

**NEW YORK STATE DEPARTMENT OF HEALTH**

A Request for Proposal for

**Pre-Admission Screening and Resident Review  
(PASRR)**

Bureau of Operations  
Office of Long Term Care

RFP No. 1001061024

---

Schedule of Key Events

|                                   |                |
|-----------------------------------|----------------|
| RFP Release Date                  | March 15, 2010 |
| Letter of Interest (optional) Due | March 26, 2010 |
| Written Questions Due             | April 9, 2010  |
| Response to Written Questions     | April 30, 2010 |
| Proposal Due Date                 | May 21, 2010   |

New York State Department of Health  
Division of Long Term Care Resources  
Bureau of Operations  
One Commerce Plaza  
Suite 826  
Albany, New York 12210

## TABLE OF CONTENTS

|  |    |
|--|----|
| DESIGNATED CONTACTS  | 4  |
| A. INTRODUCTION  | 5  |
| B. BACKGROUND  | 5  |
| 1. New York State PASRR Requirements   |    |
| C. DETAILED SPECIFICATIONS   | 6  |
| 1. Scope of Work   | 6  |
| 2. Fair Hearings   | 7  |
| 3. Recruiting of Qualified Staff   | 7  |
| 4. Quarterly Quality Assurances  | 8  |
| 5. Reporting   | 8  |
| D. PROPOSAL REQUIREMENTS   | 9  |
| 1. Mandatory Requirements  | 10 |
| 2. Technical Component   | 10 |
| 3. Financial Component   | 12 |
| E. METHOD OF AWARD   | 12 |
| 1. Vendor Selection  | 12 |
| 2. Technical Proposal Score  | 13 |
| 3. Financial Proposal Score  | 14 |
| F. ADMINISTRATIVE  | 14 |
| 1. Issuing Agency  | 14 |
| 2. Letter of Interest  | 14 |
| 3. Inquiries   | 15 |
| 4. Submission of Proposals   | 15 |
| 5. Reserved Rights   | 15 |
| 6. Payment   | 16 |
| 7. Term of Contract  | 16 |
| 8. Debriefing  | 16 |
| 9. Protest Procedures  | 17 |
| 10. Vendor Responsibility Questionnaire  | 17 |
| 11. State Consultant Services Reporting  | 18 |
| 12. Lobbying Statute   | 18 |
| 13. Accessibility of State Agency Web-based Intranet and Internet Information and Applications | 19 |
| 14. Information Security Breach and Notification Act   | 19 |
| 15. New York State Tax Law Section 5-a   | 20 |
| 16. Piggybacking   | 20 |
| 17. M/WBE Utilization Plan for Subcontracting and Purchasing                                   |    |
| G. APPENDICES  | 21 |
| • Appendix A, B, C, D,E  |    |
| • Appendix G, H, I, X  |    |
| H. ATTACHMENTS   | 22 |
| 1. Letter of Interest  |    |
| 2. Cover Page  |    |
| 3. Bid Form  |    |

4. No Bid Form
5. Bidder's Assurances
6. National Association of PASRR Professionals [www.PASRR.org](http://www.PASRR.org) & PASRR Technical Assistance Center [www.PASRRassist.org](http://www.PASRRassist.org)
7. Definition of Specialized Services
8. M/WBE Procurement Forms
9. Vendor Responsibility Attestation
10. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-TD
11. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-CA
12. State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term
13. State Consultant Services Form B, Contractor's Annual Employment Report
14. Cost Proposal Form

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

**DESIGNATED CONTACTS:**

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

Bonnie DeGennaro  
New York State Department of Health  
Corning Tower, Room 1344  
ESP  
Albany, NY 12237  
[BJD05@health.state.ny.us](mailto:BJD05@health.state.ny.us)  
(518) 474-3057

**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:

RFP Release Date:

[PASRRRFP10@health.state.ny.us](mailto:PASRRRFP10@health.state.ny.us); Bureau of Operations Suite 826, NYS Department of Health, ONE COMMERCE PLAZA, Albany, NY 12210.

Submission of Written Questions:

[PASRRRFP10@health.state.ny.us](mailto:PASRRRFP10@health.state.ny.us); Bureau of Operations Suite 826, NYS Department of Health, ONE COMMERCE PLAZA, Albany, NY 12210.

Submission of Written Proposals or Bids:

Stephanie Heverly (518) 474-5295  
New York State Department of Health  
Division of Long Term Care Resources  
Bureau of Operations, Suite 826  
One Commerce Plaza  
Albany, New York 12210

Debriefings:

Sarah Van Leer (518) 474-5295  
New York State Department of Health  
Division of Long Term Care Resources  
Bureau of Operations, Suite 826  
One Commerce Plaza  
Albany, New York 12210

Negotiation of Contract Terms after Award:

Stephanie Heverly (518) 474-5295  
New York State Department of Health  
Division of Long Term Care Resources  
Bureau of Operations, Suite 826  
One Commerce Plaza  
Albany, New York 12210

*For further information regarding these statutory provisions, see the Lobbying Statute summary in Section F, 11 of this solicitation.*

## **A. INTRODUCTION**

The New York State Department of Health (DOH) is seeking a qualified contractor to conduct Level II Pre-Admission Screening and Resident Review (PASRR) evaluations of persons known or suspected of having mental illness (MI) and who are seeking admission to a nursing facility (NF) certified under the Medicaid program; residents of a NF who are newly diagnosed with a mental illness; residents who have been identified as having MI and have had a significant change in their physical or mental condition; and individuals with a primary diagnosis of Traumatic Brain Injury (TBI) with a dual diagnosis of MI. The Level II evaluation process is a component of PASRR, which was enacted in the Federal Omnibus Budget Reconciliation Act (OBRA) of 1987, subsequently amended by OBRA in 1990, and established under the requirements of section 1919 (e) of the Federal Social Security Act (SSA). This document is intended to provide prospective bidders with significant information to prepare and submit a proposal to the DOH to support the provision of PASRR services.

## **B. BACKGROUND**

Congress enacted sweeping reform to nursing home provisions in the OBRA of 1987. Included in the legislation was a Medicaid provision that prohibits NFs from admitting any person with MI, mental retardation (MR), or a related condition unless the person has been evaluated by the State PASRR program and determined to need NF services. It also required states to develop and implement a PASRR program by January 1, 1989. The PASRR program includes an evaluation of NF applicants and residents with MI/MR. Based on the evaluation data, state Mental Health and Mental Retardation authorities determine whether the person needs NF services or specialized services for their MI/MR beyond those that can be commonly provided by the NF. State Medicaid agencies are required to provide or arrange for needed specialized services.

The PASRR program was originally implemented in New York State in 1989. A year following State implementation, the OBRA of 1990 modified the PASRR obligation and added a requirement for states to annually report to the Health Care Financing Administration (HCFA), now known as Centers for Medicare and Medicaid Services (CMS), the number and disposition (placement) of NF residents who, based on the PASRR evaluation, had to be discharged. This same legislation added a requirement for NFs to notify the state Mental Health and Mental Retardation authorities promptly after a significant change in the physical or mental status of a resident with MI/MR. The appropriate state authority was directed to conduct a resident's review promptly after receiving such notification. Additionally in 1995, a statutory change was enacted that resulted in the deletion of the annual resident review. This statutory amendment has not transferred into regulation under 42 CFR 483.114 (c).

In 2001, DOH expanded PASRR to include those individuals with a primary diagnosis of Traumatic Brain Injury (TBI) with a dual diagnosis of MI.

Each state's PASRR program must provide that all NF applicants or residents with MI/MR, regardless of the source of payment, be evaluated to determine the level of services to be provided by a NF and the need for specialized services for MI/MR or related diagnosis.

Likewise, the Office of Mental Retardation and Developmental Disabilities (OMRDD) has the responsibility to ensure that PASRR reviews are conducted for NF applicants and residents with MR or a related diagnosis. The local Developmental Disabilities Services Offices (DDSO) maintains responsibility for conducting PASRR Level II evaluations for those individuals with possible MR.

The Office of Mental Health (OMH) is responsible for assuring PASRR evaluations are conducted for the NF applicant and residents with a MI, and has delegated this function to the DOH. This RFP will result in a contract to comply with these requirements. The contracted entity will be responsible for performing evaluations of NF applicants who are suspected of having or have serious MI, residents with MI who have experienced significant changes in mental or physical condition, previously undiagnosed residents who are suspected of having a MI and individuals with a primary diagnosis of Traumatic Brain

Injury (TBI) with a dual diagnosis of MI. The evaluator will examine the data that will allow for validation of a MI diagnosis and will assist in the determination of whether a program of psychiatric specialized services is needed. If appropriate, the evaluation will identify the need for mental health services of a lesser intensity (SLI), rather than specialized services, and provide a recommendation for placement. Federal PASRR Legislative authority includes but is not limited to:

1. Social Security Act § 1919, 42 U.S.C. § 1396r, as added by Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203 § 4211) as amended by OBRA '90 (Pub. L. 101-508, § 4801).
2. Public Law 104-315 which amended § 1919(e)(7) of the Social Security Act.
3. Federal Regulations 42 CFR Part 483, Subparts C and E.
4. Medicaid State Operations Letter 96-30: Amendment of the PASRR Program.

State Legislative authority includes Social Service Law § 363a.

#### New York State's PASRR Requirements

Federal regulations require the State PASRR program to identify all Medicaid NF applicants and residents with a possible MI or MR diagnosis (i.e. all individuals who are required to be evaluated under PASRR). This function is completed through the Level I review process. Qualified personnel in hospitals, nursing facilities, certified home health agencies, long term home health care programs, and other community-based agencies perform the Level I review using the Department's SCREEN instrument, DOH-695 (2/2009). The entity responsible for completing the Level I review will notify the Contractor of those NF applicants or residents with a MI for whom the Contractor must perform Level II evaluations.

For those individuals requiring a Level II, OMH, as the State mental health authority, determines the level and type of services needed following that evaluation. If OMH determines that the applicant or resident requires specialized services for MI, NF placement will be deemed inappropriate. OMH's determination for both NF applicants and residents must be based on independent physical and mental evaluations performed by a person or entity other than OMH. The person or entity may not be a NF or have a direct or individual relationship with a NF. The determination must consider the need for NF services and specialized services beyond what a NF can provide. This responsibility has been delegated to the DOH and its Contractor.

Level II evaluations are described in detail in Federal Regulations 42 CFR Section 483.128 through 42 CFR Section 483.134.

### **C. DETAILED SPECIFICATIONS**

A minimum of Three (3) years experience in working with the (NYS or other State's) Medicaid Prior Approval processes is required to submit a proposal in response to this RFP #1001061024.

This contract is for a five-year period with an anticipated start date of July 1, 2010.

#### Contractor Scope of Work

The contractor will be responsible for:

1. Performing Level II evaluations (Attachment 6), consistent with Federal PASRR requirements. Evaluations shall be performed for all applicants or residents with a MI, or suspected to have a MI, referred to the Contractor, regardless of whether the applicant or resident is eligible for Medicaid as the source of payment for the NF services.

- The evaluation must be face-to-face in the hospital, NF, or other facility in which the NF applicant or resident is receiving care, or in the NF applicant's home, if he or she is residing in the community. The contractor must ensure that those NF applicants or residents who are the responsibility of New York State's Medicaid program receive Level II evaluations when requested/required. Out-of-state residents may receive face-to-face evaluations conducted by the host facility with DOH approval. In these instances, the contractor may perform administrative reviews for Level II PASRR evaluations;
  - For NF applicants, the Contractor must complete Level II evaluations and forward required documents to the OMH clinical director within five business days after the day on which the entity that performed the Level I Screen referred the applicant to the Contractor for a Level II evaluation;
  - For NF residents, the Contractor must complete Level II evaluations within five business days of receiving notice from a NF that there has been a significant change in a resident's mental or physical condition. The NF will perform a Level I review for residents who have exhibited such changes, and/or those residents who are newly diagnosed, and will notify the Contractor when a Level II evaluation is indicated;
  - The person who performs the Level II evaluation must assess whether the individual's total needs can be met in an appropriate community setting;
  - The person who performs the Level II evaluation must assess whether a NF applicant or resident with a MI requires specialized services based on the definition of specialized services (Attachment 7);
  - The person who performs the Level II evaluation must assess whether a NF applicant or resident with a MI requires services of lesser intensity (SLI) rather than specialized services;
  - For the period April 1, 2008 to March 31, 2009 DOH's current contractor conducted a total of 2,528 comprehensive psychiatric evaluations. Approximately 69% occurred in the downstate region, which is defined as New York City, Nassau, Putnam, Rockland, Suffolk and Westchester Counties, and 31% occurred in the upstate region. **There will be no guaranteed minimum number of comprehensive psychiatric evaluations to be performed and no guaranteed minimum payment to the contractor. This information is provided only as an indication of past volume, and is not a guarantee of future volume;**
  - Fair Hearings-Each State must provide a hearing and appeal system for an individual who has been adversely affected by any PASARR determination made by the State in the context of either a pre-admission screening or an annual resident review under subpart C of part 483 to appeal that determination. A notice of determination must include notice of the individual's right to appeal the determination.
2. Recruiting qualified persons throughout the state to perform comprehensive psychiatric evaluations as described in Attachment 6. Only the following persons are qualified to perform comprehensive psychiatric evaluations:
- A NYS licensed psychiatrist who is board-certified or board-eligible;

- A NYS licensed social worker who has a Masters degree in social work and experience in performing comprehensive psychiatric evaluations;
  - A NYS licensed registered nurse who has experience in performing comprehensive psychiatric evaluations; or
  - A NYS licensed psychologist who has experience in performing comprehensive psychiatric evaluations.
3. Conducting a quarterly quality assurance review to assure that the recommendations made by the PASRR contractor are appropriate and conform to Federal and State requirements. The random sample must represent at least 20% of NF residents who have had a Level II comprehensive psychiatric evaluation performed and who have been determined to need mental health SLI rather than specialized services.
  4. Preparing the following reports and submitting them to DOH and OMH, within 30 days after the end of the reporting period:

Monthly:

- Monthly voucher. The voucher summarizes the number of reviews the Contractor performed during the month and fair hearings, and provides the approved cost per review and fair hearing;
- Monthly program report. In general, this report describes the Contractor's progress toward the RFP's objective and any obstacles the Contractor has encountered in meeting this objective. A program report must accompany each monthly voucher;
- Monthly activity report. The Contractor will be responsible for the following monthly activity reports, at a minimum:
  - By County
  - By Level II Screening Entity – detail
  - By Level II Screening Entity – summary
  - By Payer – Detail and summary
  - Reviews conducted for:
    - Pre-Admission Screening (PAS)
    - Resident Review for significant change (RR)
    - Services of Lesser Intensity (SLI)
  - Reviews – All conducted recipients – PASRR – Level II
  - Facilities non-compliant
  - Fair hearing activities: number of fair hearing requests received for that contract period, and the outcome of such hearings

Further details on reporting requirements will be provided in the contract.

Quarterly:

- Quarterly activity report. The Contractor will be responsible for providing a 20% quality assurance random sample to the OMH Clinical Director for his/her review and concurrence;
- Random sample SLI onsite review report. The Contractor will be responsible for providing a 20% random sample of mental health SLI analysis by facility to determine whether individuals are

receiving the recommended services;

- TBI Diagnosis Identification Report. The Contractor will be responsible for providing a report identifying individuals who were assessed for MI who have a dual diagnosis of TBI;
- SLI Determinations Report. The Contractor will be responsible for submitting a report identifying SLI determinations that have an additional recommendation for discharge to a NF with a specialty unit, such as neurobehavioral or enhanced psychosocial behavioral services in a nursing facility;

Annual:

- Annual Billing Summary. The Contractor will be responsible for summarizing the yearly expenditures incurred for performing comprehensive psychiatric evaluations, including administrative costs;
- Fair hearing activities. The Contractor will be responsible for preparing a report detailing the number of fair hearing requests received for that contract period, and the outcome of such hearings;
- Additional information may be accessed through the new National PASRR Technical Assistance Center's website: [www.PASRRassist.org](http://www.PASRRassist.org)

#### **D. PROPOSAL REQUIREMENTS**

One signed original, four (4) paper copies and two (2) CD-ROMs are required; one with technical information and one with financial information and **must be received no later than 4:00 p.m. on May 21, 2010**. The originals must be signed by an Authorized Signatory of the Bidder's organization and must be bound in a binder or equivalent. No proposals will be accepted via fax or e-mail. Proposals are to be submitted in two parts, the Technical Component and the Financial Component, in separate sealed envelope and clearly labeled.

Responses to this solicitation should be clearly marked "**PASRR RFP #1001061024**" and directed to:

Stephanie Heverly  
NYS Department of Health  
Office of Long Term Care/Operations  
Once Commerce Plaza, Suite 826  
Albany, NY 12210

#### **Technical Component**

**This portion of the proposal must be submitted in a sealed envelope labeled "Technical Component, RFP# 1001061024" and must include:**

#### **Cover Page**

Bidders must use Attachment 2 as the cover page. The cover page must include the Bidder's name and address, Federal Employer ID number (FEIN), and the specific name and contact information of the responsible party for this proposal, including phone number, E-mail address and signature.

#### **Table of Contents**

The Table of Contents should include each section of the proposal and the page number for that section. All pages in the proposal must be numbered.

## **Bidder's Assurances**

Complete the Bidder's Assurances form (Attachment 5).

### **Mandatory Requirements (Pass/Fail)**

- Bidders must demonstrate a minimum of three- years of Medicaid Prior Approval experience (NYS or other State) and documentation of the quality and effectiveness of the experience;
- All requested RFP information, evidence, documentation and completed forms must be provided at the submission of the proposal by the date and time specified above;
- Technical and financial proposals must be submitted in separate envelopes

In addition to the mandatory proposal requirements, the technical proposals must address the following areas and will be scored by the review team. Each section indicates a page limit and should be adhered to or it could result in a point reduction:

#### **Section I – Statement of Understanding** *(Limit three page narrative)*

State in the Bidder's own words an understanding of the PASRR process, its relationship to the general New York State Long Term Care process, and the role that the Bidder expects to perform within the process. Clearly explain the functional relationship between the successful bidder with the State Offices of Mental Health and Mental Retardation and Department of Health if awarded the contract.

#### **Section II – Organization Summary** *(Limit two page narrative, not including attachments)*

Provide a brief description of the Bidder's organization. Provide an organizational chart showing organizational structure, areas of responsibility, key individuals and the relationship of the organization to performance of the Level II comprehensive psychiatric evaluations (including any subcontractor).

List the name, title, and responsibilities of those who are authorized to negotiate a contract with DOH, and who will have ultimate responsibility and accountability for this contract.

Describe the role of board members in governance and policy making.

Give the full name and address of any organization with which the Bidder will subcontract for any services under the project. Describe the services to be subcontracted, and mechanisms to be put in place for assuring effective and efficient operations and communications will be maintained in carrying out the provisions of this contract.

List responsible officers of each subcontractor, including those individuals authorized to negotiate for subcontractors. List any financial interest the Bidder has in proposed subcontractors. Provide evidence of a potential subcontractor's willingness to participate or enter into sub-contractual arrangements;

A copy of the Bidder's most recent audited financial statement or Dunn and Bradstreet corporate analysis. The statement should include full disclosure of all significant litigation affecting the Bidder, whether as defendant or plaintiff, for the past five years and the outcome or status of such litigation. Any additional evidence of financial capacity to support performance for the contract term and of long term financial stability believed relevant and beneficial to the proposal evaluation.

#### **Section III – Prior Experience** *(Limit five pages, not including attachments)*

Describe the Bidder's experience with Level II comprehensive psychiatric evaluations and similar MI/MR examinations. Specify any experience in these areas which was related to the long term care system. Describe governmental experience and documented program development and service delivery targeting special needs population. Detail any special techniques, skills and abilities that the organization considers necessary to accomplish the RFP requirements. Experience indicated should be work performed by individuals who will be assigned to this contract, as well as by the organization as a whole. Projects referenced should be identified and the name of the customer shown, including the name, address and telephone number of the responsible official of the customer, company or agency who may be contacted by DOH. Information to be shared includes:

- A description of the Bidder's expertise and experience relative to the following specific areas:
  - The number and type of staff available for such engagements;
  - A plan to reflect the Bidder's ability to adjust resources to accommodate fluctuation in evaluations by geographic regions;
  - The number of years the Bidder has been involved in this line of business.
- Three (3) References are required for the last three engagements specifically related to the cited area. The information must include:
  - Client/employer's name and address and the identity and telephone number of the client manager directly responsible for the engagement.
  - A full description of the engagement including duration, number of staff assigned and the products delivered as a result of the engagement. Duration (from/to dates)
  - Failure to include references may result in disqualification of the proposal.

#### **Section IV – Work Plan** *(Limit five pages, not including attachments)*

Describe in narrative form the Bidder's plan for accomplishing the scope of work, addressing each activity for which the Bidder is responsible. If the Bidder is proposing the use of subcontractor(s) in accomplishing the scope of work, fully describe the subcontractor organization and the subcontractor functions within the Level II evaluation process.

Describe in detail the process for Level II evaluations delineating a process for pre-admission reviews, reviews of those individuals with newly diagnosed MI, and significant change reviews, and the timeline associated with each step of the process. Describe how Bidder will accept referrals. Describe in detail, supplemented by task definitions and staffing titles, the services of lesser intensity review process and the timeline associated with each step of the process.

Describe in detail the start-up of the Level II evaluation process leading to full operation within 45 days after commencement of performance under the contract resulting from this RFP.

Describe in detail the start-up of the services of lesser intensity review process with timeline leading to full operation within 45 days after commencement of performance under the contract resulting from this RFP.

#### **Section V – Personnel/Job Description** *(Limit three pages)*

Provide a staffing plan showing title, functional responsibilities and physical location of Bidder's staff to be engaged in performance of the Level II comprehensive psychiatric evaluations statewide.

Provide a staffing plan showing title, functional responsibilities and physical location of Bidder's staff to be engaged in performance of the Services of Lesser Intensity review.

Provide a job description, including minimum education and training requirements for each staff position identified

as participating in performance of the Level II comprehensive psychiatric evaluation process.

Provide a job description, including minimum education and training requirements for each staff position identified as participating in performance of the Services of Lesser Intensity review process.

Attach the resumes of currently employed key personnel who will be engaged in contractor performance of the Level II comprehensive psychiatric evaluations and the Services of Lesser Intensity review.

### **Financial Component**

**This portion of the proposal must be submitted in a sealed envelope, labeled “Financial Component, RFP# 1001061024” and must include:**

- A completed Bid Form (Attachment 3). The Bidder should offer a total bid, based on an estimated 2,500 evaluations annually (see below), and a rate for the performance of an individual Level II comprehensive psychiatric evaluation. Each rate offered will be in effect for the applicable contract period. The contract is anticipated to commence July 1, 2010, subject to approval of the contract by the Office of the State Comptroller (OSC);
- A completed Cost Proposal Form (Attachment 14) & A completed Consultant Disclosure Form A (Attachment 12);
- A completed ST-220-CA Form (Attachment 11);
- Completed M/WBE Procurement Forms (Attachment 8);
- For the period April 1, 2008, to March 31, 2009, DOH's current contractor conducted a total of 2,528 comprehensive psychiatric evaluations. Approximately 69% occurred in the downstate region, which is defined as New York City, Nassau, Putnam, Rockland, Suffolk and Westchester Counties, and 31% occurred in the upstate region. **There will be no guaranteed minimum number of comprehensive psychiatric evaluations to be performed and no guaranteed minimum payment to the contractor. This information is provided only as an indication of past volume, and is not a guarantee of future volume.**

### **E. METHOD OF AWARD**

The DOH will use a **best value method** of contracting for the quality assurance services sought under this RFP. Under best value procurement, while price is an important consideration in the selection of a contractor for each Component, the award(s) will **not necessarily be made to the Bidder with the lowest price**. In best value procurement the basis for awarding the contract is the bidder that optimizes quality, cost and efficiency among responsive and responsible bidders.

In the event of a tie, the determining factor (s) for award, in descending order of importance, will be:

- Lowest Cost
- Minority/Woman-owned Business Enterprise (MWBE) utilization
- Past experience
- References

At the discretion of the Department of Health all bids may be rejected. The evaluation of the bids will include the following considerations.

### **Vendor Selection**

This section of the RFP sets forth the criteria to be used by the Department for evaluation of the Technical and Financial Proposals submitted in response to the Department's RFP for performing comprehensive psychiatric level II evaluations of persons known or suspected of having mental illness. All bids must contain two separate proposals: a Technical Proposal (75 points) and a Financial Proposal (25 points) for the total score (100 points).

The Bidder is responsible to meet and pass the following mandatory provisions:

- The Proposal must be submitted by the time and date required by the RFP;
- Must demonstrate a minimum of three years of Medicaid Prior Approval experience (NYS or other State) and documentation of the quality and effectiveness of the experience;
- Two separate components must be submitted, a Technical Proposal and a Financial Proposal. The Financial Proposal must be submitted in a separate and sealed envelope from the Technical Proposal;
- The Bid Form must be filled out in its entirety. The responsible corporate officer for contract negotiation must be listed. This document must be signed by the responsible Authorized Signatory;
- All requested RFP information, evidence, documentation and forms requested under Section D, Proposal Requirements, must be provided at the time the proposal is submitted.

If the Bidder fails any of these provisions, the Proposal is considered incomplete and will not be scored.

#### **Technical Proposal Score (75 points)**

DOH will evaluate and score proposals based on each bidder's ability to perform the Scope of Work and Detailed Specifications described in this RFP. Any bidder that receives a raw score of 52 or below will be disqualified and will not be considered for an award. The evaluation will be based on the bidder's written technical proposal and responses to clarifying questions, if any.

1. Ability to describe an understanding of the PASRR program with documented knowledge and application of the federal and State rules and regulations authorizing this program; and specific experience with New York State PASRR program and processes and the New York State Long Term Care.
2. Provide a brief description of the Bidder's organization. Provide an organizational chart showing organizational structure, areas of responsibility, key individuals and the relationship of the organization to performance of the Level II comprehensive psychiatric evaluations (including any subcontractor). List the name, title, and responsibilities of those who are authorized to negotiate a contract with DOH, and who will have ultimate responsibility and accountability for this contract. Describe the role of board members in governance and policy making.
3. Ability to describe and document the Bidder's prior experience with Level II comprehensive psychiatric evaluations and similar MI/MR examinations. Specify any experience in these areas which was related to the long term care system. Detail any special techniques, skills and abilities that the organization considers necessary to accomplish the RFP requirements. Experience indicated should be work performed by individuals who will be assigned to this contract, as well as by the organization as a whole. Ability to verify governmental experience and documentation of program development and service delivery targeting special need populations. Ability to verify governmental experience and documented program development and service delivery targeting special needs population.
4. Ability to describe a comprehensive plan to accomplish the Scope of Work. The Bidder's plan for accomplishing the scope of work shall address each activity for which the Bidder is responsible and the

timeframe to complete each activity. If the Bidder is proposing the use of subcontractor(s) in accomplishing the scope of work, fully describe the subcontractor organization and the subcontractor functions within the Level II evaluation process.

5. Ability to provide a comprehensive staffing plan showing title, functional responsibilities and physical location of Bidder's staff to be engaged in performance of the Level II comprehensive psychiatric evaluations statewide. Provide a staffing plan showing title, functional responsibilities and physical location of Bidder's staff to be engaged in performance of the Services of Lesser Intensity review. Provide a job description, including minimum education and training requirements for each staff position identified as participating in performance of the Level II comprehensive psychiatric evaluation process. Provide a job description, including minimum education and training requirements for each staff position identified as participating in performance of the Services of Lesser Intensity review process. Attach the resumes of currently employed key personnel who will be engaged in contractor performance of the Level II comprehensive psychiatric evaluations and the Services of Lesser Intensity review.

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

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

x= raw technical score of proposal being scored,

y= raw technical score of highest technical score proposal,

75= total technical points available, and

t= normalized technical score for bidder being scored.

The bidder receiving the highest technical score will receive seventy five (75) points and the remaining bids will then be normalized against the highest scored proposal received based on the relative ranking of the technical score.

### **Financial Proposal Score (25 points)**

The DOH will evaluate and score each bidder's financial proposal. The proposed price will be reviewed for completeness and consistency with instructions and the Financial Proposal Form requirements provided in the RFP. The following financial evaluation process will be applied: The total bid price will be used to calculate the bidder's final financial proposal score. Only bidders with technical proposals receiving a raw score of 53 or above will be scored.

The bidder's financial score will be determined based on the following formula:

$c = (a / b) * 25$  where:

a= total cost of lowest cost proposal,

b= total cost of proposal being scored,

25= total cost points available, and

c= normalized financial score for bidder being scored.

The total financial proposal score will be normalized against the lowest priced proposal, based upon a maximum score of twenty five (25) points.

### **F. 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. Letter of Interest

A Letter of Interest (Attachment 1) should be submitted by March 26, 2010 in order to notify the New York State Department of Health of the Bidder's intention to develop a Proposal in response to this RFP. Interested bidders are requested but not required to submit a letter of interest by mail to:

Stephanie Heverly,  
NYS Department of Health  
Office of Long Term Care/Operations  
Once Commerce Plaza, Suite 826  
Albany, NY 12210

Or via e-mail to:

[PASRRRFP10@health.state.ny.us](mailto:PASRRRFP10@health.state.ny.us)

3. Inquiries

Written questions concerning this solicitation may be submitted to Stephanie Heverly via e-mail:

[PASRRRFP10@health.state.ny.us](mailto:PASRRRFP10@health.state.ny.us)

Questions and inquiries will not be accepted via telephone and must be submitted by <April 9, 2010>. All questions received by the deadline will be answered and collated into a single Questions and Answers document. There will be no bidder's conference.

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 <April 30, 2010>.

4. Submission of Proposals

One signed original, four (4) paper copies and two (2) CD-ROM's are required; one with technical information and one with financial information and **must be received no later than 4:00 p.m. on May 21, 2010**. The originals must be signed by an Authorized Signatory of the Bidder's organization and must be bound in a binder or equivalent. No proposals will be accepted via fax or e-mail. Proposals are to be submitted in two parts, the Technical Component and the Financial Component, in separate sealed envelope and clearly labeled.

Responses to this solicitation should be clearly marked "**PASRR RFP #1001061024**" and directed to:

Stephanie Heverly  
NYS Department of Health  
Office of Long Term Care  
One Commerce Plaza, Suite 826  
Albany, New York 12210

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

**IMPORTANT:** The technical and financial components must be placed in separately sealed envelopes, bearing the name of the bidder, the number of this RFP (1001061024) and labeled “Technical Component” and “Financial Component,” as these components are reviewed and scored separately. No financial information should be included with the technical component. The Technical Component envelope and the Financial Component Envelope should be placed inside a third envelope labeled on the outside with the name of the bidder and the number of this RFP (#1001061024). **FAILURE TO ADHERE TO THIS REQUIREMENT WILL RESULT IN DISQUALIFICATION OF THE PROPOSAL.**

5. THE DEPARTMENT OF HEALTH RESERVES THE RIGHT TO:

1. Reject any or all proposals received in response to this RFP;
2. Withdraw the RFP at any time, at the agency’s sole discretion;
3. Make an award under the RFP in whole or part;
4. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
5. Seek clarifications and revisions of proposals;
6. Use proposal information obtained through site visits, management interviews and the state’s investigation of a bidder’s qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency’s request for clarifying information in the course of evaluation and/or selection under the RFP;
7. Prior to the **bid opening**, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
8. Prior to bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments;
9. Change any scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be compiled with by all of the prospective bidders;
11. Waive any requirements that are not material;
12. Negotiate with the successful bidder within the scope of the RFP in the best interests of the state;
13. Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
14. Utilize any and all ideas submitted in the proposals received;
15. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 60 days from the bid opening; and,
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer’s proposal and/or to determine an offerer’s compliance with the requirements of the

solicitation.

## 6. Payment

If awarded a contract, the contractor shall submit invoices and/or vouchers to the State's payment office as designated in the contract.

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us) or by telephone at 518-474-4032. CONTRACTOR acknowledges that it will not receive payment on invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9, must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us>.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller  
Bureau of Accounting Operations  
Warrant & Payment Control Unit  
110 State Street, 9<sup>th</sup> Floor  
Albany, NY 12236

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

Payment will be made monthly, upon receipt of voucher and supporting documentation of completion of Level II comprehensive psychiatric evaluations, as required by the State.

## 7. Term of Contract

This agreement shall be effective upon approval of the NYS office of the State Comptroller. This contract is for a five-year period. Expected start date for the contract resulting from this RFP is July 1, 2010.

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 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 ten (10) business days from date of award or non-award announcement.

9. Protest Procedures

In the event unsuccessful bidders wish to protest the award resulting from this RFP, bidders should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found on the website at [http://www.osc.state.ny.us/agencies/gbull/g\\_232.htm](http://www.osc.state.ny.us/agencies/gbull/g_232.htm).

10. 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. All Bidders must also complete and submit the Vendor Responsibility Attestation (Attachment 9).

11. 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 forms are included as attachment 3, 4 to this document.

12. 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.

### 13. 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 New York State Enterprise IT Policy NYS-P08-005, “Accessibility Web-based Information and Applications”, and New York State Enterprise IT Standard NYS-S08-005, Accessibility Web-based Information Applications, 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 New York State Enterprise IT Standard NYS-S08-005, 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.

### 14. 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/>

15. 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 (attachment 10). 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 (attachment 11) 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.

16. 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.

17. 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 8) 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.

## G. APPENDICES

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

- APPENDIX A - Standard Clauses for All New York State Contracts
- APPENDIX B - Request for Proposal
- APPENDIX C - Proposal
  - The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.
- APPENDIX D - General Specifications
- APPENDIX E
  - Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:
    - Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1**:
      - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
      - **C-105.2** – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
      - **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.
    - Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2**:

- **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- **DB-120.1** – Certificate of Disability Benefits Insurance
- **DB-155** – Certificate of Disability Benefits Self-Insurance
- APPENDIX G – Notices
- APPENDIX H - Health Insurance Portability and Accountability Act (HIPAA)
- APPENDIX I – Medicaid Agency Data Use and Confidentiality Agreement
- APPENDIX X – Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

## H. ATTACHMENTS

1. Letter of Interest
2. Cover Page
3. Bid Form
4. No Bid Form
5. Bidder's Assurances
6. National Association of PASRR Professionals [www.PASRR.org](http://www.PASRR.org) & PASRR Technical Assistance Center [www.PASRRassist.org](http://www.PASRRassist.org)
7. Definition of Specialized Services
8. M/WBE Procurement Forms
9. Vendor Responsibility Attestation
10. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-TD
11. N.Y.S. Taxation and Finance Contractor Certification Form ST-220-CA
12. State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term
13. State Consultant Services Form B, Contractor's Annual Employment Report
14. Cost Proposal Form

**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.

**THIS PAGE IS INTENTIONALLY LEFT BLANK**

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.

DD. Lead Guidelines

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

## Appendix G

### NOTICES

All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- (a) via certified or registered United States mail, return receipt requested;
- (b) by facsimile transmission;
- (c) by personal delivery;
- (d) by expedited delivery service; or
- (e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

#### **State of New York Department of Health**

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

#### **[Insert Contractor Name]**

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this AGREEMENT by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representative for the purposes of receiving notices under this AGREEMENT. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems, and/or for dispute resolution.

## Appendix H

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

#### I. Definitions:

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

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

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

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

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

### **III. Permitted Uses and Disclosures by Business Associate**

#### **(a) General Use and Disclosure Provisions**

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

**(b) Specific Use and Disclosure Provisions:**

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

**IV. Obligations of Covered Program**

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

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

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

**V. Permissible Requests by Covered Program**

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

**VI. Term and Termination**

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

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

## **VII. Violations**

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

### *Miscellaneous*

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

## ADDENDUM TO THE MEDICAID AGENCY DATA USE AGREEMENT (DUA)

Addendum to DUA for \_\_\_\_\_. If this is an addendum to a previously approved DUA, insert the CMS assigned DUA number here: \_\_\_\_\_. The following individual(s) may/will have access to the CMS data that is being requested for Title II ADA/Olmstead activities. Their signatures attest to their agreement to the terms of this Data User Agreement:

**Note:** Some existing DUAs do not contain the following language under Item #4: “To facilitate State compliance with the requirements of the Americans with Disabilities Act.” For these DUAs, a custodian must be added below.

|  |                        |                                       |
|--|------------------------|---------------------------------------|
| Name and Title of Individual <i>(typed or printed)</i> |                        |                                       |
| Task / Role of this individual in this project         | Company / Organization |                                       |
| Street Address   |                        |                                       |
| City   | State                  | ZIP Code                              |
| Office Telephone <i>(Include Area Code)</i>            |                        | E-Mail Address <i>(If applicable)</i> |
| Signature of Individual                                |                        | Date                                  |
| Signature of CMS Representative                        |                        | Date                                  |
| Signature of CMS Representative                        |                        | Date                                  |

|  |                        |                                       |
|--|------------------------|---------------------------------------|
| Name and Title of Individual <i>(typed or printed)</i> |                        |                                       |
| Task / Role of this individual in this project         | Company / Organization |                                       |
| Street Address   |                        |                                       |
| City   | State                  | ZIP Code                              |
| Office Telephone <i>(Include Area Code)</i>            |                        | E-Mail Address <i>(If applicable)</i> |
| Signature of Individual                                |                        | Date                                  |
| Signature of CMS Representative                        |                        | Date                                  |
| Signature of CMS Representative                        |                        | Date                                  |

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0734. The time required to complete this information collection is estimated to average 30 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: Reports Clearance Officer, Baltimore, Maryland 21244-1850.

---

## INSTRUCTIONS FOR COMPLETING THE MEDICAID AGENCY DATA USE AGREEMENT (DUA)

---

This agreement, which ensures compliance with the requirements of the Privacy Act, is required for a State Medicaid Agency to receive LTC/MDS data deriving from Medicare and private pay residents, and must be completed prior to the release of these files to the Medicaid Agency. No DUA is needed for release of LTC/MDS data derived exclusively from Medicaid residents; however, see the instruction below for item #5 in regard to this. Note that all data releases to the Medicaid Agency, including releases for Medicaid-only residents, must be electronically tracked for purposes of HIPAA compliance.

Instructions for the completion of the agreement follow:

**Before completing the DUA, please note that the language contained in this agreement cannot be altered in any form.**

- First paragraph, enter the name of the State.
- Item #1, enter the name of the State.
- Item #5, “Files,” is pre-completed to show “LTC/MDS Resident Assessment Data File(s).” This wording is general and covers all MDS data. This all-inclusive language will reliably guide the technical staff who must retrieve the data. Item #5, “Year(s):” The Medicaid Agency may choose the time period for which it wishes to receive data, from a point in the past through up to 10 years into the future (see the Item #6 discussion of retention date). Examples are: “1998-2000;” “2001;” and “From 1998 through [insert date 10 years in the future].”
- Medicaid Agencies must remain aware that the use of all the MDS data, regardless of program source, is limited to the purpose indicated in Item #4, i.e., for Medicaid program use. In addition, Medicaid Agencies must abide by all the restrictions regarding the MDS data, regardless of source, that are based on the Privacy Act and other law and regulation, and as expressed throughout this DUA.
- Item #6 says that the group of data files indicated in Item #5 may be retained by the Medicaid Agency for a period of 10 years after the approval date (CMS’ signature date) of the DUA. This date, which is 10 years in the future, is called the “retention date.” For cases in which the Medicaid Agency receives data in an ongoing manner, the retention date does not move forward with each data release. For example, data released two months prior to the retention date (9 years and 10 months after the DUA approval date) may only be kept by the Medicaid Agency for two months. If it wishes to continue receiving data beyond the 10 year point, the Medicaid Agency must contact CMS at least 30 days prior to the retention date (and preferably 3-4 months prior) to request another DUA covering the period following the 10 year retention date.
- Item #14 is to be completed by the State Medicaid Agency.
- Item #15 is to be completed by the State Medicaid Agency Custodian. Enter the Custodian’s name, the State Medicaid Agency organizational unit, Address, Phone Number (including area code), and E-Mail Address (if applicable). The Custodian of files is defined as that person who will have actual possession of and responsibility for the data files. This will typically be the manager of the Medicaid agency unit with responsibility for the data files. If the person signing for the Medicaid agency as User is the same person as the Custodian, that person can appear and sign in both places.

If there are additional Custodians who are not direct Medicaid agency employees, such as academic or other consulting contractors, who assist the Medicaid agency in its use of the data for the purposes indicated in Item #4, an appropriate lead or managerial person from each such organization must complete and sign the Multi-Signature Addendum form.

## **INSTRUCTIONS FOR COMPLETING THE DATA USE AGREEMENT (DUA)**

---

Additional Custodian individuals or organizations can be included as necessary over the life of the primary DUA. To include a new Custodian under an existing Medicaid agency DUA, submit the following to the CMS Regional Office: a letter from the Medicaid agency describing the activities planned for the new Custodian and the length of time over which the Custodian will serve; and a Multi-Signature Addendum completed and signed by an appropriate lead or managerial person from the Custodian organization. The Multi-Signature Addendum must show the DUA number of the existing primary Medicaid agency DUA.

- Item #16 will be completed by the CMS Regional Office.

## MEDICAID AGENCY DATA USE AGREEMENT

DUA #

### AGREEMENT FOR USE OF CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS) DATA CONTAINING INDIVIDUAL-SPECIFIC INFORMATION

In order to secure Medicare data that resides in a CMS Privacy Act System of Records, and in order to ensure the integrity, security, and confidentiality of information maintained by CMS, and to permit appropriate disclosure and use of such data as permitted by law, CMS and the State of \_\_\_\_\_ enter into this agreement to comply with the following specific paragraphs.

1. This Agreement is by and between CMS, a component of the U.S. Department of Health and Human Services (DHHS), and the State of \_\_\_\_\_, hereinafter termed "User."
2. This Agreement addresses the conditions under which CMS will disclose and the User will obtain and use the Medicare Long Term Care Minimum Data Set (LTC/MDS) in section 5. This Agreement supersedes any and all agreements between the parties with respect to the use of the LTC/MDS and preempts and overrides any instructions, directions, agreements or other prior communication from the Department of Health and Human Services with respect to the data specified herein. Further, the terms of this Agreement can be changed only by a written modification to this Agreement, or by the parties adopting a new agreement. The parties agree further that instructions or interpretations issued to the User concerning this Agreement or the data specified herein, shall not be valid unless issued in writing by the CMS point-of-contact specified in section 16, or the CMS signatory to this Agreement shown in section 16. CMS reserves the right to terminate this agreement at any time if there is evidence that: (1) the agreement is not being complied with; (2) there is a violation of law in the manner of compliance; or (3) the agreement no longer complies with changes to statutory or regulatory requirements. Upon such notice, CMS will cease releasing data to the User under this Agreement and will notify the User either to return all previously released data files to CMS at the User's expense or destroy such data.
3. The parties mutually agree that CMS retains all ownership rights to the data file(s) referred to in this Agreement, and that the User does not obtain any right, title, or interest in any of the data furnished by CMS.
4. The User represents, and in furnishing the Medicare LTC/MDS, CMS relies upon such representation, that this file(s) will be used solely for the purpose(s) outlined below.

To facilitate the administration of a Federal health program for the purposes of determining participation requirements, evaluating and/or assessing cost effectiveness, and/or the quality of health care services provided, and/or for setting long term care Nursing Facility reimbursement rates in the State that are directly related to the administration of the State Medicaid Program. To facilitate State compliance with the requirements of the Americans with Disabilities Act.

The User shall not, unless explicitly provided for under contract, disclose, release, reveal, show, sell, rent, lease, loan, or otherwise grant access to the data covered by this Agreement to any person(s). The User agrees that, within the User organization, access to the data covered by this Agreement shall be limited to the minimum number of individuals necessary to achieve the purpose stated in this section. The User may issue reports, based on data covered by this Agreement, that are directly related to the administration of the State Medicaid Program to the specific long term care Nursing Facility that has submitted the data.

5. The following file(s) and timeframe are covered under this Agreement:

| File                                      | Year(s) |
|---|---------|
| LTC/MDS Resident Assessment Data Files(s) |         |

6. The parties mutually agree that the aforesaid file(s) (and/or any derivative file(s), including any file that maintains or continues identification of individuals) may be retained by the User for a maximum period of 10 years from the effective date of this agreement, hereinafter known as the retention date. The User agrees to notify CMS at least 30 days prior to the expiration of the aforementioned retention date in order to renegotiate this agreement. The User acknowledges that stringent adherence to the aforementioned retention date is required.
7. The User agrees to establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of the data, and to prevent its unauthorized use or access. The safeguards shall provide a level and scope of security that is not less than the level and scope of security established by the Office of Management and Budget (OMB) in OMB Circular No. A-130, Appendix III—Security of Federal Automated Information Resources (<http://www.whitehouse.gov/omb/circulars/a130/a130.html>), which sets forth guidelines for security plans for automated information systems in Federal agencies. The User acknowledges that the use of unsecured telecommunications, including the Internet, to transmit individually identifiable or deducible information derived from the file(s) specified in section 5 is strictly prohibited. Further, the User agrees that the data must not be physically moved or transmitted in any way without written approval from CMS.
8. The User agrees that the authorized representatives of CMS, DHHS Office of the Inspector General or Comptroller General, will be granted access to premises where the aforesaid file(s) are kept for the purpose of inspecting security arrangements confirming whether the User is in compliance with the security requirements specified in section 7.
9. The User agrees that no findings, listing, or information derived from the file(s) specified in section 5, with or without identifiers, may be released if such findings, listing, or information contain any combination of data elements that might allow the deduction of a beneficiary's identification without first obtaining written authorization from the appropriate System Manager or the person designated in item number 16 of this Agreement unless the information derived from the files specified in section 5 are being used for purposes outlined in section 4. The User will notify any entity to which the data is transferred of the need to maintain the confidentiality of the data provided. Examples of such data elements include but are not limited to geographic indicator, age, sex, diagnosis, procedure, admission/discharge date(s), or date of death. The User agrees further that CMS shall be the sole judge as to whether any finding, listing, information, or any combination of data extracted or derived from CMS's files identifies or would, with reasonable effort, permit one to identify an individual or to deduce the identity of an individual to a reasonable degree of certainty.
10. The User agrees that in the event CMS determines or has a reasonable belief that the User has made or may have made disclosure of the aforesaid file(s) that is not authorized by this Agreement, or other written authorization from the appropriate Systems Manager or the person designated in section 16, CMS in its sole discretion may require the User to: (a) promptly investigate and report to CMS the User's determinations regarding any alleged or actual unauthorized disclosure, (b) promptly resolve any problems identified by the investigation; (c) if requested by CMS, submit a formal written response to an allegation of unauthorized disclosure; (d) if requested by CMS, submit a corrective action plan with steps designed to prevent any future unauthorized disclosures; and (e) if requested by CMS, return data files to CMS immediately. The User understands that as a result of CMS's determination or reasonable belief that unauthorized disclosures have taken place, CMS may refuse to release further CMS data to the User for a period of time to be determined by CMS.
11. The User hereby acknowledges that criminal penalties under §1106(a) of the Social Security Act (42 U.S.C. §1306(a)), the Privacy Act (5 U.S.C. §552a(i)(3)), and 18 U.S.C. §641, which govern the use of these data, may apply to disclosures of information that are covered by this agreement.
12. By signing this Agreement, the User agrees to abide by all provisions set out in this Agreement for protection of the data file(s) specified in section 5.

13. The disclosure provision(s) that allow the discretionary release of CMS data for the purpose(s) stated in paragraph 4 follow(s).

**Long Term Care Minimum Data Set, System of Records #09-70-1517, routine use #2(c)**

14. On behalf of the User, the undersigned individual hereby attests that he or she is authorized to enter into this Agreement and agrees to all the terms specified herein.

Name of User *(typed or printed)*

State Agency/Organization

Street Address

City

State

ZIP Code

Office Telephone *(Include Area Code)*

E-Mail Address *(If applicable)*

Signature

Date

15. The parties mutually agree that the following named individual is designated as “Custodian” of the file(s) on behalf of the User, and will be responsible for the observance of all conditions of use and for establishment and maintenance of security arrangements as specified in this Agreement to prevent unauthorized use. The User agrees to notify CMS within fifteen (15) days of any change of custodianship. The parties mutually agree that CMS may disapprove the appointment of a custodian, or may require the appointment of a new custodian at any time.

The Custodian hereby acknowledges his/her appointment as custodian of the aforesaid file(s) on behalf of the User, and agrees to comply with all of the provisions of this Agreement on behalf of the User.

Name of Custodian *(typed or printed)*

Company/Organization

Street Address

City

State

ZIP Code

Office Telephone *(Include Area Code)*

E-Mail Address *(If applicable)*

Signature

Date

16. The parties mutually agree that the following named individual will be designated as point-of-contact for the Agreement on behalf of CMS.

On behalf of CMS the undersigned individual hereby attests that he or she is authorized to enter into this Agreement and agrees to all the terms specified herein.

\_\_\_\_\_  
Name of CMS Representative *(typed or printed)*

\_\_\_\_\_  
Title/Component

\_\_\_\_\_  
Street

\_\_\_\_\_  
Mail Stop

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
ZIP Code

\_\_\_\_\_  
Office Telephone *(Include Area Code)*

\_\_\_\_\_  
E-Mail Address *(If applicable)*

\_\_\_\_\_  
A. Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
B. Concur/Nonconcur — Signature of CMS System Manager or Business Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
C. Concur/Nonconcur — Signature of CMS Protocol or Project Review Representative

\_\_\_\_\_  
Date

Agency Code 12000  
APPENDIX X

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This will result in new contract terms of:

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

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

Signature Page for:

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

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

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

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

**CONTRACTOR SIGNATURE:**

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

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

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

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

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

\_\_\_\_\_  
(Signature and office of the individual taking acknowledgement)

-----  
**STATE AGENCY SIGNATURE**

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

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

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

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

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

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

**STATE COMPTROLLER'S SIGNATURE**

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

RFP No. 1001061024

**Letter of Interest to Develop a Proposal in Response to RFP**

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

This Notice should be returned via mail or fax to:

Stephanie Heverly  
NYS Department of Health  
Office of Long Term Care Resources  
One Commerce Plaza, Suite 826  
Albany, NY 12210  
Phone: (518) 474-5295  
Fax: (518) 474-1428

**1. Name of Potential Proposing Organization:**

\_\_\_\_\_

**2. Organization Address:**

Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

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

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

\_\_\_\_\_  
Date

**NEW YORK STATE DEPARTMENT OF HEALTH  
PROPOSAL COVER SHEET**

**Pre-Admission Screening and Resident Review (PASRR)**

**RFP # 1001061024**

Name of Bidder: \_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

Employer ID Number: \_\_\_\_\_

Contact Person:

(This person must be able to speak for and represent the Bidder in any negotiation with the Department)

\_\_\_\_\_  
Name Title

(\_\_\_\_) \_\_\_\_\_ (\_\_\_\_) \_\_\_\_\_  
Phone Fax E-mail

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



Finance Law §139-j (Please circle):

No Yes

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

No Yes

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

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

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

Basis of Finding of Non-Responsibility:

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

(Add additional pages as necessary)

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

No Yes

2b. If yes, please provide details below.

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

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

Basis of Termination or Withholding:

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

(Add additional pages as necessary)

C. Offerer/Bidder certifies that all information provided to the Department of Health

with respect to State Finance Law §139-k is complete, true and accurate.

**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               |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | 1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220-CA (for procurements greater than or equal to \$100,000)         |
| <input type="checkbox"/> | <input type="checkbox"/> | 2. A completed N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire (for procurements greater than or equal to \$100,000) |
| <input type="checkbox"/> | <input type="checkbox"/> | 3. A completed State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term          |

-----

|                     |             |
|---------------------|-------------|
| _____               | _____       |
| (Officer Signature) | (Date)      |
| _____               | _____       |
| (Officer Title)     | (Telephone) |
| _____               |             |
| (e-mail Address)    |             |

**NEW YORK STATE  
DEPARTMENT OF HEALTH**

**NO-BID FORM**

PROCUREMENT TITLE: **Pre-Admission Screening and Resident Review**

FAU #1001061024

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.**

## Bidder's Assurances

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

- The Bidder accepts the terms and conditions as stated in the RFP.
- The bid is valid for a period of two hundred forty (240) calendar days from the date of submission of the Proposal.
- The Bidder agrees to be responsible to the Department for performance of all work specified in the RFP, including work assigned to subcontractors.
- The Bidder assures that the detailed work plan and schedule of deliverables set forth by the organization as its Technical Proposal will fulfill all statewide requirements as described in the RFP and will provide for the dedicated qualified staff, space, expertise and capacity to fulfill contract deliverables for the Component of the RFP.
- The Bidder assures the organization and its employees, subcontractors, consultants and volunteers and subsidiaries are not and will not be directly or indirectly involved with any provider or parties whose activities would represent a conflict of interest with respect to conducting the duties and responsibilities outlined in this RFP.
- The Bidder assures the organization and its employees, subcontractors, consultants and volunteers will implement and maintain policies and procedures to assure the confidentiality of personally identifiable data and information or records pertaining to patient care including compliance with all pertinent Health Insurance Portability and Accountability Act (HIPAA) requirements, Article 27F of the Public Health Law, and the privacy and confidentiality requirements of the Medicaid program (Appendix I).
- The Bidder assures its ability to secure an indemnity (for at least \$5,000,000) to protect the organization and, in turn, the State against any loss of claim incurred as a result of carrying out the duties and responsibilities of this program.
- The Bidder assures that no funds were paid or will be paid, by or on behalf of the Bidder, to any person for the purpose of influencing or attempting to influence any officer or employee of the federal or state government with regard to obtaining a contract for this RFP.
- The Bidder assures that it conforms to vendor responsibility requirements of State Finance Law. The Bidder has completed the Vendor Responsibility Attestation (Attachment 9).

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Authorized Official

Pre-Admission Screening and Resident Review  
(PASRR)

For further information regarding the Pre-Admission Screening and Resident Review process please use the following links:

**National Association of PASRR Professionals**  
**227 French Landing Drive, Suite 250**  
**Nashville, TN 37228**  
**Fax: 615-620-3441**  
**[jburns@ascendami.com](mailto:jburns@ascendami.com)**

**[www.PASRR.ORG](http://www.PASRR.ORG)**

Additional information may be accessed through the new **National PASRR Technical Assistance Center's website:**

**[www.PASRRassist.org](http://www.PASRRassist.org)**

## **DEFINITION OF SPECIALIZED SERVICES**

The person who performs the comprehensive psychiatric evaluation must evaluate whether a nursing facility applicant or resident with a mental illness requires specialized services by following the federal definition of specialized services:

The services specified by the state which results in an individualized plan of care that demands hospitalization.

The care plan must require one or more of the following:

- Hospital level assessment or diagnosis of recent behavioral change;
- Intensive observation, protection, assistance or supervision from the professional staff of a hospital; and/or
- Introduction or change in medication or other somatic treatment that needs frequent round the clock monitoring by professional staff.

The plan must be developed and supervised by an interdisciplinary team which includes a physician, qualified mental health professionals and, as appropriate, other professionals.

The plan must be directed toward diagnosing and reducing the resident's behavioral symptoms that necessitated hospitalization, so as to improve his or her independent functioning to a level that permits reduction in the intensity of mental health services to below the level of specialized services at the earliest possible time.

### **Specialized Services Determination Process:**

#### **Persons for Whom the Evaluator Recommends Specialized Services**

Whenever the person who performed the comprehensive psychiatric evaluation either recommended specialized services for mental illness or was uncertain whether specialized services should be recommended, the Contractor will forward a copy of the following documents to the clinical director of the OMH Psychiatric Center whose catchment's area includes the county in which the nursing facility applicant resides, or the county in which the nursing facility resident is receiving care:

- The Level I Screen
- The Hospital and Community Patient Review Instrument (H/C PRI); most recent PRI or current Hospital and Community Assessment Tool;
- The comprehensive history and physical examination of the evaluated person, as completed by his or her primary care physician and which must include a copy of the following items:
  - Complete medical history;
  - Review of all body systems;
  - Specific evaluation of the person's neurological system in the areas of motor functioning, sensory functioning, gait, deep tendon reflexes, cranial nerves, and abnormal reflexes; and
  - In case of abnormal findings that are the basis for a nursing facility placement, additional evaluations conducted by appropriate specialists.

- Progress notes reflecting a significant change and psychiatric or other applicable consults.
- The comprehensive psychiatric evaluation report and Psychiatric Evaluation Checklist and Summary form.

After the evaluator has completed a pre-admission screen comprehensive psychiatric evaluation, the Contractor will forward items 1, 2, 3 and 5 to the appropriate OMH clinical director. After the evaluator has completed a significant change review, the Contractor will forward items 3, 4 and 5 to the appropriate OMH clinical director. The Contractor must assure that all of these documents are forwarded in a timely manner.

When the OMH clinical director receives the appropriate documents from the Contractor, he or she will be responsible for reviewing these documents, contacting the person who performed the comprehensive psychiatric evaluation, when necessary for clarification, and making the final determination whether the nursing facility applicant or resident with a mental illness requires specialized services.

The Contractor is responsible for responding to any request for clarification from the OMH clinical director and providing this information as requested.

The OMH clinical director must determine in writing, whether a nursing facility applicant with a mental illness requires specialized services within seven business days after the day on which the entity that performed the Level I Screen referred the nursing facility applicant with a mental illness to the Contractor. The OMH clinical director must also determine whether nursing facility residents with a mental illness require specialized services within seven business days after the day on which the nursing facility identified a significant change or suspected of unidentified/undiagnosed MI and made referral to the Contractor for a resident review.

The OMH clinical director will notify the Contractor of the specialized services determination. The Contractor will then notify the entity that performed the Level I Screen, or the nursing facility, of the OMH clinical director's specialized services determination. The Contractor will also provide the evaluated individual, or his or her legal representative, with a copy of the written evaluative report and the Psychiatric Evaluation Checklist and Summary form and explain the report's findings to the individual, or to his or her legal representative. 42 CFR Sections 483.128 (k) and (l), provides the evaluated individual, or his or her legal representative, is entitled to receive a copy of the comprehensive psychiatric evaluation report and to have the report's findings explained. Additionally, in accordance with 42 CFR Section 483.128 (l), the Contractor must provide a copy of the written evaluative report and the Psychiatric Evaluation Checklist to: the admitting or retaining NF; the individual's attending physician and the discharging hospital if the individual is seeking admission from a hospital.

#### **Persons for Whom the Evaluator does not recommend Specialized Services**

If the person who performed the comprehensive psychiatric evaluation does not recommend specialized services, the Contractor shall include in the monthly activity report, which the Contractor must submit to the Department and OMH, information on persons not recommended for specialized services. The Contractor must forward documentation on a 5% sample of these cases to OMH for quality assurance review of the Contractor's recommendations.

The Contractor must notify the entity that performed the Level I Screen, or the retaining nursing facility, of all cases for which the evaluator did not recommend specialized services. The Contractor must notify these entities within five business days after the day on which the entity referred the nursing facility applicant or resident with a mental illness to the Contractor for performance of the comprehensive psychiatric evaluation. The Contractor will also provide the evaluated individual, or his or her legal representative, with a copy of the written evaluative report and the Psychiatric Evaluation Checklist and Summary form and explain the report's findings to the individual or his or her legal representative.

Additionally, the Contractor will provide a copy of the written evaluative report and the Psychiatric Evaluation Checklist to the admitting or retaining NF, the individual's attending physician and the discharging hospital if the individual is seeking admission from a hospital.

### **Review of Nursing Facility Residents who need Services of Lesser Intensity than Specialized Services**

The Contractor is also required to propose the performance of a review of a sample of nursing facility residents for whom a comprehensive psychiatric evaluation has been performed and who has been determined to require mental health services of a lesser intensity than specialized services. The purpose of the review is to determine the specific types of mental health services these residents require and if these services are being adequately provided by the nursing facility.

The Contractor will select a random sample of 20 percent of the nursing facility residents for whom a comprehensive psychiatric evaluation has been performed since the onset of the contract period, and who have been determined to need mental health services other than the specialized services. The Department estimates that the random sample will include 400 to 600 nursing facility residents annually.

The review will be performed by a multi-disciplinary team that the Contractor provides and that comprises either a registered nurse who has experience in performing comprehensive psychiatric evaluations or a social worker who has a Master's degree in social work and experience in performing comprehensive psychiatric evaluations. The reviews will occur in nursing facilities located in New York State approximately 60-90 days after the results of the comprehensive psychiatric evaluation are sent to the nursing facility by the Contractor. The review team will review the resident's medical records, determine what services are recommended, and determine what services were actually provided. Following this process, the Contractor is responsible to provide for a subsequent review by a psychiatrist who is board-certified or board-eligible in psychiatry. The psychiatrist's review may take place at the nursing facility. Following that procedure, the Contractor will notify the nursing facilities in writing of the outcome of this review and prepare a monthly and annual summary report of the entire review that will be submitted to the Department with such other reports described in the RFP. The review will continue on an annual basis for the full contract term.

### **Notice and Fair Hearing**

A nursing facility applicant or resident with a mental illness may request a State fair hearing if he or she disagrees with the specialized services determination. In addition, a nursing facility applicant or resident may request a State fair hearing if he or she disagrees with the determination regarding his or her need for nursing facility care. The State fair hearing process is set forth in Department regulations at 18 NYCRR Part 358.

The Contractor shall notify nursing facility applicants and residents with a mental illness of the results of the Level II determinations regarding the applicants' or residents' need for specialized services and nursing facility services. The Contractor shall mail a fair hearing notice to such persons by using notice forms required by the Department.

If a nursing facility applicant or resident with a mental illness requests a fair hearing to appeal a Level II determination, the Contractor shall provide documentary evidence as requested by the Department, including the comprehensive psychiatric evaluation written report and Psychiatric Evaluation Checklist and Summary form, and shall otherwise participate in the fair hearing process as the Department may require. The Contractor must be prepared for appropriate staff to service as a witness if requested by the Department.

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

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

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

**New York State Department of Health**

**BIDDERS PROPOSED M/WBE UTILIZATION PLAN**

|   |                                  |
|---|----------------------------------|
| <b>Bidder Name:</b>   |                                  |
| <b>RFP Title: Pre-Admission Screening and Resident Review</b> | <b>RFP Number<br/>1001061024</b> |

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

**PROJECTED M/WBE USAGE**

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

**New York State Department of Health**

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

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

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

|       |  |  |
|-------|--|--|
| ( ) - |  |  |
|-------|--|--|

**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<br>(Exactly as Registered)  | Description of Work (Products/Services) [WBE] | Projected WBE<br>Dollar Amount              |
|--|---|---|
| <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><br/>( ) -</p> |   | <p style="text-align: center;">\$ _____</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><br/>( ) -</p> |   | <p style="text-align: center;">\$ _____</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 style="text-align: center;">\$ _____</p> |

|                                  |  |  |
|----------------------------------|--|--|
| <b>Telephone Number</b><br>( ) - |  |  |
|----------------------------------|--|--|

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

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

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

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

**Subcontractors Purchase with Majority Vendors:**

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

**Subcontractors/Suppliers:**

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

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

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

**FOR OFFICE USE ONLY**

|  |       |
|--|-------|
| Reviewed: By:  | Date: |
| M/WBE Firms Certified: _____ Not<br>Certified: _____ |       |

|            |             |
|------------|-------------|
| CBO: _____ | MCBO: _____ |
|------------|-------------|

**New York State Department of Health**

**MWBE ONLY**

**MWBE SUBCONTRACTORS AND SUPPLIERS  
LETTER OF INTENT TO PARTICIPATE**

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

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

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

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

Designation:

MBE - Subcontractor

WBE - Subcontractor

MBE - Supplier

WBE - Supplier

Joint venture with:

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

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

\_\_\_\_\_

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

MBE

WBE

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

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

\_\_\_\_\_

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

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

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

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

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

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

\_\_\_\_\_  
Date

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

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

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

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

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

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

Check applicable categories:  Project Staff

Consultants  Subcontractors

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

Address \_\_\_\_\_

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

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

\_\_\_\_\_  
Date

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



# Contractor Certification

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

# ST-220-TD

(5/07)

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<br>( ) |
| Covered agency or state agency                            | 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.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

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.

## 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.

**Complete Sections 1, 2, and 3 below. Make only one entry in each section.**

**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<br>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.
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 (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. 1 800 698-2931
To order forms and publications: 1 800 462-8100
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.

State Consultant Services  
**FORM A**

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

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

|   |                                       |
|---|---------------------------------------|
| New York State Department of Health<br>Contractor Name: | Agency Code 12000<br>Contract Number: |
| Contract Start Date:    /    /                          | Contract End Date:    /    /          |

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

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared:    /    /

Page    of  
(use additional pages if necessary)

## Instructions

State Consultant Services

Form A: Contractor's Planned Employment

And

Form B: Contractor's Annual Employment Report

Form A: This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.

Form B: This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15<sup>th</sup> of each year to the following three addresses:

1. the designated payment office (DPO) outlined in the consulting contract.
2. NYS Office of the State Comptroller  
Bureau of Contracts  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236  
Attn: Consultant Reporting  
or via fax to –  
(518) 474-8030 or (518) 473-8808
3. NYS Department of Civil Service  
Alfred E. Smith Office Building  
Albany, NY 12239  
Attn: Consultant Reporting

### Completing the Reports:

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

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

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

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

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

State Consultant Services  
**FORM B**

OSC Use Only  
Reporting Code:  
Category Code:

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

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

Scope of Contract (Chose one that best fits):

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

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

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared: / /

Page of  
(use additional pages if necessary)

## Instructions

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

**Form A:** This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.

**Form B:** This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15<sup>th</sup> of each year to the following three addresses:

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.

**COST PROPOSAL FORM**  
 Pre-Admission Screening and Resident Review (PASRR)

Instructions

Please use this form to detail your cost proposal. Please make enough copies of this form to fill in the Year for each subsequent year's costs. The cost for each year should be included in the Total Cost table along with the Total Cost for 5 years.

Bidder's Name:

Time Period:

| <i>Service</i>              | <i>Cost per Screen</i> | <i>Number of Screens Anticipated*</i> | <i>Total Cost</i> |
|-----------------------------|------------------------|---------------------------------------|-------------------|
| <i>Level II Evaluations</i> |                        |                                       |                   |
| Year 1                      |                        | 2,600                                 |                   |
| Year 2                      |                        | 2,600                                 |                   |
| Year 3                      |                        | 2,600                                 |                   |
| Year 4                      |                        | 2,600                                 |                   |
| Year 5                      |                        | 2,600                                 |                   |

*\*This number reflects a projection only and is not a guarantee of the number of screens expected. It is provided for the purpose of pricing the screen and creating a total bid price.*

|                               |  |
|-------------------------------|--|
| Year 1 Total Cost             |  |
| Year 2 Total Cost             |  |
| Year 3 Total Cost             |  |
| Year 4 Total Cost             |  |
| Year 5 Total Cost             |  |
| <b>TOTAL COST FOR 5 YEARS</b> |  |

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Title