\_\_\_\_\_  
Printed/Typed Name of M/WBE Contractor

**INSTRUCTIONS FOR M/WBE SUBCONTRACTORS AND SUPPLIERS LETTER OF INTENT TO PARTICIPATE**

This form is to be submitted with bid attached to the Subcontractor's Information Form in a sealed envelope for each certified Minority or Women-Owned Business enterprise the Bidder/Awardee/Contractor proposes to utilize as subcontractors, service providers or suppliers.

If the MBE or WBE proposed for portion of this proposal/contract is part of a joint or other temporarily-formed business entity of independent business entities, the name and address of the joint venture or temporarily-formed business should be indicated.

## New York State Department of Health M/WBE STAFFING PLAN

Check applicable categories:  Project Staff  Consultants  
 Subcontractors

Contractor Name \_\_\_\_\_

Address \_\_\_\_\_

	Total	Male	Female	Black	Hispanic	Asian/ Pacific Islander	Other
<b>STAFF</b>							
Administrators							
Managers/Supervisors							
Professionals							
Technicians							
Clerical							
Craft/Maintenance							
Operatives							
Laborers							
Public Assistance Recipients							
<b>TOTAL</b>							

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
Date