

# NEW YORK STATE DEPARTMENT OF HEALTH

A Request for Proposals for a  
Statewide Coalition and Center for Obesity Prevention,  
Healthy Eating and Active Living  
RFP # 0908120345

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## Schedule of Key Events

RFP Release Date	11/2/2009
Written Questions Due	11/24/2009
Letter of Interest Due (optional)	11/24/2009
Anticipated Response to Written Questions Received	12/8/2009
Proposal Due Date	12/21/2009

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:

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**Permissible Subject Matter Contacts:**

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

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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 New York State Department of Health, Division of Chronic Disease and Injury Prevention (DCDIP) seeks to prevent obesity, heart disease, diabetes, cancer and other chronic diseases and injuries in New York state through the implementation of sustainable policy, systems and environmental changes across multiple settings (communities, worksites, schools, and healthcare). This approach to chronic disease prevention emphasizes building supportive environments and implementing population-wide efforts that accelerate improvements in individual health outcomes.

The New York State Department of Health seeks proposals for a Statewide Coalition and Center for Obesity Prevention, Healthy Eating and Active Living for the purpose of implementing evidence-based policy, systems and environmental changes that prevent obesity, increase healthy eating and physical activity opportunities, and decrease opportunities for sedentary activities and consumption of low nutrition foods. The bidder will:

- convene, support and coordinate the activities of a statewide coalition for obesity prevention;
- conduct policy research to inform the work of the coalition, DCDIP staff and contractors, and partners;
- provide training and technical assistance to the coalition, DCDIP staff and contractors and partners on:
  - policy approaches to obesity prevention, including promotion of policy, systems and environmental changes that increase opportunities for healthful eating and physical activity;
  - land use and transportation planning related to physical activity and healthy eating; and
  - economic development to promote physical activity and healthy eating.

## **B. Background**

### *Department of Health Programs*

Physical inactivity, poor nutrition, and obesity are causally related to a number of chronic diseases and conditions. Key DOH programs working to prevent obesity, and increase physical activity and healthful nutrition are: the Obesity Prevention Program (OPP), the Healthy Heart Program (HHP), the Diabetes Prevention and Control Program, the Strategic Alliance for Health, and the Eat Well Play Hard Initiative.

The NYS Obesity Prevention Program (OPP) was established in 2003 and

uses a multi-pronged, evidence informed approach to promote policy, systems and environmental change, targeting key behaviors identified by the CDC:

- 1) Increase physical activity
- 2) Increase the consumption of fruits and vegetables
- 3) Decrease the consumption of sugar sweetened/sweet beverages
- 4) Increase breastfeeding initiation, duration and exclusivity
- 5) Reduce the consumption of high energy dense foods
- 6) Decrease television viewing

The NY OPP seeks to reduce the prevalence of overweight and obesity by implementing population-based interventions via a three-pronged strategy:

- Statewide and community action to change the community environment to support healthful eating and accessible physical activity and increase awareness of the public health threat of obesity in target settings and sectors;
- Health communication to increase awareness of the public health threat of obesity and educate community members and decision makers about the benefits of engaging in the six target behavioral strategies;
- Health care initiatives to increase providers' early recognition of excess weight gain among pregnant women, children and adolescents.

The *New York State Strategic Plan for Overweight and Obesity Prevention* serves as a blueprint for the state's and OPP's prevention efforts in the following target settings/sectors: schools, day care and after-school care settings, worksites, communities, the health care sector and at home. The Plan prioritizes action on behalf of children and sustainable systems change to counter the "obesogenic environment." The Plan is available on the NYSDOH Web site:

[http://www.nyhealth.gov/prevention/obesity/strategic\\_plan/](http://www.nyhealth.gov/prevention/obesity/strategic_plan/)

The Healthy Heart Program (HHP) has been addressing risk factors for cardiovascular disease for more than 20 years. CVD is the leading cause of death, disability and health care expenditures among New York State (NYS) residents<sup>1,2</sup>. CVD includes coronary heart disease (CHD), congestive heart failure (CHF) and cerebrovascular disease (stroke).

Tobacco use, physical inactivity, poor nutrition, obesity, hypertension, high blood cholesterol levels, and diabetes are known and modifiable risk factors for CVD. Studies have shown that people can reduce their risk for cardiovascular disease by modifying their behaviors. By quitting smoking, engaging in regular physical activity and improving diet, people can lower their blood pressure, blood cholesterol levels and reduce obesity thereby reducing their risk for heart disease and stroke.

The HHP developed *The Cardiovascular Health (CVH) in New York State: A Plan for 2004 – 2010* with the assistance of experts in cardiovascular disease (CVD) prevention from around the

state. The plan covers four sectors in which cardiovascular health promotion and disease prevention are critical: communities, worksites, schools/youth and health care. The plan is available on the NYSDOH Web site: <http://www.health.state.ny.us/nysdoh/heart/chvplan.htm>. Key objectives related to physical activity and nutrition are:

- Increase the proportion of New Yorkers who report that it is safe, accessible and comfortable for them to walk or bike near their homes or worksites
- Increase the percentage of New Yorkers who walk or bike regularly for leisure and for transportation
- Increase the percentage of food service establishments that offer appropriate portion sizes and healthful food choices
- Increase the availability of reasonably priced, healthful food choices in low-income neighborhoods
- Encourage consumption of milk for those able to drink milk and increase the proportion of milk drinkers who consume low-fat milk (1% or fat-free)

The Diabetes Prevention and Control Program (DPCP) collaborates with local, state and national partners to reduce and eliminate the burden of diabetes in New York State. Diabetes is the most rapidly growing chronic disease of our time. It has become an epidemic that affects one out of every 12 adult New Yorkers. Since its inception, the DPCP has transitioned from a focus on the control of diabetes complications to a comprehensive public health approach including prevention of type 2 diabetes and the promotion of healthy lifestyles across the lifespan. The DPCP has identified three goals to align with the Centers for Disease Control and Prevention's national diabetes program framework:

1. Prevent type 2 diabetes
2. Prevent complications, disabilities and the burden associated with diabetes
3. Eliminate diabetes-related health disparities

In order to achieve these goals, the Diabetes Prevention and Control Program implements strategies within the following priority areas:

- Public awareness and education
- Children and diabetes in schools and childcare settings
- Healthcare practice
- Access to care
- Sustainability and policy, systems and environmental change
- Public health tracking and evaluation

The Strategic Alliance for Health Program is working to create healthier communities through sustainable, innovative, evidence-based and practice-based community health promotion, and chronic disease prevention efforts that promote policy, system, and environmental change. Albany,

Broome, Orange, and Schenectady counties are funded to work with schools and the community to encourage physical activity, healthy eating, and tobacco-free choices in order to reduce the burden of diabetes, cardiovascular disease, and obesity. Beginning in September 2009, interventions will target populations most in need with a special emphasis on reaching specific racial and ethnic groups, those limited by income and insurance coverage, those with high chronic disease rates, and individuals with disabilities.

Eat Well Play Hard (EWPH) is a childhood obesity prevention initiative incorporated into large-scale public health food and nutrition programs that serve low-income preschool children and their families in targeted communities. EWPH strategies are integrated into each program's food policies, nutrition education efforts, staff training and marketing and outreach efforts. The core strategies for the EWPH intervention include:

- Increase developmentally appropriate physical activity
- Increase consumption of 1% or fat-free milk and low-fat dairy products
- Increase consumption of fruits and vegetables
- Decrease TV and screen time
- Increase the initiation and duration of breastfeeding

### *Chronic Disease Risk Factors*

A lifestyle characterized by poor diet and physical inactivity is the second leading preventable cause of death in the United States, after tobacco use.<sup>3</sup> By eating healthy diets and being physically active, individuals can reduce their risk of chronic diseases such as diabetes, heart disease and some forms of cancer; strengthen bones and reduce the risk of osteoporosis; and help achieve and maintain healthy weights. For both adults and children, poor nutrition and physical inactivity can contribute to the development of chronic diseases and other disabilities that increase health care costs and decrease quality of life. Cardiovascular diseases are the leading causes of death in New York State, killing almost 59,000 residents each year. Diabetes is the most rapidly growing chronic disease, affecting one out of every 12 adult New Yorkers.

Obesity, a major risk factor for many chronic diseases, has reached epidemic proportions both in New York and across the nation. The percentage of obese adults in New York State more than doubled from 10% in 1997 to 25% in 2008<sup>4</sup> and, nationally, obesity among children and adolescents has tripled over the past three decades.<sup>5</sup> In fact, obesity costs New York State more than \$6 billion annually in direct medical expenditures for treatment of related diseases, as well as indirect costs such as lost productivity.<sup>6</sup>

### *Physical Activity*

Research clearly shows that physically active people have better health than physically inactive people. The *2008 Physical Activity Guidelines for Americans* recommend at least 150 minutes of moderate or 75 minutes of vigorous physical activity per week to improve health and reduce the risk of heart disease type 2 diabetes, osteoporosis, depression, obesity, and some cancers.<sup>7</sup> The

time can be accumulated in 10 minute segments. The benefits increase with additional activity, although the biggest gain appears to be in changing from being sedentary to getting some physical activity.

The majority of New Yorkers are insufficiently active to reap health benefits. Only 48.9% of NY adults meet the recommendations and 24.4% report no leisure time physical activity (2007 Behavioral Risk Factor Surveillance System [BRFSS]). For Hispanics, African Americans and people with disabilities, the numbers meeting recommendations are even lower. Only 42.4% of Hispanics, 41.2% of African Americans and 37.9% of persons with disabilities meet the recommendations for physical activity, and 37.7% and 26.5% of Hispanics and African Americans, respectively, report no leisure time physical activity. People with low educational attainment and low incomes also report much less physical activity than those of higher incomes and more education. Of those without a high school diploma 44.6% report no leisure time physical activity, compared to 15.9% of those who graduated from college.

Television viewing is the most common sedentary activity of children and adults in the United States. Children age 8 to 18 years spend on average four hours and fifteen minutes a day using all screen media (TV, videos, games and computers), and young children ages 6 years and under spend on average 2 hours a day using screen media.<sup>8</sup> Research has shown that the more hours spent in recreational screen time, the greater the prevalence of overweight and obesity in childhood and risk of overweight and obesity in adulthood. Excessive screen time, particularly television, is not only associated with increased risk of obesity, but less nutritious meals and snacks, and increased violence.<sup>9</sup>

Walking is the most popular form of physical activity reported by adult New Yorkers on the 2007 BRFSS. Forty one percent of NY adults meet the federal physical activity guidelines by walking. Studies show people can maintain walking for many years. Walking requires no special equipment or training, can be done by most people, and has beneficial health effects. The health benefits of walking include decreased risks of obesity, heart disease, and other chronic disease-related deaths.<sup>10,11</sup>

Environment influences behavior. Research suggests that land use policies that create walkable communities (e.g., sidewalks in good repair, destinations to walk to, safe intersections, low speeds for cars, attractive walking routes, and transportation systems developed with all users in mind – the complete streets model) encourage more people to walk. Mixed land use (e.g., commercial and residential buildings in close proximity) increases the number and percentage of walking and biking trips; for trips less than one mile, mixed-use communities generate up to four times as many walking trips as those communities that are largely single-use development (e.g., housing separated from shops, libraries, etc.).<sup>12</sup> People who report having access to sidewalks are 28%

more likely to be physically active.<sup>13</sup> Conversely, automobile-oriented land use policies reduce transportation choice, adversely affect air quality and safety, and discourage physical activity.<sup>14</sup>

The focus on environmental efforts to promote physical activity came about, in part, because approaches emphasizing individual behavior change appear ineffective in large populations. Leisure time physical activity rates overall did not increase in the 1990s<sup>15</sup> when many efforts to increase physical activity focused on individuals. People know physical activity is good for health, but unless the opportunities to be active are easily accessible, many people will not change sedentary behavior.

Three of the recommendations in the Center for Disease Control and Prevention's *Guide to Community Preventive Services* for increasing physical activity rates relate to improving opportunities for physical activity at the community level, including creating places that are safe and pleasant for people to walk.<sup>16</sup> The Guide recommends the following environmental and policy approaches to increasing physical activity:

- Street-scale urban design and land use policies and practices (e.g., building codes, roadway design standards, improved street lighting, use of traffic calming approaches);
- Creation of, or enhanced access to, places for physical activity combined with informational outreach activities (e.g., creating walking trails, building exercise facilities, or providing access to existing, nearby facilities); and
- Community-scale urban design and land use policies and practices (e.g., the continuity of sidewalks and streets, the aesthetic quality and safety aspects of the physical environment, zoning regulations, builders' practices).

Two *Healthy People 2010* Objectives address active transportation and one addresses television viewing:

- 22-14 Increase the proportion of trips made by walking.
- 22-15 Increase the proportion of trips made by bicycling.
- 22-11 Increase the proportion of adolescents who view television no more than two hours per day.

### *Nutrition*

Numerous studies have documented the association between diet and health. For overall good health, the U.S. Dietary Guidelines recommend eating 4½ cups of fruits and vegetables per day; consuming low-fat dairy products; limiting consumption of saturated and trans fats; and eating at least three ounces of whole grains per day.<sup>17</sup> For infants' and mothers' health, both *Healthy People 2010* and the *HHS Blueprint for Action on Breastfeeding* recommend an increase in breastfeeding initiation, exclusivity, and duration rates.

Consuming fruits and vegetables is an integral part of a healthy lifestyle. Compared to people who consume few servings of fruits and vegetables daily, those who regularly consume a greater number of servings are at reduced risk for developing heart disease, type 2 diabetes, and some types of cancer.<sup>18</sup> Saturated fat increases blood cholesterol levels, especially the “bad” LDL cholesterol. In the U.S., milk is a leading source of saturated fat in adults’ and children’s diets.

Breastfeeding is healthy eating and provides health benefits to mothers and their infants. Benefits for mothers include decreased risk of breast and ovarian cancer and type 2 diabetes.<sup>19</sup> In addition to reducing the incidence of acute infections in the first year of life, research shows that the longer a child breastfeeds, the less likely he or she is to be overweight. The duration of breastfeeding is inversely related to pediatric overweight, and exclusive breastfeeding (no food or fluid other than breastmilk) appears to have a stronger protective effect than breastfeeding combined with formula feeding.<sup>20 21</sup>

Despite overwhelming evidence supporting the numerous health benefits of breastfeeding, far too few U.S. infants are breastfed, and durations of exclusive and any breastfeeding are shorter than recommended. In New York State and New York City, the percentage of women who initiate breastfeeding (ever breastfed) has been increasing, and meets or exceeds national health goals. At the same time, the rates of formula supplementation of breastfed infants at 2 days and at 3 months of age are among the highest in the US, which means NY is falling far short of national goals for breastfeeding exclusivity and duration.

New Yorkers are not meeting dietary recommendations. In 2007, only 27.4% of adults consumed five or more servings of fruits and vegetables a day (2.5 cups); 46% of adults reported drinking whole or 2% milk (in 2007, 37.5% of all milk sold in NYS was whole and 18.3% was fat-free); and the average American adult only consumes one ounce of whole grain products a day.<sup>22</sup> The populations with the lowest intake of fruits and vegetables and highest intakes of higher fat milks are Hispanics, people with low educational attainment, and those with lower incomes.

To meet these dietary recommendations, people need easy access to affordable, healthy foods, and nursing mothers need societal supports to succeed. As with physical activity, the environment plays a role – the availability of healthy foods affects consumption.<sup>23</sup> Access to healthy foods is lower in low-income neighborhoods thereby making it more difficult to buy and consume healthy foods.<sup>24</sup> African Americans report an average 32% increase in fruit and vegetable intake for each supermarket in their census tract. For white Americans, the increase is 11%.<sup>25</sup>

When people eat out, they tend to eat more fat, calories, and sodium and less calcium and fiber than when they eat at home.<sup>26, 27</sup> However, when healthier items are priced lower than less healthy items, people are more likely to buy them.<sup>28</sup> Increasing portion sizes have been implicated in the increase in obesity and obesity is a significant risk factor for many chronic diseases. The larger the

portion served to a consumer, the more the person eats.<sup>29, 30</sup> This is especially problematic in restaurants where consumers have little control over the size of portions served to them.

The presence of farmers' markets tends to increase fruit and vegetable consumption<sup>31</sup> and participating in community gardens increases both fruit and vegetable consumption and physical activity.<sup>32</sup>

Many barriers make it difficult for mothers to meet their breastfeeding goals. Routine practices in hospitals often interfere with establishment of early breastfeeding. Mothers often do not receive or have access to support from health care professionals when they encounter difficulties with breastfeeding. Mothers encounter social disapproval from society when they choose to breastfeed in public places. When they choose to work outside the home, they encounter rigid schedules, lack of support from employers and coworkers, and difficulties in finding the time to breastfeed or express milk for their infants.

Five of the *Healthy People 2010* objectives address fat, fruit and vegetables, and whole grain consumption and one objective addresses breastfeeding:

- 19-5 Increase the proportion of persons aged 2 years and older who consume at least two daily servings of fruit.
- 19-6 Increase the proportion of persons aged 2 years and older who consume at least three daily servings of vegetables, with at least one-third being dark green or orange vegetables.
- 19-7 Increase the proportion of persons aged 2 years and older who consume at least six daily servings of grain products, with at least three being whole grains.
- 19-8 Increase the proportion of persons aged 2 years and older who consume less than 10 percent of calories from saturated fat.
- 16-19 Increase the proportion of mothers who breastfeed their babies.

### **C. DETAILED SPECIFICATIONS**

The bidder will convene and support a coalition with statewide representation to advance obesity prevention and will be a resource for the coalition and DCDIP staff and partners working to change the community environment through the adoption of policies and environmental changes to increase the availability of healthful foods, reduce the availability of high-calorie, low-nutrition foods, increase the availability of opportunities for physical activity, and other policy opportunities.

To effectively advocate for these policy and environmental changes, the coalition will require representation from a broad range of disciplines, including public health, urban and regional planning, consumers, employers, and specialty sciences, among others, and from a broad range of sectors, including communities, work sites, schools, health care systems, and others. The coalition will need to galvanize and mobilize community partners across the state. Statewide coalition

members and local public health partners will need new knowledge, skills and resources. Achieving public health goals for physical activity and nutrition will require sustainable policy and environmental changes at the national, state, and community level. Many of the evidence-based policy and environmental interventions go beyond the scope of traditional public health practice. For instance, physical activity levels can be increased by creating street-scale and/or community-scale urban design and land use policies and practices that support walking (as recommended by the *Guide to Community Preventive Services*).

Under the direction of the DCDIP, the bidder will provide policy research, training, technical assistance, resource identification and development, and evaluation and surveillance expertise to help the statewide coalition and communities achieve effective policy and environmental changes that will ultimately reduce the health and economic impact of obesity, poor nutrition, and physical inactivity.

Obesity and limited access to physical activity opportunities and healthy foods disproportionately affect certain population subgroups, including racial/ethnic minorities and persons with disabilities. The bidder will consider the unique needs of these subgroups in its efforts to help communities achieve effective policy and environmental changes.

Key activities will include:

**1. Statewide Coalition.** Establish, convene, staff and manage a statewide coalition to advance obesity prevention action in the state. The coalition's work will be supported by activities 2-6 detailed below. The coalition will:

- Identify and undertake statewide and local action to develop and implement policy and environmental interventions to increase opportunities for physical activity and healthy eating and reduce opportunities for sedentary activities and consumption of low nutrient food;
- Engage in sustainability activities that increase awareness of the importance of obesity prevention, physical activity and healthy eating, and ensure the institutionalization of the gains achieved by the coalition. Such activities include, but are not limited to: writing letters to the editor and opinion pieces, and educating decision makers about critical topics. Please see Attachment 1 for a list of sustainability strategies.
- Convene coalition members in face-to-face meetings at least six times per year for the purpose of planning, developing and implementing the coalition's work, obtaining expert recommendations, engaging partners and stakeholders, and advancing the obesity prevention agenda.
- Develop and maintain a Web site for policy and environmental strategies for obesity prevention that meets the requirements of the Office for Information

Technology Policy: *Accessibility of Web-Based Information and Applications*  
(<http://www.oft.state.ny.us/Policy/NYS-P08-005.pdf> - See Section E, Item 12, pages 21-22);

**2. Policy Research and Development.** Conduct policy research to inform the work of the coalition and the DCDIP.

- In Year 1, conduct a literature search to identify existing and emerging evidence-based obesity, physical activity and nutrition state and local policy strategies. Update each year as appropriate.
- Develop briefing materials about key policies, including a summary of evidence, key messages, and frequently asked questions.
- Conduct formative research with decision makers and with members of the public on selected policy issues related to obesity, physical activity and healthy eating.
- Identify and categorize the challenges and barriers to obesity prevention, increasing physical activity and improving nutrition among the population as a whole, racial and ethnic groups and persons with disabilities; develop recommendations to reduce or eliminate these challenges and barriers.

**3. Training.** Prepare public health practitioners and coalition members for involvement in decision making on land use, transportation, and economic development related to increasing opportunities for physical activity and healthy eating.

- In Years 1, 3, and 5, provide four two-day training sessions across NYS for public health and other professionals, delivering one curriculum, on how participants can influence local and state-level land use, transportation and economic development decisions that impact opportunities for physical activity and healthy eating. Assess training needs, develop a curriculum and provide the training. Training sites should be in New York City and three additional locations in upstate New York. Attendance is anticipated at about 50 people per site. In Year 2, assist the DCDIP in producing a Public Health Live broadcast<sup>1</sup> on one aspect of the impact of the built environment on physical activity and access to healthy food.

**4. Technical Assistance.** Provide technical assistance to DCDIP staff, contractors and partners on land use, transportation planning and economic development issues as they pertain to increasing opportunities for physical activity and healthy eating. It is anticipated that, on average, the bidder will visit each of 30 contractors once every two years, and provide assistance by phone at least twice a year.

**5. Evaluation.**

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<sup>1</sup> The Public Health Live broadcast is a one-hour video broadcast sponsored by the University at Albany School of Public Health that provides training on a variety of public health topics for local and state-level public health workers in New York State.

- Assist the DCDIP evaluation staff in identifying and adapting evaluation tools to measure changes in land use and transportation planning and economic development as they relate to physical activity and healthy eating.
- In conjunction with DCDIP staff, conduct a health impact assessment (HIA) on one project proposed by one DCDIP contractor or one proposed statewide policy. HIAs help assess/estimate the public health impact of a policy, program or practice before it is implemented. See: <http://www.cdc.gov/healthyplaces/hia.htm>.
- Develop and implement an evaluation plan, to be completed by the end of the five year contract cycle, that will demonstrate the public health impact of one local or statewide policy change that the contractor was involved in.

**6 . Surveillance.** The contractor will collaborate with DCDIP staff to develop statewide surveillance for local policy and environmental supports related to healthy eating and physical activity. The surveillance will establish a baseline data source for tracking changes in policies and environmental supports in each New York county and in each of the 5 boroughs. To meet this deliverable the contractor is expected to:

- Identify or develop an instrument for assessing policies and environmental supports; ensure that measures are structured to identify policy and environmental indicators that impact diverse, high-risk populations.
- Develop a data collection plan that would result in regular assessments within each county and each of the 5 boroughs.
- Develop a data collection process/protocol that could be repeated consistently in each of the counties and 5 boroughs and yielding reliable and valid estimates of the existing policy and environmental supports for healthy eating and physical activity.
- Implement the data collection plan at least once during the course of the 5-year award.

DCDIP contractors requiring technical assistance will be focusing on policy or environmental outcomes and the behavioral impacts of those environmental and policy changes. For example, the environmental outcome may be the creation of a new walking trail, and the behavioral impact would be the number of people using the trail and the impact of the trail on physical activity levels of nearby residents.

The DCDIP contractors will primarily implement population-based strategies to improve physical activity and nutrition at the population level. Bidders should have familiarity with policy and environmental interventions that can be implemented at the state or community level and influence behavior at the individual level. Additionally, bidders should have actionable knowledge to advise DCDIP contractors on factors that improve physical activity and nutrition across the geographic and population diversity of New York State.

The successful bidder will be assigned a DCDIP staff person as contract manager and will be required to enter data into a Web-based reporting system monthly.

The successful bidder will be required to use “How to Plan Events Everyone Can Attend” ([www.nyhealth.gov/publications/0956/index.htm](http://www.nyhealth.gov/publications/0956/index.htm)) developed by the NYSDOH for all trainings and meetings associated with this funding.

#### Additional Requirements

##### a. Staffing

It is the responsibility of the contractor to provide qualified administrative, clerical, managerial, information technology (IT), fiscal, and content staff to implement all project activities as described in this RFP.

Bidders are required to designate or hire a program manager to oversee the project activities as described in this RFP. It is required that the program manager have a bachelor’s degree and at least five years of experience in public health. At least one staff member should have expertise in land use and transportation planning and economic development issues as they pertain to increasing opportunities for physical activity and healthy food choices. Excellent skills in public speaking, writing, coordinating multiple tasks, and interpersonal skills are preferred.

##### b. Meetings

The contractor’s key staff are expected to attend some DCDIP contractor meetings, at the discretion of DCDIP staff.

#### **Eligible Bidders**

Eligible bidders are: non-profit public sector organizations, other non-profit organizations in NYS, and for-profit agencies that can work statewide, including, but not limited to, voluntary organizations, academic institutions, professional associations, and planning organizations.

The preferred bidders are institutions that have experience in obesity prevention, the public health applications of land use, transportation planning and economic development and other policies as they pertain to increasing physical activity and healthy food choices, experience establishing population-based interventions and working with low-income populations, racial/ethnic groups and persons with disabilities, and experience with evaluation and training.

Bidders may subcontract components of the scope of work if the agency does not possess the capability to accomplish the entire scope of work in-house. For those bidders proposing to subcontract, it is optional (but not required) to identify subcontracting agencies during the bidding process. However, bidders should make clear in their proposal which components of the scope of

work will be performed under a subcontract. Bidders may not subcontract out all of the work. Subcontractors must be approved by the NYSDOH.

Agency commitment to the program is essential. Preference will be given to agencies with experience engaging communities and stakeholders, organizing communities and managing coalitions, as well as providing resources and technical support to government programs, nonprofit organizations and community organizations.

Eligible bidders must have no affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries or its parent organization. All bidders must include a statement verifying the vendor's "no tobacco" status (Attachment 2). Preference will be given to bidders that have a written policy establishing a 100% tobacco-free facility including outdoor areas under control of the bidder. Bidders that do not have such a written policy may submit with the bid a letter of commitment to develop such a policy, if funded under this RFP.

Eligible bidders must have in place or develop and implement within one year of the contract start date a comprehensive healthy foods policy for their organization, including use of Guidelines for Healthy Meetings (Attachment 3). If a bidder does not provide food on-site for staff or visitors (e.g., has no cafeteria, vending machines, store, etc, under its or its organization's control), the bidder must have in place or develop and implement within one year of the contract start date healthy meeting guidelines, which establish that healthy foods will be provided at all organization-sponsored meetings and events where foods or beverages are offered. Bidders must complete Attachment 4 stating that they have or will develop and implement such policies.

## **Performance Specifications**

As a result of this Request for Proposals, the New York State Department of Health will invite the successful bidder to enter into a contract based on hourly rates to develop and implement a Statewide Coalition and Center for Obesity Prevention, Healthy Eating and Active Living, under the direction of the DCDIP.

## **D. PROPOSAL REQUIREMENTS**

In preparing your proposal, please provide information directly relevant to your ability to successfully administer the services outlined in the RFP.

Each bidder must submit a separate and distinct technical proposal and financial proposal. An original and three copies each of the technical and financial proposals are required. The technical and financial proposals must be bound separately. Each proposal must be submitted in a separate, sealed envelope marked "Financial Proposal, RFP # 0908120345" or "Technical Proposal, RFP #0908120345." A cover page should accompany both the financial and technical proposals (see Attachment 5, Cover Sheet). Both the financial proposal envelope and the technical proposal envelope should be mailed together to the attention of Deborah Spicer at the address listed in

Section E. 4. Submission of Proposals. The original and three copies should be mailed together in one package.

Submission of proposals indicates acceptance of all conditions contained in this RFP. Only those bidders who furnish a complete proposal will be considered for final evaluation.

### **Technical Proposal (weighted 80%)**

**Note: The Technical Proposal must be bound separately from the Financial Proposal. An original and three copies are required.**

Proposals should not exceed 35 pages of text, not including attachments. Please double-space all sections. The application may be printed on both sides of the paper, but the total number of pages of text should not exceed 35. If the proposal exceeds the page limits, only the first 35 pages of text will be reviewed. Use Times New Roman, 12 point font, one-inch margins on all sides, and number the pages. Proposals not conforming to these standards will have points deducted. Please organize the application into the sections described below (I – IV).

#### **Section I Cover Sheet (1 page)**

**Please use Attachment 5**

**Section II Executive Summary** (0 points – up to five points will be deducted if an Executive Summary is not included)

- Summarize all components of the technical proposal.

#### **Section III Vendor Capacity and Experience**

1. Describe your agency/company, its mission, and the services it provides.
2. Describe how the proposed program will be integrated into the bidder's organizational structure.
3. Describe the bidder's experience in providing the range of services described in this RFP, including the length of time these services have been provided.
4. Describe the bidder's effectiveness and capacity to establish a statewide coalition, manage the work of the coalition to accomplish policy and environmental changes at the state and local level, and provide research, training, evaluation, and technical assistance to public health agencies and organizations, and community coalitions to prevent obesity.

#### **Section IV Staffing Patterns and Qualifications**

1. Describe the proposed staffing pattern that will adequately meet the project deliverables. The proposed staffing pattern should demonstrate that staff and consultants have in-depth

subject matter experience. For project continuity, using part-time graduate students for a year or two at a time for the coordinator will not be acceptable. Bidders should hire (as consultants or staff) experts in planning, land use and economic development if no existing staff have expertise in these areas.

2. Provide a job description for each position, detailing staff qualifications for the position. If it is known who will fill the position, attach a resume for each staff person (management, fiscal, program, administrative support, etc.) in an appendix.
3. Provide an organization chart including how staff on this project fit into the entire organization.

## **Section V Project Plan**

1. Describe how the agency will develop, organize, and deliver each of the services listed under key activities 1-6 on pages 12-14.
2. Provide measurable objectives and activities to achieve each of the program deliverables. Objectives include both process and outcome objectives that describe how you will achieve the specified goal.
3. Describe a plan to ensure timely start-up and implementation of the proposed project. Include a time frame, responsible staff by position, and how progress towards completion of work plan objectives will be tracked and monitored.

## **Financial Proposal (Weighted 20%)**

**Note: The Financial Proposal must be bound separately from the Technical Proposal. An original and three copies are required.**

A contract resulting from this bid is anticipated to be in effect for five years.

The financial proposal consists of a completed Bid Specification Form and your organization's most recent audit with financial statements:

Complete the Bid and Cost Proposal Forms in Attachments 6 and 7. Each bidder shall use these forms to detail activities, staff assigned, hourly rates and the total project cost for each year of the two year proposed contract. Bidders must complete the Bid Table included as part of Attachment 7. In addition to total costs for the first year of operation, which may include start up costs, the bidder must project the costs for years two through five. Contract pricing is firm for the five years.

Costs for training related to staff time should be included in the hourly rate charge. Other training costs are reimbursable and include:

- Speakers
- Meeting space
- Audio/video equipment rental
- Food at trainings
- Materials
- Roll-in video production for the Public Health Live broadcasts

Bidders must provide evidence of their financial ability to perform the terms and conditions of the contract. Each bidder must include audited financial statements for the last 3 years of operations. If the bidder is not required to have independent audits performed, a statement to that effect must be included with the cost proposal. If independent audits are not required, other evidence of the bidder's financial ability to perform must be included. At a minimum, this must include an audited annual financial statement, report by a third-party service (e.g., Dun and Bradstreet), etc. Additionally, statements from a bank confirming the level of account balances, or similar documents must be included. If audited financial statements are available, they must be included even if proprietary in nature. If they are proprietary, bidders will so indicate.

In the event that the winning bidder's price is higher than the project budget, NYS DOH reserves the right to provide the winning bidder the option to revise their price. To remain within budget, the department reserves the right to adjust the scope of work.

The Bid Form (Attachment 6) should be placed directly behind the cover sheet of the financial proposal.

## **2. METHOD OF AWARD**

### **a. Vendor Selection**

At the discretion of the Department of Health, all bids may be rejected at any time. The evaluation of bids will include, but not be limited to, the considerations listed below.

- Successful completion of the technical proposal.
- Cost competitiveness and best value for services as demonstrated in the financial proposal.
- Demonstration of an understanding of how the environment and policies influence obesity, healthy eating and physical activity, and how coalition work can influence the environment and policies.
- Demonstration of the ability to establish and effectively manage the Statewide Coalition for Obesity Prevention and carry out all Obesity Prevention, Healthy Eating and Active Living Statewide Center activities.
- Demonstration of the ability to work effectively with public health advocacy and stakeholder groups and the NY DCDIP-funded contractors throughout the state.

The NY DCDIP shall at all times maintain control and direction over the scope of work being performed under this agreement. The NY DCDIP reserves the right to change the scope of work and to adjust specific tasks within the work plan to be performed by the contractor.

**b. Technical Evaluation**

A Technical Evaluation Team will evaluate and score each proposal that meets the requirements for the Technical Proposal by assessing each bidder's ability to provide the services based on the scoring system described in this RFP. The scoring will be based on a number of factors including the technical merit and clarity of the proposal, an assessment of past experience and current qualifications of the bidder. Information from the Financial Proposal, or evaluation thereof, will not be available to the Technical Evaluation Team during their evaluation.

Each response requirement will be evaluated against predetermined standards based on industry norms, current practice, and efficiency and soundness of approach. The detailed evaluation criteria and weight of the components will not be disclosed to bidders prior to selection of a winner.

**c. Financial Evaluation**

A financial evaluation team will evaluate each bidder's Financial Proposal. The evaluation will be totally independent of the technical evaluation. The financial evaluation team will not see or participate in review of the technical proposal. In evaluating each Financial Proposal, the financial evaluation team will assess the documentation provided by the bidder demonstrating the firm's ability to maintain cash flow and payroll. For those bids meeting the requirements of the Financial Proposal, the financial evaluation team will score the total project cost.

**d. Total Combined Score**

The bidder's technical score and financial score will be combined by the Procurement Coordinator using the following formula:

$$\begin{aligned} & \text{Technical Score (maximum 80\%)} \\ + & \text{ Financial Score (maximum 20\%) } \\ & \text{Total Combined Score = (maximum 100\%)} \end{aligned}$$

The Selection Committee will select the bidder with the highest Total Combined Score whose proposal meets all the project requirements and, in the Committee's judgment, reflects the best value.

## E. ADMINISTRATIVE

### 1. Issuing Agency

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

### 2. Inquiries

Any questions concerning this solicitation must be directed, by fax or e-mail, to:

Deborah Spicer, RD, MPH  
Healthy Heart Program  
New York State Department of Health  
Riverview Center, Room 350  
150 Broadway  
Albany, NY 12204-0676  
[hhp@health.state.ny.us](mailto:hhp@health.state.ny.us)  
Fax: 518-474-3356

Questions and answers, as well as any RFP updates and/or modifications, will be posted on the Department of Health's website at <http://www.nyhealth.gov/funding/> by the date listed on the front cover of this RFP.

### 3. Non-Mandatory Letter of Interest to Bid

All potential bidders are strongly encouraged to send a Letter of Interest to Bid by the date listed in the Schedule of Events to Deborah Spicer. Although a letter of interest is not a requirement of the RFP, the letter will serve as a foundation for a comprehensive list of bidders so that all listed bidders can receive responses to all questions and other amendments to the RFP. Any clarifications will be sent automatically only to those bidders who filed in this manner. All listed who filed in this manner will be kept current on all questions and answers. Any and all objections to the requirements in this RFP must be raised and resolved in the question and answer phase. Bidders are instructed not to include any assumptions or proposed changes to RFP requirements in their proposal. A sample letter of interest is included in this RFP (see Attachment 9). A bidders' conference **will not** be held.

### 4. Submission of Proposals

Interested vendors should submit one (1) original and three (3) signed copies of their Bid Proposal not later than the time and date listed on the front of this RFP.

Responses to this solicitation should be clearly marked "Statewide Coalition and Center for Obesity Prevention, Healthy Eating and Active Living" and directed to:

Deborah Spicer, RD, MPH  
Healthy Heart Program  
New York State Department of Health  
Riverview Center, Room 350  
150 Broadway  
Albany, NY 12204-0676

It is the bidders' responsibility to see that bids are delivered to Room 350 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 350 will not be considered.

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

5. 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.

6. Payment and Reporting

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

Division of Chronic Disease and Injury Prevention  
NYSDOH  
Empire State Plaza, Corning Tower, Room 515  
Albany, NY 12237-0675

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

The contractor will be required to enter work plan activities monthly into a Web-based reporting system.

The contractor will also be required to participate in periodic conference calls and/or meetings with Department of Health staff as necessary.

7. Term of Contract

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

a. It is anticipated that a contract resulting from this RFP will be effective on or about April 1, 2010 – March 31, 2015, for a period of 5 years, subject to appropriation and contractor performance. The contract term may change if the DOH makes an award earlier than expected or if the DOH cannot execute the agreement by April 1, 2010 due to unforeseen delays.

All proposals should be based on a performance period of a 5 year period as stated above.

b. Should work commence before the contract is approved by the NYS Office of the State Comptroller, the state will consider that work to have been volunteered and shall not reimburse the contractor.

c. 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.

8. Debriefing

Once an award has been made, bidders may request, in writing, 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.

9. 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 10).

10. 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.

11. Lobbying Statute

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

- a. makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b. requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d. authorizes the New York State Commission on Public Integrity to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e. directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- f. requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment;
- g. expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts;
- h. modifies the governance of the New York State Commission on Public Integrity
- i. provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
- j. increases the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
- k. establishes the Advisory Council on Procurement Lobbying.

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

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

State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York State Commission on Public Integrity regarding procurement lobbying, the 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.

12. 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.

13. 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/>

14. 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.

15. 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.

16. 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 11) 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, Certificate of Attestation for New York Entities, With No Employees and Certain Out of State Entities 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, Certificate of Attestation for New York Entities, With No Employees and Certain Out of State Entities 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)

## G. ATTACHMENTS

1. Sustainability Strategies
2. No Tobacco Status
3. Guidelines for Healthy Meetings
4. Comprehensive Healthy Foods Policy Status and Intent
5. Cover Sheet

6. Bid Form
7. Cost Proposal
8. No Bid Form
9. Sample Letter of Interest
10. Vendor Responsibility Attestation
11. M/WBE Procurement Forms
12. Appendix A – Standard Clauses for All New York State Contracts
13. Appendix D – General Specifications
14. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-TD
15. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-CA
16. N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire (for procurements greater than or equal to \$100,000)
17. State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term
18. State Consultant Services Form B, Contractor's Annual Employment Report.
19. References

**Sustainability Strategies**

**1. Letters to the editor and opinion pieces for the local paper.**

Write letters and opinion pieces for the local newspaper about the healthy eating and/or active living work and how it relates to the reduction of heart disease and other chronic diseases.

**2. Ongoing communication with legislators and other decision makers.**

Regularly send electronic updates to legislators and other decision makers about the progress and successes in making communities more active and healthier places to eat. Meet with legislators to educate them on the connection between active living and healthy eating and heart disease prevention.

**3. Relationships with media.**

Establish relationships with all forms of media – radio, print, television. Know who the reporters are that cover health and community beats. Make sure they know when you have an event or a success through press releases and calls.

**4. Sphere of influence queries.**

Talk to businesses/employers/restaurants affected by healthy eating and active living interventions, with the goal of them being a proponent of your work.

**5. Personal stories/testimonials**

Write up stories of people whose lives are improved by the changes you are making in the community. Share those stories with people of influence. People can also present their stories to people of influence directly.

**6. Community champion recruitment/cultivation.**

Find people who are proponents of active living and healthy eating and want to help create healthy communities. Educate them to talk about the importance of the work as it relates to quality of life and chronic disease prevention.

**Attachment 2**

**No Tobacco Status**

The organization does not have any affiliation\* or contractual relationship with any tobacco company, its affiliates, its subsidiaries or its parent company. Subcontractors should meet the same requirements as the principal contract holder and be approved by DOH.

\* Affiliation:

- being employed by or contracted to any tobacco company, association or any other agents known by you to be acting for tobacco companies or associations;
- receiving honoraria, travel, conference or other financial support from any tobacco company, association or any other agents known by you to be acting for or in service of tobacco companies or associations;
- receiving direct or indirect financial support for research, education or other services from a tobacco company, association or any agent acting for or in service of such companies or associations, and;
- owning a patent or proprietary interest in a technology or process for the consumption of tobacco or other tobacco use related products or initiatives.

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

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

# Guidelines for Healthy Meetings



## *Introduction*

The connection between food, physical activity and health are well documented. Offering healthy choices at meetings and other events can make it easier for people to eat healthy foods and be physically active. Making simple changes to foods, drinks and breaks offered at group and community events gives New Yorkers disease-fighting foods and an energy boost without worries about too many calories, too much unhealthy fat, or too much sedentary time. There are three parts to these guidelines – general guidelines, suggestions for menus and physical activities, and a sheet to provide to the vendor.

## *General Guidelines*

Healthy food certainly can taste good. Most food service professionals now have some familiarity with healthier food preparation options and are willing to accommodate requests for changes to their usual fare. You might want to ask for a sample ahead of time. Registration forms should provide space to indicate food allergies or dietary restrictions.

- ✓ Serve low-calorie and low-fat foods.
- ✓ Serve fruits and vegetables whenever possible.
- ✓ Serve small portions (e.g., cut bagels in halves or quarters, etc.).
- ✓ Serve milk (fat-free or 1%), 100% fruit or vegetable juice, water or iced tea (unsweetened) instead of soft drinks.
- ✓ Lunch and dinner don't have to include a heavy dessert – fresh fruit, a fruit crisp or cobbler, small cookies, etc. are fine options.
- ✓ Include a vegetarian option at all meals.
- ✓ Provide reduced-fat or low-fat milk for coffee rather than cream or half and half (evaporated skim milk also works well for coffee - make sure it's not sweetened condensed milk).
- ✓ Provide pitchers of water.

Providing participants with physical activity breaks at meetings and events will help them stay alert and focused. In addition to including physical activity breaks in the agenda, it's important to consider hotel location, facilities and accommodating people of abilities in any activities planned.

- ✓ Choose a location where participants can easily and safely take a walk. For overnight meetings, choose a place where participants can walk to dinner or evening entertainment. Provide participants with maps of the area showing good walking routes.
- ✓ Choose a hotel that has good, accessible fitness facilities, e.g., a fitness room and pool. Include information about these facilities in materials you send to participants.
- ✓ Consider a casual dress code for the meeting - this allows people to participate in physical activities more easily.
- ✓ Organize physical activity breaks that can be modified or adapted for people of all abilities, such as stretching exercises that can be performed in a seated position.

# Guidelines for Healthy Meetings

## Menu Suggestions

### Breakfast

- Fresh fruit (cut up and offered with low-fat yogurt dip)
- High-fiber cereals like bran flakes, low-fat granola or oatmeal
- Fruit toppings (raisins, dried fruit mix, fresh strawberries, bananas, blueberries, peaches) for hot and cold cereals
- Hard cooked eggs
- Vegetable omelets
- Low-fat yogurt
- Eggs made with egg substitute or without yolks
- Thinly sliced ham
- Bagels (cut in half) served with fruit spreads, jams, hummus, or low-fat cream cheese

### Light Refreshments

- Consider whether it is necessary to offer a morning and afternoon food break
- Fresh sliced fruit and vegetable tray – offered with low-fat dips
- Whole grain crackers or granola bars (5g fat or less per serving)
- An assortment of low-fat cheeses and whole grain crackers
- Baked Pita chips served with hummus
- Whole grain muffins (cut in half if not serving mini muffins) and whole grain breads
- Low-fat yogurt
- Pretzels, popcorn, baked chips, or trail mixes

### Lunch and Dinner

- Salad that includes a variety of mixed salad greens and served with low-fat dressing
- Whole grain breads and rolls
- Mustard and low-fat mayonnaise as condiments for sandwiches, or cranberry sauce if you're offering turkey
- Sandwiches presented in halves, so people can take a smaller portion
- Broth-based soups (using a vegetarian broth), or soups using evaporated skim milk instead of cream
- Pasta dishes (lasagna, pizza) with low-fat cheeses (part skim mozzarella, part skim ricotta) and extra vegetables or pasta with tomato or other vegetable-based sauces
- 4-ounce maximum portions of meat and plenty of low-fat, low-calorie side dishes
- Raw vegetables or pretzels instead of potato chips or french fries.
- Vegetables – steamed, fresh or cooked without butter or cream sauces.

## Physical Activity Suggestions

- Organize an early morning physical activity opportunity, e.g., a morning walk.
- If you are planning a walking activity, look for safe walkways with ample width and curb cuts so people who use mobility devices can participate.
- Encourage participants to take the stairs. Place signs near the elevators telling people where the stairs are.
- Encourage networking by suggesting people take a walk together and talk about their common interests.
- Schedule brief activity breaks in the morning and afternoon, e.g., walking in place, stretching, or resistance band use.

# Guidelines for Healthy Meetings

The following are general guidelines to use when planning meals for meetings and other events. It is important to provide delicious, healthy food choices to help people eat well. We hope that this information will help you work with us to provide healthy meals to our participants.

## General Guidelines

- ✓ Offer low-calorie and low fat foods and/or small portions (e.g. bagels cut in halves or quarters).
- ✓ Always offer vegetables, fruit and low-fat milk.
- ✓ Include a vegetarian option at all meals.
- ✓ Provide no more than a 4-ounce serving of meat.
- ✓ Provide pitchers of water.
- ✓ Provide at least some whole grain breads and cereals.
- ✓ If serving a dessert, provide fresh fruit, fruit crisps, small cookies, or small servings of sorbet.

## Menu Suggestions

### Breakfast

- Fresh fruit.
- Yogurt.
- High-fiber cereals like bran flakes, low-fat granola and oatmeal.
- Fruit toppings (raisins, dried fruit mix, fresh strawberries, bananas, blueberries, peaches) for hot and cold cereals.
- Hard cooked eggs.
- Vegetable omelets and eggs made with egg substitute or without yolks.
- Thinly sliced ham or Canadian bacon.
- Whole grain or part whole grain bagels (cut in half) served with fruit spreads, jams, or low-fat cream cheese.

### Light Refreshments

- Fresh sliced fruit and vegetable tray – offered with low-fat dips.
- Whole grain crackers or granola bars (5g fat or less per serving).
- An assortment of low-fat cheeses and whole grain crackers.
- Pita chips served with hummus.
- Whole grain muffins (cut in half if not serving mini muffins) and whole grain breads.
- Low-fat yogurt.
- Pretzels, popcorn, baked chips, and trail mixes.
- Bagels with low-fat cream cheese or jams - cut bagels in halves or quarters.
- Low-fat yogurt.

### Lunch and Dinner

- Raw vegetables with low-fat dip and fresh fruits.
- Salads with low-fat salad dressing on the side.
- Broth-based soups (using a vegetarian broth), or soups using evaporated skim milk instead of cream.
- Raw vegetable salads marinated in fat-free or low-fat Italian dressing.
- Sandwich platters - cut sandwiches in half so people can take smaller portions. Offer mustard and low-fat mayonnaise as condiments on the side. Use whole grain breads.
- Pasta dishes made with part skim mozzarella and part skim ricotta cheese (e.g. pizza, lasagna). Serve pasta with tomato or other vegetable-based sauces.
- Meat servings limited to a 4 ounce portion (fresh seafood, skinless poultry, lean beef – eye of round, London broil).
- Whole grain breads or rolls.
- Baked potatoes with low-fat or vegetable toppings on the side.
- Salads with dark green lettuces; spinach; beans and peas; grilled, lean meat and low-fat cheeses.
- Pasta, tofu and vegetable salads with fat-free or low-fat dressing.
- Desserts: frozen yogurt or sorbet, small cookies, small individually wrapped chocolates, fruit crisp.

**This page has been intentionally left blank.**

**Attachment 4**

**Comprehensive Healthy Foods Policy Status and Intent**

*Check the box that most accurately characterizes the bidder organization:*

- The organization provides or makes food available to staff or visitors and has or agrees to develop and implement a comprehensive healthy foods policy, including healthy meeting guidelines, within one year of the start date of this contract.

OR

- The organization does not provide or make available food to staff or visitors and will implement healthy meeting guidelines for meetings and events hosted or sponsored by the organization.

OR

- The organization has a combination of practices when providing or making food available to staff or visitors. The organization has or agrees to develop and implement a comprehensive healthy foods policy, including healthy meeting guidelines, within one year of the start date of this contract for food provided or made available to staff or visitors. The organization will implement healthy meeting guidelines for meetings and events hosted or sponsored by the organization.

In every instance, the organization will work with onsite or retained food vendors to adapt food offerings to be consistent with the healthy meeting guidelines and/or a comprehensive healthy foods policy over time.

- Healthy meeting guidelines are described in Attachment 3.
- A comprehensive healthy foods policy ensures that cafeteria meals, refreshments, and vending machines include healthy choices and limit or eliminate unhealthy choices.

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

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

Statewide Coalition and Center for Obesity Prevention, Healthy Eating and Active Living  
RFP #

COVER SHEET

Name of Bidder (*Legal name as it would appear on a contract*)

Mailing Address (*Street address, P.O. Box, City, State, ZIP Code*)

Federal Employee Identification Number:

**Person authorized to act as the contact for this firm in matters regarding this proposal:**

Printed Name ( <i>First, Last</i> ):	Title:
Telephone number:	Fax number:
( )	( )
E-mail:	

**Person authorized to obligate this firm in matters regarding this proposal or the resulting contract:**

Printed Name ( <i>First, Last</i> ):	Title:
Telephone number:	Fax number:
( )	( )
E-mail:	

**(CORPORATIONS) Name/Title of person authorized by the Board of Directors to sign this proposal on behalf of the Board:**

Printed Name ( <i>First, Last</i> ):	Title:
--------------------------------------	--------

**Signature of Bidder or Authorized Representative**

Date:

NEW YORK STATE  
DEPARTMENT OF HEALTH  
BID FORM

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

Bidder Name:

Bidder Address:

Bidder Fed ID No:

A. \_\_\_\_\_ bids a total price of \$ \_\_\_\_\_  
(Name of Offerer/Bidder)

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

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

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



2b. If yes, please provide details below.

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

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

Basis of Termination or Withholding:

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

(Add additional pages as necessary)

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

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

With Bid

Upon Award

1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220.

2. A completed N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire (for procurements greater than or equal to \$100,000)

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

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

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

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

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

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

## Attachment 7

### Cost Proposal

#### Statewide Coalition and Center for Obesity Prevention, Healthy Eating and Active Living RFP #

a) The following assumptions must be used by the Bidder in completing this Form:

Hourly rates must be inclusive of all costs including salaries, fringe benefits, administrative costs, overhead, travel, presentation costs and profit.

1. The Bidder must propose hourly rates for each of the 5 years.
2. Hourly rates must be separately proposed for each level of staff described in Attachment 7 – Cost Proposal. Based on Department experience, the ratio of staff hours for projects should be assumed to be 5% Level 1 Staff, 85% Level 2 Staff and 10% Level 3 Staff as described.
3. The estimated ratio of staff hours is provided to potential Bidders solely for the purpose of constructing the proposal. The actual ratio of staff utilized may be different from this estimate.
4. The estimated number of hours to be required by the Department for the contract is 7,000 hours per year. This estimate is provided to potential Bidders solely for the purpose of constructing the proposal. It is not a guarantee of the number of hours that can be billed by the successful Bidder. The actual number of hours paid under the contract may be higher or lower than this estimate.
5. The Task Specifications described in Section C. should be considered.

b) A completed Cost Proposal Form, Attachment 7, must be submitted. The Cost Proposal Form consists of the hourly rates for each of the staff levels listed on the form, the Bidder's proposed contract cost based on the above assumptions, and the staff titles included in each staff level.

## Cost Proposal

Complete the information below based on the assumptions contained in Section D.2. – Financial Proposal section of the RFP and the information provided below. Please use this form for projecting costs for years one through five by making a copy of the form for each year and labeling the form for each year.

For purposes of this proposal, use the following guidelines in assigning staff to one of the three levels listed below, provide one hourly rate for each Staff Level, and list the titles within your organization as they relate to each Staff Level. Using the proposed hourly rate, compute the Total Cost of the proposal based on the Total Hours provided. The Department reserves the right to require the reassignment of the level of staff so that all bids are evaluated on equal terms.

### **Level 1 Staff:**

**Staff Types:** Principals, Project Leaders, Lead Consultants, or other staff with similar responsibilities.

**Experience:** These staff have extensive experience and knowledge of activities related to public health, planning and economic development. These upper level staff are seasoned professionals with generally 10-15 years of experience, and may have an advanced degree in public health and/or planning.

**General Duties:** Project oversight, management of Contractor's team, liaison with DOH.

### **Level 2 Staff:**

**Staff Types:** Public health practitioners with experience in obesity research and the built environment, planners, consultants, or other staff with similar responsibilities.

**Experience:** These staff are mid-level professionals with generally 5-10 years of increasing responsibility and independent work and experience, and require little supervision. These staff may include planners and public health practitioners and researchers.

**General Duties:** Research, training, technical assistance, review and recommendation of evaluation tools, health impact assessment, policy surveillance development.

### **Level 3 Staff:**

**Staff Types:** Administrative support, fiscal support.

**Experience:** These staff work under direct supervision of mid-level staff.

**General Duties:** Support for activities of higher level staff.



**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 9**

**Sample  
Letter of Interest**

Deborah Spicer, RD, MPH  
Healthy Heart Program  
Riverview Center, Room 350  
150 Broadway  
Albany, NY 12204-0676

Re: RFP # Statewide Coalition and Center for Obesity Prevention, Healthy Eating and Active Living

Dear Ms. Spicer:

This letter is to indicate our interest in the above Request for Proposals (RFP) and to request: *(please check one)*

- that our organization be notified, via the e-mail address below, when any updates, official responses to questions, or amendments to the RFP are posted on the Department of Health website: <http://www.nyhealth.gov/funding/>.

E-mail address: \_\_\_\_\_

- that our organization is unable or prefers not to use the Department of Health's website and requests the actual documents containing any updates, official responses to questions, or amendments to the RFP be mailed to the address below:

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

Sincerely,

**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 11**

**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





<p><b>Telephone Number</b></p> <p>( ) -</p>		
<p><b>Name</b></p> <p><b>Address</b></p> <p><b>City, State, ZIP</b></p> <p><b>Employer I.D.</b></p> <p><b>Telephone Number</b></p> <p>( ) -</p>		<p>\$ _____</p>
<p><b>Name</b></p> <p><b>Address</b></p>		<p>\$ _____</p>

<p><b>City, State, ZIP</b></p>  <p><b>Employer I.D.</b></p>  <p><b>Telephone Number</b></p> <p>(   )   -   </p>		
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**New York State Department of Health**

**WOMEN OWNED BUSINESS ENTERPRISE (WBE) INFORMATION**

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

WBE Firm (Exactly as Registered)	Description of Work (Products/Services) [WBE]	Projected WBE Dollar Amount
<p><b>Name</b></p>    <p><b>Address</b></p>    <p><b>City, State, ZIP</b></p>		<p align="center">\$ _____</p>

<p><b>Employer I.D.</b></p> <p><b>Telephone Number</b></p> <p>( ) -</p>		
<p><b>Name</b></p> <p><b>Address</b></p> <p><b>City, State, ZIP</b></p> <p><b>Employer I.D.</b></p> <p><b>Telephone Number</b></p> <p>( ) -</p>		<p>\$ _____</p>
<p><b>Name</b></p>		<p>\$ _____</p>




<b>Contractor's Agreement: My firm proposes to use the MBEs listed on this form</b>			
Prepared By: (Signature of Contractor)	Print Contractor's Name:	Telephone #:	Date:
Grant Recipient Affirmative Action Officer Signature (If applicable):			

<b>FOR OFFICE USE ONLY</b>	
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.

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

Date

Contractor \_\_\_\_\_

Printed/Typed Name of M/WBE

**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							
<b>Managers/Supervisors</b>							
<b>Professionals</b>							
<b>Technicians</b>							
<b>Clerical</b>							
<b>Craft/Maintenance</b>							
<b>Operatives</b>							
<b>Laborers</b>							
<b>Public Assistance Recipients</b>							
<b>TOTAL</b>							

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

\_\_\_\_\_  
Date

**STANDARD CLAUSES FOR NYS CONTRACTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

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

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

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

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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APPENDIX D  
GENERAL SPECIFICATIONS

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

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

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

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

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

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

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

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

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

N. YEAR 2000 WARRANTY

1. Definitions

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

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

## 2. Warranty Disclosure

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

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

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

## 3. Warranty Statement

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

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

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

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

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

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

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

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

T. Provisions Upon Default

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

U. Termination Provision

Upon termination of this agreement, the following shall occur:

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

V. Conflicts

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

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT

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

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

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

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

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

#### X. Contract Insurance Requirements

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

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

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

Y. Certification Regarding Debarment and Suspension

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

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

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

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

Instructions for Certification

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

those regulations.

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

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

Z. Confidentiality Clauses

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

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

AA. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 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.



# Contractor Certification

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

# ST-220-TD

(6/06)

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

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

## General information

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

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

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

Mail completed form to:

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

## Privacy notification

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

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

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

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

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

## Need help?

 **Internet access:** [www.nystax.gov](http://www.nystax.gov)  
(for information, forms, and publications)

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

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

To order forms and publications: 1 800 462-8100

**Sales Tax Information Center:** 1 800 698-2909

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

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

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

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

Make only one entry in each section below.

### Section 1 — Contractor registration status

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

### Section 2 — Affiliate registration status

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

### Section 3 — Subcontractor registration status

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

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
*(sign before a notary public)*

\_\_\_\_\_  
*(title)*







# Contractor Certification to Covered Agency

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

# ST-220-CA

(6/06)

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

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

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_

(name)

(title)

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

(Mark an X in only one box)

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

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

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

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

(sign before a notary public)

(title)

## Instructions

### General information

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

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

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

### When to complete this form

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

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

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

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

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

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

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

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.
Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.
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Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

State Consultant Services

# FORM A

OSC Use Only

Reporting Code:

Category Code:

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

New York State Department of Health

Agency Code 12000

Contractor Name:

Contract Number:

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.

## Instructions

### State Consultant Services Form B: Contractor's Annual Employment Report

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. New York State Department of Health  
<Insert Designated Payment Office (from 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:** 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:** 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.

**FORM B**

**OSC Use Only:**

Reporting Code:

Category Code:

**State Consultant Services  
Contractor's Annual Employment Report**

**Report Period: April 1,      to March 31,**

Contracting State Agency Name:

Agency Code:

Contract Number:

Contract Term:   /   /      to   /   /

Contractor Name:

Contractor Address:

Description of Services Being Provided:

**Scope of Contract (Choose 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 Worked	Amount Payable Under the Contract

Total this page	0	0	\$ 0.00
Grand Total			

Name of person who prepared this report:

Preparer's Signature: \_\_\_\_\_

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

Date Prepared:    /    /

Page    of

Use additional pages if necessary)

## References

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- <sup>5</sup> Ogden, C. L., M. D. Carroll, and K. M. Flegal. "High body mass index for age among US children and adolescents, 2003-2006." *JAMA : the journal of the American Medical Association* 299.20 (2008): 2401-05.
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