

NEW YORK STATE DEPARTMENT OF HEALTH

A Request for Proposal for Enrollment Broker Services

Office of Health Insurance Programs
Division of Managed Care
RFP #1102040410
March 23, 2011

Schedule of Key Events

RFP Release Date	March 23, 2011
Written Questions Due	April 7, 2011 by 5:00 pm
Response to Written Questions	On or About April 19, 2011
Proposal Due Date	May 17, 2011 by 3:00 pm

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

DESIGNATED CONTACTS:

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

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Permissible Subject Matter Contacts:

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

RFP Release Date: March 23, 2011

- **Submission of written proposals or bids**
- **Submission of Written Questions**
- **Debriefings**
- **Negotiation of Contract Terms after Award**

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For further information regarding these statutory provisions, see the Lobbying Statute summary in Section F.13, of this solicitation.

A. INTRODUCTION

A.1. Purpose of Request for Proposals

Section 364-j of Social Services Law (SSL) authorizes the statewide Medicaid managed care program and allows the Commissioner to contract with an entity to provide education/outreach and enrollment services for the managed care program. In February 1996, the New York State Department of Health (the “Department”) issued a Request for Proposals to obtain the assistance of a contractor to perform these services for the Department’s Medicaid managed care program. In April 1998, the Department contracted with MAXIMUS, Inc. to educate Medicaid recipients about managed care and to help them enroll in suitable health plans in New York City. In July 2000, the contract was extended through September 2002 for services in New York City, and expanded to include certain services in Nassau and Suffolk counties. Re-procurements in 2001 and again in 2006 covered the period October 2006 through the expiration of the current contract on September 2011. Under the current contract the broker began providing services in 14 additional counties. Through this Request for Proposals (RFP), the Department seeks to procure a contractor to perform enrollment and education/outreach services for New York’s Medicaid managed care program in New York City, and the 19 upstate counties currently contracting with the broker and any other counties that elect, or are designated by the State to use enrollment broker services.

The issuance of this RFP and the subsequent contract award is intended to meet several objectives. The successful bidder will be expected to:

- Educate Medicaid applicants and consumers, providers and other interested parties in the community regarding Medicaid managed care, Family Health Plus, HIV Special Needs Plans, Medicare-Medicaid dual-eligible plans (Medicaid Advantage and Medicaid Advantage Plus), Managed Long Term Care Plans and other managed care programs developed by the Department;
- Educate potential enrollees about managed care concepts, their enrollment options, and provide assistance with health plan selections;
- Process exemption and exclusion requests for Medicaid recipients;
- Process enrollments and disenrollments for all managed care programs;
- Assist enrollees with Primary Care Provider (PCP) selection if enrollees wish such assistance;
- Provide an efficient and cost-effective enrollment process; and
- Provide an effective data reporting system regarding enrollments, disenrollments, exemptions, transfers, outreach and education activities and complaints and grievances.

A.2 Program Administration

The single state Medicaid agency for New York is the State Department of Health. Many of the functions of the Medicaid program in New York are currently carried out on behalf of the Department by local Departments of Social Services (LDSS) in each borough/county of the state. The LDSS in New York City is the Human Resources Administration (HRA). The New York City Department of Health and Mental Hygiene (CDOHMH) also plays an important role in overseeing New York City's Medicaid managed care program. The term LDSS as used in this RFP refers to HRA in New York City, and to the local departments of social services in all other counties.

Currently, LDSS staff establishes and recertifies Medicaid and Family Health Plus eligibility for individuals, and provides that information to the State via the State's Welfare Management System (WMS). The enrollment broker has no role in establishing or maintaining Medicaid eligibility. Eligibility questions from consumers are referred to the LDSS. In June, 2011 the State will establish a Statewide Enrollment Center to consolidate customer service helplines for Medicaid, Family Health Plus and Child Health Plus (CHPlus) and begin the process of telephone renewals.

The New York State Department of Health, Office of Health Insurance Programs, Division of Managed Care, in collaboration with its LDSS partners, and CDOHMH in NYC, is responsible for day-to-day oversight of the managed care program described in the RFP. The LDSSs will participate in oversight of the enrollment broker contractor selected as a result of this RFP.

Chapter 58 of the Laws of 2010 authorizes the Commissioner of Health to develop a five year plan for the State to assume the administration of Medical Assistance from LDSSs. Consequently, the role of the enrollment broker may be expanded to assume some of these tasks. (See Section B.6 for additional information.)

A.3 Contract Period

The contract resulting from this RFP shall be effective upon approval of the NYS Office of the State Comptroller.

It is the Department's intent to award a contract effective July 1, 2011, allowing for a three-month transition period during which both the current enrollment broker contract and the successor enrollment contractor will be in effect. Enrollment applications received on or after October 1, 2011, will be the sole responsibility of the contractor selected as a result of this RFP. The initial term of the contract, whether a new contractor or the current contractor, will be 48 months.

The Department may offer one contract extension for one additional period of one year, for a total contract term of five years. The prices for the one year extension may be eligible for an inflationary increase of the lesser of three (3) percent or the percent increase in the National Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington D.C. 2012 for the 12 month period ending ninety (90) days prior to the renewal date for contract years four and five. This provision does not apply to the Additional Costs rate; this rate will not be increased during the one year extension. As with all State contracts, the duration of the contract is subject to availability of funds. The Department may renegotiate the terms and conditions of the contract in the event applicable local, state, or federal law, regulations or

policy are altered from those existing at the time of the contract in order to be in continuous compliance therewith.

A.4 Procurement Library

The Department will provide a Procurement Library. These materials will be made available on CD, upon bidder request to the subject matter expert designated for distribution, listed on page iv of the RFP. Library documents are intended only as a resource and are not a guarantee of performance levels. They provide information about the current program. Requirements specified in this RFP shall take precedence over any documentation in the Procurement Library Materials on the CD are listed in Attachment 1.

B. BACKGROUND

B.1 Medicaid Managed Care (MMC) Program

NYS has operated a Medicaid managed care (MMC) program under State law for more than two decades. In March 1995, the Department submitted an application under Section 1115 of the Social Security Act to the Centers for Medicare and Medicaid Services (CMS) requesting approval of a demonstration project to implement a statewide mandatory Medicaid managed care program called the Partnership Plan. The Partnership Plan Section 1115 demonstration uses a managed care delivery system to improve access to health care for the Medicaid population; improve the quality of health services delivered; create efficiencies in the Medicaid program; and enable the extension of coverage to certain individuals who would otherwise be without health insurance.

- The initial Partnership Plan demonstration was approved in 1997 to enroll most Medicaid beneficiaries into managed care organizations either on a mandatory or voluntary basis.
- In 2001, the Family Health Plus program was implemented as an amendment to the demonstration, providing comprehensive health coverage to low-income uninsured adults, with and without children, who have income and/or assets greater than Medicaid eligibility standards.
- In 2005, mandatory managed care enrollment for SSI-eligible individuals began in New York City, and was completed in all other mandatory counties as of December 2008.
- Effective January 1, 2005 dual eligible beneficiaries in the Partnership Plan were permitted to enroll on a voluntary basis into one managed care plan for both Medicare and Medicaid services (a Medicaid Managed Care Organization (MCO) and a Medicare Advantage Plan). New York has two different programs, Medicaid Advantage and Medicaid Advantage Plus, which includes long term care services, to enroll the dually-eligible.
- In 2006, the State submitted a request and received approval for a second Section 1115 waiver the “Federal-State Health Reform Partnership (F-SHRP)”. This waiver authorizes the State to implement reform initiatives that will improve quality of care and result in long-term savings for the State and Federal government. Effective October 1, 2006, the authority to require disabled adults and children, as well as the elderly, to enroll in the Medicaid managed care program was transferred from the Partnership Plan to the Federal-State Health Reform Partnership (F-SHRP)

Demonstration (11-W-00234/2). This includes individuals dually eligible for Medicare and Medicaid who are included in the F-SHRP demonstration but may enroll on a voluntary basis.

- In 2007 the waiver was amended again to allow the State to enroll Family Health Plus-eligible individuals with access to employer-sponsored insurance into the employer sponsored insurance plan if that coverage is more cost-effective than providing direct coverage under Family Health Plus. The State provides “wrap-around” services through fee-for-service to complement the employer benefit package to ensure that individuals have full access to Family Health Plus-equivalent benefits.
- In January 2010, CMS approved the State’s request to begin mandatory enrollment of persons living with HIV/AIDS. Enrollment began in NYC on September 1, 2010. HIV positive beneficiaries and their uninfected children may choose to enroll in an HIV Special Needs Plan (SNP). These plans provide comprehensive health services, including HIV experienced providers, case management and treatment adherence services. The Contractor will be required to have all staff receive HIV confidentiality training. There are three operational SNPs serving approximately 6,146 enrollees.

The Medicaid managed care program operates pursuant to State law, the 1115 waivers, the Terms and Conditions of both waivers, the New York State Operational Protocol and the Managed Care Model Contracts.

The 2007 version of the Operational Protocol available under “Health Insurance Programs” on the Department’s website at: http://www.health.ny.gov/health_care/managed_care/index.htm.

Current programmatic guidelines are contained in the Medicaid Managed Care/Family Health Plus (MMC/FHPlus) model contract. Managed care contracts for all programs are available on the Department website at:

http://www.health.ny.gov/health_care/managed_care/providers/index.htm#model_contracts

The Terms and Conditions for both waivers and Operational Protocol Appendices are available in the Procurement Library. New York’s mandatory Medicaid managed care program covers most non-institutionalized Medicaid beneficiaries, not in receipt of Medicare. State statute, the 1115 waivers and the Terms and Conditions of the two waivers define specific groups who are not eligible to join managed care or are exempt from enrollment. These groups are identified in Chapter 2 of the Operational Protocol.

Implementation of mandatory enrollment authorized by the waiver began in October 1997 in five upstate counties. Mandatory enrollment is now implemented in forty-four counties and in all five boroughs of New York City. Total enrollment is 2,824,427. Enrollment data can be found at the Department’s website at

http://www.health.ny.gov/health_care/managed_care/reports/enrollment/monthly.

B.1.1 Family Health Plus Program

Family Health Plus (FHPlus) is a Medicaid expansion program under the Partnership Plan 1115 waiver. FHPlus covers low income adults between the ages of 19 and 64 who do not have health

insurance but have incomes too high to qualify for Medicaid. To be eligible for FHPlus applicants must select a health plan.

B.1.2 Medicaid Advantage Program

Under “Medicaid Advantage” a dually eligible recipient enrolls in a single health plan for most Medicare and Medicaid covered services. Certain Medicaid services are still obtained through the fee-for-service system. Enrollment in Medicaid Advantage is voluntary statewide.

B.2 Managed Long Term Care (MLTC)

Managed long-term care (MLTC) helps people who are chronically ill or have disabilities and who need health and long-term care services, such as home care or adult day care, stay in their homes and communities as long as possible. The MLTC plan arranges and pays for a large selection of health and social services, and provides choice and flexibility in obtaining needed services from one place. There are two basic models of managed long-term care in New York State: Managed Long Term Care Plans and Programs of All-Inclusive Care for the Elderly (PACE).

B.2.1 Managed Long-Term Care Plans (MLTCP)

Managed long-term care plans provide long-term care services (like home health and nursing home care) and ancillary and ambulatory services (including dentistry, and medical equipment), and receive a Medicaid capitation payment. Members get services from their primary care physicians and inpatient hospital services using their Medicaid and/or Medicare cards. Members must be eligible for nursing home admission. While several plans in New York State enroll younger members, most managed long-term care plan enrollees must be at least age 65.

In New York City Managed Long Term Care program enrollments, disenrollments and transfer requests are submitted to the broker by the LDSS. The broker generates all appropriate enrollment notices.

B.2.2 Medicaid Advantage Plus (MAP)

Under MAP a dually eligible recipient enrolls in a single health plan for most Medicare and Medicaid covered services. Certain Medicaid services are still obtained through the fee-for-service system. Enrollment in Medicaid Advantage Plus is voluntary statewide.

B.2.3 PACE Organizations

A PACE organization provides a comprehensive system of health care services for members age 55 and older who are otherwise eligible for nursing home admission. Both Medicare and Medicaid pay for PACE services (on a capitated basis). PACE members are required to use PACE physicians and an interdisciplinary team develops care plans and provides on-going care management. The PACE is responsible for directly providing or arranging all primary, inpatient hospital and long-term care services required by a PACE member.

B.3. Current Enrollment Broker Services

The enrollment broker currently provides services in New York City and 19 other local districts that have implemented mandatory enrollment including: Albany, Cayuga, Dutchess, Fulton, Madison, Montgomery, Nassau, Orange, Otsego, Putnam, Schenectady, Schoharie, Suffolk, Sullivan, Tompkins, Ulster, Washington, Wayne and Westchester. Twenty-five (25) counties operate a mandatory Medicaid managed care program without the services of the enrollment broker, and 7 counties have a Voluntary MMC/Family Health Plus program only.

Enrollment broker services include: educating eligible individuals about managed care; mailing enrollment materials to eligible individuals; processing enrollment and disenrollment transactions; processing requests for exemptions and exclusions; maintaining a toll free help line; and developing and producing written materials for the Medicaid managed care, Family Health Plus, Medicaid Advantage, and Medicaid Advantage Plus programs.

The State provides the enrollment broker with a full file of Medicaid eligibility and daily updates for all local districts. The enrollment broker sends mailings to individuals who appear on the file as eligible for enrollment based on transactions in the daily files including changes, case updates, openings and renewals. These mailings inform individuals of the need to enroll as well as provide information that assist the individuals in making a plan choice. The mailings include an enrollment form pre-printed with the consumer information such as name, address, Medicaid client identification number, and names of household members. Enrollments can be submitted on hard copy, directly from the Medicaid consumer, or the consumer may call the broker's HelpLine to enroll. If these forms are pre-printed, indicating that the consumer received a mailing from the broker, they are processed for enrollment to the health plan chosen by the consumer.

The written materials for the program consist of member notices related to enrollment, disenrollment, exemption request approvals/denials, etc. and health plan lists. Each program, (MMC, FHPlus, Medicaid Advantage), has its own notices and each notice must include specific information about each local district, (e.g. phone numbers, contacts, plans, etc.). New notices must be developed when program policies change or new programs are introduced and need to be produced quickly when needed.

Health plans play an active role in marketing to and enrolling current Medicaid consumers. The health plans may submit enrollments electronically to the enrollment broker through a bulletin board system established and maintained by the broker. The enrollments are only processed if the individual has received education through a mailing from the enrollment broker or attended a community presentation on managed care. If the person has not received such unbiased education, the individual must telephone the enrollment broker for enrollment counseling before the enrollment can be finalized. This "verification" process ensures that the individual is aware of the choices of plans available and the basic tenets of managed care. The exception to this rule is with new applications through the facilitated enrollment process.

In counties other than NYC, health plans submit facilitated enrollments to the enrollment broker at the same time the Medicaid eligibility application is sent to the LDSS. The managed care choice is sent to the enrollment broker and the eligibility application is sent to the LDSS. The managed care choice is systematically pended while the eligibility application is reviewed. After the LDSS establishes the eligibility, the pended enrollment is matched to the newly-established eligibility, and

consumers are enrolled into the health plan of their choice. The broker must have a system capable of tracking the pending applications. In New York City, the HRA eligibility workers enter the Medicaid or FHPPlus eligibility information as well as the managed care enrollment that are established through the facilitated enrollment process. The enrollment information is then transmitted electronically to the broker to generate the enrollment notice.

The broker has staff on site at each of the LDSS offices, or other sites designated by the Department, to provide in person education about managed care to consumers who are at the district for an interview, application assistance, or other LDSS business. During the educational session, consumers are informed that they live in a mandatory county, and if not eligible for an exemption or exclusion, must enroll in a managed care plan. Eligible consumers are told which managed care plans are available in the county and that they can enroll during the session, or if they do not choose a plan at that time, a mailing will be sent to them advising that they will have to choose a health plan or one will be chosen for them.

The toll-free HelpLine established by the broker handles approximately 4,000 calls per day statewide. The same HelpLine is used for all counties. In addition to English, the call center must be able to accommodate people who speak Spanish, Russian, Chinese and any other language the State identifies. The contractor must use a telephone language translation service if a counselor is not available who speaks a caller's language.

Effective April 1, 2010, the broker became responsible for responding to calls from consumers who reside in a district that does not utilize the enrollment broker. Call center staff are expected to give the consumer the number of the managed care contact in their LDSS and assist in making contact with that LDSS, if necessary. An extensive data system has been developed which is used to manage and support many aspects of the enrollment and education program. The data base includes all Medicaid eligibility information provided by the state, daily updates to that information, managed care enrollment information, exemptions and exclusions, documentation of consumer encounters through the HelpLine, complaint information, information on mailings, and documentation of fair hearing requests. Detailed reports are produced routinely using the data elements contained in the enrollment broker data system. The data system triggers most of the mailings required by the program.

The data system tracks the status of Medicaid consumers in the designated counties serviced by the broker, selects consumers who must be educated about enrolling, and auto-assigns those required to join who fail to do so in the allowable time frame. For consumers required to enroll who do not select a health plan after having received multiple notices and who are not exempt or excluded, the system uses an algorithm developed by the Department to assign consumers to those plans authorized by the Department to receive auto-assignments. Auto-assignments are grouped by household, and the assigned health plan must serve the consumer's area and have adequate capacity as defined by the Department. The auto-assignment process is monitored closely and the Department calculates an auto-assignment rate using a methodology approved by CMS.

The enrollment broker's data system has been programmed to provide extensive feedback to health plans on enrollment transactions. The enrollment broker also works closely with health plan staff in group meetings and one-on-one in order to clarify enrollment procedures and troubleshoot plan enrollment files.

All electronic enrollment data files exchanged between the health plans and the enrollment broker, and the enrollment broker and the state data systems, are in a HIPAA-compliant file format.

B.4 Facilitated Enrollment

The Department currently oversees a program of “facilitated enrollment”, as authorized by state statute, where community-based organizations and health plans provide education, outreach and enrollment services to individuals who are without health insurance, or who must transition from the Child Health Plus and Family Health Plus programs to Medicaid. The facilitated enrollers (FE) assist these individuals with completion of a Medicaid application, and if the individual resides in a mandatory county and has made an enrollment choice the FE can assist the individual with the enrollment section of the application. However, the application is not considered complete for Family Health Plus until the individual chooses a plan. Approximately 18.4% of all enrollments in the counties currently receiving services from the broker were from FEs. In NYC approximately 9.6% of the enrollments came from FEs.

B.5 The Health Plans

There are currently eighteen full-risk Managed Care Organizations (MCOs) statewide that are contracted to operate in one or more local social service districts to enroll Medicaid and Family Health Plus consumers. Currently, there are ten mainstream managed care plans and three HIV Special Needs Plans operating in New York City.

The enrollment broker works closely with the health plans on enrollments, disenrollments and transfers. The health plans must be able to submit and receive HIPAA-compliant electronic files to and from the enrollment broker. Health plans communicate enrollment changes and problems directly to the enrollment broker staff that assist the plans in correcting problems or coordinate the changes with local district managed care staff. As health plans expand service areas, make changes to the benefit package or to the provider network, the enrollment broker must be able to update its data systems and printed materials, retrain staff as needed, and act as a resource for questions from consumers.

B.6 Potential Changes

Chapter 58 of the Laws of 2010 authorizes the Commissioner of Health to develop a plan for the State to assume the administrative services of the Medical Assistance program performed by the LDSSs. The scope of work may change during the term of the contract as a result of: 1) expanding services to additional counties; 2) state assumption of functions performed by the LDSS, or 3) other changes that result from state or federal legislation.

Potential changes that may affect the broker include: expanding to additional counties; assuming functions performed by the LDSS (e.g. roster reconciliation; notices and mailings, exemption requests); processing more enrollments by phone; processing more disenrollments (retroactive disenrollments).

C. DETAILED SPECIFICATIONS

C.1. Introduction

New York State seeks to contract with an Enrollment Broker (Contractor) who will perform enrollment, outreach and education functions leading to the maximized enrollment of the targeted population into managed care. The Contractor will assume responsibility for ongoing activities in New York City and the 19 other counties already implemented by the current enrollment broker, and may assume similar outreach and enrollment responsibilities for other counties identified by the State during this contract.

The Contractor must develop an approach and implement activities to educate and enroll eligible consumers into managed care plans, and provide continued assistance to enrolled members, such as managing complaints and processing transfers. Although the Contractor will primarily operate in a mandatory environment, the approach must be flexible to accommodate the Department's needs under both a voluntary and mandatory program, in any county of the State.

The Contractor must provide sets of services, which have been classified as either core or general contract management. Both sets of services are essential to the success of the program.

The Contractor must provide the following core services:

- Mailings to Consumers
- Enrollment/Disenrollment Activities
- Outreach and Education Activities
- Program Materials
- HelpLine
- Systems and Reporting Functions

The general contract management responsibilities can be found in Section C.3 and include:

- Maintain organizational structure/staffing
- Organize and attend meetings
- Maintain policies and procedures
- Develop and implement an internal quality assurance program

Each of these functions and other key services are described in further detail below. Contractor performance standards are found in Section C.5. Section C.4, describes services to support the Managed Long Term Care program.

C.2. Core Services to be Provided

C.2.1 Mailings to Consumers

Using Medicaid eligibility information supplied by the Department, the Contractor shall conduct a targeted mailing to mandated populations. The enrollment broker shall generate a mailing from the eligibility updates received from the Department, and must accomplish the mailings within five

business days of initial receipt of information from the State. If for some reason the Contractor cannot meet the five day timeframe, they must notify the Department. Mailings shall not include individuals known to be exempt or excluded. Enrollment forms printed with the household information, including case members shall be included in the mailings, however, exempt or excluded individuals shall not have their name and personal information printed on the enrollment forms included in the routine mailings. At a minimum, these initial mailings are generated per household and must contain a cover letter that identifies eligible consumers; mandatory brochure; health plan list; pre-printed enrollment form; a consumer guide for choosing plans (currently produced and supplied by the Department) and business reply envelope. A full list of materials is located in section C.2.4 of the RFP.

Thirty (30) days after the initial mailing, Contractor shall mail a second notification that includes a cover letter, enrollment form, and business reply envelope to each Medicaid Consumer who has not enrolled or made a choice of managed care plan.

Forty-five (45) days after the initial mailing, Contractor shall mail a third notification encouraging a choice of managed care plan to each Medicaid Consumer who has not enrolled or made a choice of managed care plan, and to whom the second notification has been mailed. This shall include a cover letter, enrollment form, and business reply envelope. The Contractor shall have the ability to run the auto-assignment algorithm at the time of the generation of the 45-day letter, and include the name of the potential assignment plan in that mailing.

The Contractor must have systems in place that can track and generate, or prompt the generation of all appropriate mailings.

The broker is expected to have staff on site at each of the LDSS offices (unless waived by the Department) and other locations designated by the Department to provide in person education about managed care to consumers who are at the district for an interview, application assistance, or other LDSS business. During the educational session, consumers are informed that they live in a mandatory county, and if not eligible for an exemption or exclusion, must enroll in a managed care plan. Eligible consumers are told which managed care plans are available in the county and that they can enroll during the session, or if they do not choose a plan at that time, a mailing will be sent to them advising that they will have to choose a health plan or one will be chosen for them.

Mailings are necessary for those who do not choose a plan at the time of their renewal, or do not come into the LDSS for their Temporary Assistance (TA) renewal, and for all new Medicaid cases eligible for managed care. If situations arise that do not allow the Contractor to make in-person presentations to consumers during renewal or application, the Contractor will mail to those consumers.

Effective April 1, 2010, the requirement for Medicaid and Family Health Plus applicants to have a face-to-face interview was discontinued. However, application assistance must be provided when requested by the consumer. The Contractor will be expected to work with the Department, or its designee, to determine the most efficient way to meet with Medicaid/FHPlus applicants who appear at the agency for application assistance (to submit required documentation, have important documents copied, or fulfill other requirements). The Contractor will also be expected to develop

other ways to outreach to applicants in order to educate and enroll; such ways may be unique to each LDSS. The Department may add other mailings to specified populations as needed.

The Contractor must make mailing files or other documentation of mailings available to the Department for monitoring purposes in accordance with reasonable specifications and timeframes as requested by the Department.

In general the Contractor must be flexible to meet the needs of the Department in conducting mailings to increase enrollment, such as using processes outside of the routine mailings to capture pockets of unenrolled consumers.

C.2.2 Enrollment/Disenrollment Activities

The Contractor shall be responsible for enrolling individuals in health care plans in counties specified by the Department. The Contractor must provide and manage staff and develop, document and maintain computer systems necessary to carry out all enrollment functions described in this section.

The Contractor must contact and inform individuals to be enrolled in managed care about the program options and health plans available. The primary goal is to permit as many people as possible to make health plan selections, thus minimizing the number of automatic assignments of consumers to health plans. Medicaid consumers who are enrolled at the time their benefits are re-authorized do not have to “reenroll” in managed care; they will remain in managed care.

C.2.2.1 Enrollment Application Processing

The Contractor shall process hardcopy enrollment applications within three working days. Electronic enrollment files submitted by the health plans must be processed within one working day of the posting of those enrollment files by the plans. “Process” shall mean the initial evaluation of the application for enrollment, either manually or via the data system, for completeness and accuracy in comparison to the eligibility data provided by the Department, or other information available to the Contractor such as exemption/ exclusion status or pending enrollment in another plan. The Contractor must take action to continue the enrollment process, such as prepare denial information, process to completion and enrollment, or any other appropriate action based on the information provided and the consumer’s eligibility status. Enrollment requests are then either submitted to the state data system for enrollment, returned to the consumer for additional information, or denied based on program criteria, such as lack of Medicaid eligibility or exclusion from Medicaid managed care.

The Contractor must be able to identify possible duplicate enrollments based on the Department’s criteria and prevent multiple enrollments.

Health plans that are approved FEs and community based organization (CBO) enrollers may submit facilitated enrollments. However, these enrollments must not be denied for a lack of eligibility, but rather pended until the eligibility is established and sent to the Contractor via the daily update of Medicaid and Family Health Plus eligibility. The Contractor electronically matches the new eligibility with the pended managed care choice and processes the enrollment to completion,

including sending the confirmation notice. LDSS eligibility workers also have the ability to enroll new Family Health Plus and Medicaid cases that arrive through the facilitated enrollment process. In NYC this is referred to as the “one-step” enrollment process. In those cases, the Contractor receives the enrollment electronically from HRA and sends the enrollment confirmation notice. Similarly, HRA workers may also enter the managed care choice for Family Health Plus cases that apply directly at HRA offices.

All Medicaid consumers who are eligible for Medicaid and have not chosen a health plan are offered the opportunity to choose over the phone. Consumers who enroll over the phone are sent a packet containing a phone enrollment confirmation notice and a preprinted enrollment form that includes the name of the plan selected. Consumers are asked to review the form upon receipt, sign it, and return it to the enrollment broker where receipt is noted in the data system, the original is stored by the Contractor, and a copy is provided to the health plan chosen. Phone enrollments are processed regardless of whether the consumer returns the enrollment form.

Incomplete enrollment forms shall be reconciled with the individual requesting enrollment, with instructions for completing the missing information. Returned health assessment forms must be collected within three working days of receipt, and forwarded to the appropriate managed care plan.

The state is responsible for producing a monthly enrollment roster for each managed care plan and district. The rosters are effective the first of a calendar month. The cutoff, or “pulldown”, for enrollments to appear on the state roster is 7-10 days prior to the first of the roster month. Hardcopy enrollment applications received by the Contractor up until three days before the state enrollment pulldown date must be processed for an effective date of the following month. Electronic and phone enrollments that are submitted up until one working day before the pulldown must also be effective for the following month. However, in the interest of enrolling eligible consumers into the health plan of their choice as soon as possible, the Contractor shall make efforts to revise processing procedures and/or staffing such that the maximum number of enrollments received before pulldown are effective the following month, even those submitted closer to the pulldown than the timeframes stated above. Family Health Plus enrollments must be accepted until the last day of the month for coverage beginning the first of the next month. The Contractor must notify the plan (in writing or electronically) of enrollments that occur after the primary pulldown.

A confirmation notice that contains the names of the enrolled consumers, the effective date of enrollment, the name of the plan in which they have enrolled, and information about lock-in and transfer, must be sent to each household enrolled through the Contractor.

C.2.2.2 HIV Special Needs Plans

New York State Public Health Law 4403-c authorizes the creation of HIV Special Needs Plans and establishes programmatic and fiscal standards for these plans. HIV Special Needs Plans are intended to be alternatives to mainstream managed care plans and they focus specifically on providing a coordinated system of care that meets the health, medical and psychosocial needs of the designated Medicaid population.

With regard to HIV Special Needs Plans, the Contractor shall train all education and enrollment counselors in the differences between Special Needs Plans and the other managed care plans. The

Contractor must train all enrollment counselors in confidentiality issues specific to Persons living with HIV/AIDS. In addition, the Contractor must ensure that the data systems can accommodate enrollment to, and disenrollment from, the HIV Special Needs Plans.

The Contractor must accept enrollment applications for HIV Special Needs Plans and process such enrollments within one business day when submitted by the HIV Special Needs Plan via electronic files.

If a consumer requests enrollment materials for enrollment into a HIV Special Needs Plan, and further requests that the enrollment package be sent to an alternative address, the Contractor must honor that request and mail the packet within three days. All subsequent correspondence shall be sent to the address of record in the Medicaid data system that is provided to the Contractor. In addition, consumers may request that their phone number shall not be used for follow-up calls related to the HIV Special Needs Plan. The Contractor must also be able to accommodate a person's request not to get phone calls from the Contractor related to HIV Special Needs Plan enrollment, such as follow up on applications, etc.

The Contractor conducts outreach about the HIV Special Needs Plans at designated LDSS sites, including group and/or one-on-one presentations. The Contractor will provide assistance to those consumers who express interest in the Special Needs Plans, including general assistance with enrollment or transfers, and connecting the consumer to the health plan of choice.

C.2.2.3 Post Enrollment Surveys

The Contractor will be expected to conduct a post-enrollment survey of consumers assisted through the facilitated enrollment process to evaluate whether they were given information on the managed care plan options. The survey is conducted by phone on a quarterly basis with a minimum of 150 completed surveys each quarter.

C.2.2.4 Facilitated Enrollment Process

The Contractor must be capable of processing managed care enrollments that are submitted by Facilitated Enrollers, to the extent that Facilitated Enrollment is permitted by state statute. Facilitated Enrollers are entities contracted by the Department (e.g., community-based organizations and health plans) to assist individuals in applying for insurance coverage. Individuals may choose a managed care plan at the time they apply for Medicaid. Individuals must choose a managed care plan for Family Health Plus or the application is considered incomplete, unless there is only one plan to choose from, under which circumstance, the consumer does not have to make a choice. The Contractor must be capable of accepting and pending that enrollment until Medicaid eligibility is finalized. This may be the current Medicaid program where the consumer has chosen a managed care plan, or the Family Health Plus program. When eligibility is established, and that data becomes available to the Contractor through the daily file update from the State, or through the Facilitated Enroller, the Contractor shall immediately process that managed care enrollment. The Contractor must also be able to prevent mandatory or voluntary mailings to newly eligible Medicaid or Family Health Plus consumers who have facilitated managed care enrollments pending eligibility.

In addition, the Contractor must coordinate with Facilitated Enrollment Lead Organizations to

communicate issues or problems related to managed care enrollments submitted through those Facilitated Enrollment Lead Organizations. These are entities that contract with the Department to provide the facilitated enrollment infrastructure (which includes subcontracts with numerous community-based organizations) and provide support and technical assistance to facilitators, review applications for completeness and quality, forward applications and documentation to the appropriate eligibility determining entity, and serve as the interface between the community-based organizations and the health plans and the community-based organizations and the LDSS. The Facilitated Enrollment Lead Organizations may also collect Medicaid managed care or Family Health Plus enrollment applications from Facilitators and submit those applications to the Contractor. Currently, there are 12 lead organizations in New York City, and 12 in the Upstate counties where the broker provides services. Most facilitated enrollments are submitted by approved managed care plans, in their role as facilitated enrollers. The Contractor is responsible for communicating with the Facilitated Enrollers for facilitated enrollments submitted to and processed by the Contractor. This may involve providing reports to the Facilitated Enrollers regarding the status of enrollments submitted to the Contractor.

C.2.2.5 Determination of Eligible Individuals/Exemption and Exclusion Process

Department staff, or its designee, will perform all determinations of Medicaid eligibility. The Contractor and the Department, or its designee, will coordinate to ensure that the Contractor possesses a current listing of potential enrollees. This function will be accomplished electronically on a daily basis. The Department will attempt to identify as many of the excluded and exempt individuals as possible through eligibility and claims data. However, the Contractor will also be expected to work with individuals who may be exempt or excluded from mandatory enrollment and assist individuals in applying for exemption or exclusion status. The LDSS may also develop a role for the Contractor in the exchange of updated eligibility information between the LDSS and Contractor, or the health plans and the Contractor, or other activities intended to maintain enrollment levels and update information as it becomes known to the Contractor and the health plans.

Due to the complex nature of some exempt beneficiaries' situations, the Contractor must be able to work with beneficiaries who express a desire to apply for an exemption using one or more criteria for non-participation in the managed care program or mandatory enrollment. Since some individuals with Medicaid have circumstances that may provide more than one reason for exemption or exclusion from mandatory managed care, the Contractor's staff must be able to discuss the exemption and exclusion criteria with callers and identify the one or more categories that the consumer may apply for. This case management approach should assist the consumer in obtaining the most favorable type of exemption or exclusion. In addition, this case management approach may also be used in other situations where a thorough discussion with the consumer is required to fully explain the details of the managed care program and the options available given a person's circumstances, such as callers interested in learning about the HIV Special Needs Plans.

All requests for exemptions and exclusions will be in writing and directed to the Contractor. Within three working days, the Contractor must review all requests, and if incomplete, contact enrollees or providers to obtain missing information. Recommendations for denials will be forwarded to the Department, or its designee, for final decisions. Once a determination has been made, the Contractor must notify enrollees in writing that the exemption or exclusion has been granted or denied.

Any disenrollments that result from approval of an exemption or exclusion request will be processed prospectively following the Medicaid pull down schedule, unless the enrollee is eligible for an expedited or retroactive disenrollment. The disenrollment must be effective the first of the following month, if allowed by the pull down schedule, but may not be any later than the first of the second month.

In addition to identifying potentially excluded/exempt populations and processing exemption/exclusion applications, Contractor must develop a managed care eligibility database that is compatible with the Department's systems specifications. The Contractor's data system must be capable of tracking exemption and exclusion requests and decisions, and preventing further actions from taking place on those beneficiaries, such as routine mailings requiring enrollment or auto-assignment to a plan. The Contractor's data system must be able to pass the file of identified exemptions/exclusions that are granted or ended to the State system in order for local districts to view this information.

C.2.2.6 Auto-Assignment

The Contractor shall assign a health plan to a Medicaid consumer who does not enroll in or choose a managed care plan within sixty (60) days of the initial mailing for non-SSI recipients, or within ninety (90) days of the initial mailing for SSI recipients in accordance with the Department's assignment algorithm. Persons living with HIV/AIDS may have up to 90 days to choose a plan. If they receive a notice advising them that they must enroll in 60 days, they may call the Contractor and ask for an additional 30 days. If they do not choose a plan, they are auto assigned to a mainstream plan. The auto-assignment algorithm takes into account many factors including where the consumer lives, plan service areas, past enrollment in a plan, and preferences for certain plans based on quality factors and whether the plan is a provider-sponsored plan. The Contractor must ensure that beneficiaries are not auto-assigned when exempt or excluded from enrollment, or when they should not be assigned for some other reason such as when an exemption or exclusion request is still in the review process, or a fair hearing decision is pending and affects the enrollment status. A more complete discussion of the auto-assignment process can be found in the Procurement Library.

The Contractor shall then electronically notify the managed care plans within three (3) days of those Medicaid consumers that have been auto-assigned to those managed care plans. The Contractor shall also mail to each Medicaid consumer who has been properly notified but who has not enrolled or made a choice of managed care plan within the allotted time, a notification announcing the automatic assignment. This notification must indicate the managed care plan assignment, the time frame prior to lock in, and instructions on how to change managed care plans.

The current process names the auto-assigned plan in the second reminder letter at 45 days after the initial mailing. The final assignment letter then confirms the enrollment if no plan is chosen after 60 days for non-SSI recipients or 90 days for SSI recipients.

C.2.2.7 Health Plan Changes

In mandatory counties, enrollees may change health plans for any reason during the first 90 days of enrollment (grace period). After the grace period they must remain enrolled for the next 9 months unless they have good cause. Persons with HIV infection or AIDS whose local district of residence

qualifies them for enrollment in a HIV SNP may request transfer from an MCO to an HIV SNP, or from HIV SNP to another HIV SNP at any time. The Contractor will be responsible for assisting enrollees that elect to change plans within the grace period, after the lock-in period ends, or within the lock-in period with good cause.

In voluntary counties, enrollees may change plans at any time, and may return to Medicaid fee-for-service if they choose. Individuals who have good cause to disenroll because they are in an exempt or excluded category may disenroll to fee-for-service Medicaid; other individuals may transfer to another plan. Family Health Plus enrollees are eligible to transfer to another plan within the grace period or for good cause. There is no fee-for-service option for Family Health Plus enrollees.

The Contractor will be expected to track the lock-in period and sends an end of lock-in notice within State mandated timeframes. The Contractor will also be expected to assist in the transition of enrollees to other health plans when the Department determines that a significant change at the managed care plans, such as large-scale network changes, plans terminating their contract to provide Medicaid managed care or Family Health Plus, or changes in health plan ownership makes such transfer appropriate. The tasks for the Contractor for such transitions include but are not limited to sending enrollment notifications, managing the resulting transfers or disenrollments; responding to phone inquiries regarding the change; and providing enrollment activity summary reports to the Department and/or local district. The Contractor sends out all appropriate enrollment notices, (change, enrollment, or disenrollment notice).

Disenrollments are processed prospectively to be effective the first of the next month if possible, following the Medicaid pull down schedule, unless the enrollee is eligible for an expedited or retroactive disenrollment. Enrollees are eligible for an expedited disenrollment if: they have an urgent medical need (End Stage Renal Disease (ESRD), serious persistent mental illness (SPMI) and HIV status outside NYC); their enrollment was nonconsensual; or, they are homeless and reside in a district that does not enroll the homeless. Retroactive disenrollments are rare. Someone who entered a nursing home or a child weighing less than 1200 grams are examples of enrollees who might be eligible for a retroactive disenrollment. Section 8 and Appendix H of the MMC/FHPlus contract identify the reasons for which an enrollee would be eligible for an expedited or retroactive disenrollment.

C.2.2.8 Health Assessment Forms

The Contractor also must assist the LDSS in identifying any existing medical (e.g., pregnancy or chronic illness) or behavioral condition requiring immediate follow-up by the plan upon enrollment. This information will be collected in a health assessment form developed by the Department, and maintained by the Contractor. In counties where the Contractor provides enrollment broker services, the Contractor collects health assessment information during the initial enrollment call and electronically transmits the data to the health plan with the daily enrollment file. The electronic version of the health assessment currently collects health assessments for households, but not for each individual. The goal is to augment the form and process so that assessments capture and transmit individualized data.

If the health assessment is not completed electronically, the Contractor shall include the Health Assessment Form with the enrollment confirmation notice, with a business reply envelope.

Medical information collected by the Contractor by virtue of the health assessment form shall not be considered or discussed with the individual as it may relate to selection of a health plan. The instrument shall be completed after the individual has selected a plan. The Contractor must develop and monitor controls to assure confidentiality of all information collected. All such inquiries into a person's health status may only occur after an enrollment choice has been made. Completed health assessment forms that are returned or given to the Contractor must be forwarded to the health plan selected by the consumer.

C.2.2.9 Medicaid Advantage Program (Dual-eligible enrollment)

The Contractor must work closely with the Medicaid Advantage health plans to ensure timely enrollment into the Medicaid part of the managed care plan, ideally with the same effective date as the Medicare Advantage enrollment processed by the health plan. Medicaid Advantage health plans electronically submit all new enrollments to the Contractor. The Contractor will accept these enrollments up to noon of the last business day of the month. If Medicare information is not on the Contractor or State data systems, the Contractor will collect documentation of Part A and Part B Medicare from the health plan, and forward that documentation to the LDSS so that the LDSS may update the eligibility data systems. As long as documentation is available, the enrollment is still processed despite the lack of Medicare information on the system.

Transfer and disenrollment requests may be received from the consumers or the health plans. Consumers cannot be enrolled in the Medicaid Advantage product without also being enrolled in the same plan's Medicare Advantage product.

The Contractor will send all appropriate enrollment, disenrollment, and transfer notices for Medicaid Advantage transactions.

Currently, only NYC and Long Island utilize enrollment broker services for the Medicaid Advantage program, however, Contractor must be able to provide this service for all counties covered by the contract.

C.2.3 Outreach and Education Activities

The goals of all outreach and education efforts are the enrollment of an informed consumer into the managed care program and increased community understanding and awareness of the program. In New York City and all other designated counties, the Contractor must maintain the outreach and education campaign (e.g., written materials/flyers, audio tapes, posters, ads, presentations) targeted to meet the identified needs of diverse targeted audiences. Approaches and materials should take into account (1) population size and geographic needs, (2) language diversity, and (3) cultural diversity issues that can impact how people learn and their perspectives and experiences related to obtaining services in a managed care environment. The approach must reflect the needs of consumers, providers, health plans and community-based organizations that routinely interact with Medicaid consumers.

C.2.3.1 Outreach Presentations

The Contractor shall make group presentations to Medicaid consumers appearing at the district for an interview, application assistance or other LDSS business about the managed care program. Enrollment counselors shall also be available for face-to-face meetings with individual Medicaid consumers who have requested or require assistance. The goal of these presentations is the enrollment of an informed consumer into the Medicaid managed care program.

The Contractor will be required to conduct presentations and accept in-person enrollments in various venues including: HRA income support or job centers in New York City, Medicaid offices, various other community-based locations, and other sites designated by the Department, as deemed necessary and appropriate. The Contractor must consult with the individual LDSS to develop the schedule for onsite presentations. This may vary by district and will be based on the volume of consumer traffic at the district. The Contractor may also be required to develop and conduct special presentations targeted to certain populations such as persons living with HIV/AIDS. Presentations are currently conducted at HIV/AIDS Services Administration (HASA) sites in New York City. The final plan for site staffing must be approved by the Department.

The Contractor is expected to have enrollment counselors who will (1) conduct face-to-face consumer interviews and describe the concepts and benefits of managed care, including the important role of a PCP and the benefits of preventive health care services; (2) provide consumers with a comprehensive information package of written materials, including an enrollment form, brochures, and plan lists (in English and other appropriate languages); (3) discuss the specific health needs of a consumer and other family members and make suggestions to help consumers determine the appropriate plan to select; and (4) actually help consumers decide which of the available plans appear best suited to their current health care needs.

The Contractor shall provide a clear and detailed presentation so that each consumer is sufficiently well informed to select the managed care plan most appropriate for him or her and for his or her children. Since consumers coming to an LDSS may be eligible for Medicaid or FHPlus, the Contractor must ensure that the messages are clear for the two different programs. FHPlus enrollees must choose a plan in order for an eligibility determination to be completed. Each such presentation, at a minimum, shall cover:

- A. The concepts and benefits of managed care, including the important role of a PCP and the benefits of preventive health care;
- B. Available health plans within the service area, including available PCPs and services offered by each plan;
- C. How to access services, including policies and procedures to access family planning, appropriate use of the emergency room, and member rights and responsibilities;
- D. The importance of visiting the PCP or contacting the managed care plan as soon as possible after enrollment to solidify the relationship;
- E. The importance of accessing primary care and preventive care, including pre- and perinatal care and well-baby and child care;
- F. How to enroll with a managed care plan and how to obtain additional information;
- G. That enrollees have a choice of more than one managed care plan, if applicable;
- H. That enrollees have a choice of more than one PCP;

- I. That enrollees must use network providers for most services, and an explanation of carved out services; and
- J. Exemptions and exclusions from the managed care program.

Consumers should also be encouraged to call their doctor or the doctor they wish to choose to determine which plans he or she participates in, and to confirm whether he or she is taking new patients. If consumers request assistance contacting the provider, the Contractor shall help determine the plans with which the consumer's preferred provider participates.

When developing the presentation schedule the Contractor shall include times and locations that are convenient for Medicaid consumers, including evening and weekend hours. Each presentation must include sufficient time for answering the questions of participants.

For Medicaid consumers who do not make a choice at the time they encounter the Contractor enrollment counselor a mandatory notice will be sent by the Contractor after initial eligibility is established, and at that time the mandatory "clock" begins.

The Contractor shall monitor and evaluate the effectiveness of education and outreach activities and if necessary modify strategies with the approval of the Department. A survey must be developed and used to monitor Medicaid consumers' satisfaction on presentations made in the community. The Contractor must develop a corrective action plan to address any deficiencies identified during the surveys including alternate strategies for improving the effectiveness of the program.

With the discontinuance of the requirement for an initial face-to-face interview for Medicaid and Family Health Plus, the Contractor will be expected to collaborate with the Department to develop alternative ways in which individuals will be provided education.

The Contractor should also consider other means to target certain populations.

Information currently used in presentations is available in the Procurement Library.

C.2.3.2 Face-to-face Counseling and Provider Availability

Section 364-j 4(e)(iv) of the State Social Services Law requires local social services district and enrollment broker counselors to verify, for enrollments made during face-to-face counseling where the enrollee has a preference for particular medical service providers, that the preferred providers participate with the selected managed care plan's network and are available to serve the participant. Therefore, during face-to-face sessions only, the enrollment counselors must call the consumers' preferred providers in instances when they state preferences, in order to confirm the providers' participation and willingness to accept new patients.

The State provides the enrollment broker with an electronic file of health plan/provider affiliations. This information is provided on a quarterly basis. However, checking the electronic file cannot satisfy the legal requirement for a phone call as required in Section 364-j 4(e)(iv).

C.2.3.3 Special Outreach Activities

The Department expects to make distinct funding available for outreach activities outside those described above. The amount is subject to the Department's discretion, however it is expected that up to \$500,000 will be available each year of the contract for other outreach and education activities proposed by the Contractor or the Department as needs arise during the contract term. The Department must approve all proposed spending for these funds. The Contractor may choose to organize special events of various sizes that involve outreach outside of the presentations made by Contractor staff as described in Section C.2.3.1. These activities should support the other outreach efforts of the Contractor. For example, activities that encourage consumers to attend educational sessions, or that target hard to reach populations, or promote an understanding of the managed care program in the community. The Contractor may contract with another entity to provide these services. These activities may involve other costs such as printing, advertising, etc. that fall outside of the Contractor's outreach staffing costs.

If the Contractor elects to use funds to engage other organizations, the Contractor's shall submit a proposal with defined deliverables, the quality and quantity of which can be measured, to ensure that funds are prudently spent.

C.2.4 Program Materials

C.2.4.1 Outreach, Education and Enrollment Materials

Outreach, education and enrollment materials include enrollment, disenrollment and exemption forms; educational brochures and pamphlets; notices and letters; comparative managed care plan lists; health assessment forms; scripts; videos and audio-tapes; newsletters and staff training materials. All outreach, education and enrollment materials in use by the current enrollment broker are available in the Procurement Library.

The Contractor must maintain these materials in adequate numbers to continue the program, and must periodically update these materials to reflect changes in the program. The Contractor shall manage the production and maintenance of these materials, under the direction and approval of the Department, in sufficient quantities to meet the needs of local districts and the detailed specifications described throughout this RFP.

The Department must approve all written outreach, education and enrollment materials, including enrollment counselor training curricula, to ensure that information is comprehensive, understandable, accurate and unbiased. The Contractor must submit all materials to the Department for approval a minimum of 30 days prior to their scheduled use.

As with all outreach, education, and enrollment activities, written materials must present unbiased information to members regarding the managed care program and available health plans. While the Contractor may not recommend one health plan or provider over another to the Medicaid consumer, enrollment counselors will be expected to provide consumers with enough information to assist them in determining which health plan(s) are best suited to meet the consumer's needs. The considerations may include location, languages spoken, primary care and specialty provider networks, and hospital affiliations.

The Contractor must develop and produce all materials at the fourth-to sixth-grade reading level and in multiple languages that meet the diverse needs of the New York Medicaid consumer base. At a minimum, materials must be produced in English and Spanish. Written materials must also be produced in any other language spoken by more than five percent of the population in any county or borough of New York City. In NYC the materials must be produced in English, Spanish, Russian, and Chinese. Translations must be done in a timely and accurate manner. All materials must convey the proper meaning and content of the written materials, rather than merely provide a literal translation of the English original. The Department may require some written materials to be translated into languages in addition to Spanish, Russian, Chinese, and any language that meets the five- percent threshold described above. Fundamental program pieces must be maintained in audiotape format for the low-literacy and hearing impaired population. The Contractor must allow a minimum of 10 business days for Department review of translated materials. Section 364-j(4)(t) of the State Social Services Law requires managed care programs to advise prospective enrollees in written materials related to enrollment, to verify with their providers, or the providers they prefer, that those providers participate in the selected plan's provider network and are available to serve the prospective enrollee. Therefore, the Contractor's enrollment materials must include language that advises prospective enrollees to verify with their doctors the plans with which the doctors participate.

The Contractor shall make outreach, education and other promotional materials available to providers, health plans, CBOs or other community groups, upon request by such groups, to the extent that individual requests by such groups are reasonable in the amount requested and expected delivery time. Enrollment forms are to be made readily available to health plans and facilitated enrollers in an amount sufficient to meet their needs.

The Contractor will be expected to work with the Department to develop outreach strategies for hard to reach groups, such as the SSI cash population.

Printed materials for direct mailings include at a minimum:

A. Enrollment mailings include:

- Mandatory introductory letters
- Outside envelope with message to call HelpLine in at least 17 languages
- Mandatory brochures
- Health plan lists
- Enrollment forms preprinted with household information
- Business reply envelope, (postage paid)
- Consumer guides

B. Other materials necessary for the program mailings include:

- Two enrollment reminder letters, one additional for SSI and SSI-Related consumers
- Auto-assignment notices
- Enrollment confirmation letters
- Enrollment denial letters

- Health assessment forms
- Exemption applications
- Exemption approval and denial notices
- Fair hearing notices
- Disenrollment forms
- Disenrollment confirmation notices, including reason for disenrollment
- Incomplete exemption or enrollment letters
- Reminder letters for incomplete exemption applications
- End of lock-in notices
- Other ad-hoc notices as directed and approved by the Department

C. Other education and outreach materials may include at a minimum:

- Posters
- Flyers
- Flip charts
- Presentation scripts
- Staff training materials

Notices are to be bilingual, English/Spanish with English on one side and Spanish on the other. Enrollment forms must be bilingual, English/Spanish. Health plan lists, brochures, exemption forms and exemption related notices, and selected other notices must be available in English and Spanish. In NYC Enrollment forms must be bilingual, English/Spanish, with a brief message in, Russian, and Chinese about how to obtain assistance in those languages and selected other notices must be also be available in Russian and Chinese.

The Contractor shall produce materials necessary for the Family Health Plus program, where differences exist from the Medicaid managed care program. This includes notices specific to Family Health Plus and a single-page, two-sided plan list used in transfer packets.

The Contractor shall not be reimbursed for the production of education, outreach, enrollment, and/or media materials that are produced with material inaccuracies, including those resulting from typographical errors, or that do not incorporate all agreed-upon changes, nor for the re-printing of materials that are found to be in error, except when such materials or information were provided by the Department..

C.2.4.2 Advertising/Community Awareness

The Department may request that the Contractor create and oversee a multi-media campaign to advertise and promote the managed care program or specific parts of the program. Examples of advertising that have occurred in prior years in New York City are radio, press ads, outdoor advertising including one-sheeter posters and eight-sheeter billboards, clinic posters, flyers, etc. Multi-lingual one-sheeter posters are used in the other counties. The Contractor is expected to manage the development, production, maintenance and use of the advertising/community awareness campaign, under the direction and approval of the Department, to meet the needs of the local districts and the performance objectives of the Agreement. All creative concepts, layouts, scripts,

texts and other materials needed for broadcast and print media campaigns must be reviewed and approved by the Department prior to production and use.

C.2.5 HelpLine

The Contractor shall establish and maintain a telephone call center accessible through a statewide toll-free number and staffed by the Contractor, which shall provide information and assistance to Medicaid consumers. The call center must be located within the 48 contiguous states.

Toll-free lines shall not cost the consumer a charge for a local call. In addition, the TTY phone access and current number must be maintained. The Contractor must have staff that speak the primary languages of Spanish, Russian and Chinese. The primary languages required may change as a result of changes in the demographics of the population being served. The Contractor must maintain access to third-party telephone translation services for languages that cannot be served by HelpLine staff. Approximately 80% of the calls are from NYC beneficiaries.

The HelpLine shall operate from 8:30 a.m. to 8:00 p.m. Monday through Friday, from 10 a.m. to 6 p.m. on Saturday, and on Sundays as needed in conjunction with days of special events in the community, as directed by the Department. The Contractor must have a telephone system capable of accepting, recording or providing instruction to incoming calls during other than normal business hours and measures in place to ensure a response to those calls within the next business day after the call was received.

This statewide toll-free HelpLine shall be an accessible source of information for Medicaid consumers in counties receiving services from the Contractor regarding any of the following:

- How to enroll with a health plan including phone enrollment
- Questions/concerns regarding program policies
- Exemption and exclusion criteria and processing
- How to select a PCP
- How to access care
- How to change health plans
- Information regarding access to the complaint process
- Information regarding access to the fair hearing process
- Information on provider participation
- Information as part of the enrollment verification process for plan-assisted enrollments
- Information of particular interest to SSI individuals, individuals with interest in the HIV SNPs, and statewide callers with interest in the Medicaid Advantage dual eligible program
- The HelpLine counselors shall also encourage callers to contact their doctor to see what health plans he or she participates in, and whether the doctor is taking new patients.

Callers who are not enrolled may complete a phone enrollment, except those enrolling into Medicaid Advantage plans. HelpLine counselors shall discuss health plan options with the caller, and if the caller requires additional information, provide education about the key points of managed care. HelpLine staff must be able to tell callers where providers are located and how to get to the provider's site(s). During this phone enrollment, the health assessment form will be reviewed for electronic submission. After completing the enrollment transaction, the Contractor shall send an

enrollment package to the consumer's address with a notice requesting the consumer sign and return an enrollment form for the case members who enrolled via the HelpLine. The package shall include a postage paid return envelope. However the Contractor shall process the consumer's phone enrollment choice regardless of whether the enrollment package is completed and returned. Special accommodation processes may be required for special populations as necessary, e.g., for persons with HIV infection. The Contractor shall answer general inquiries from Medicaid consumers regarding the Medicaid managed care program and its participating managed care plans, and direct specific inquiries about particular managed care plans to the plans for response. Once an individual is enrolled with a health plan, it is expected that the individual will access the health plan's member services unit to ask questions and resolve problems regarding Department and health plan policies and procedures, including questions regarding service coverage and accessibility. Therefore, it is appropriate for Contractor to forward enrolled members to the health plans' member services units.

HelpLine staff shall also be able to answer inquiries regarding languages spoken by providers participating with managed care plans in the New York State managed care program. The State will provide the Contractor with Provider Network data.

All calls related to eligibility must be directed to the LDSS.

The Contractor is responsible for responding to calls from consumers who reside in a district that does not utilize the enrollment broker. HelpLine staff are expected to give the consumer the number of the managed care contact for their LDSS and assist in making contact with that person, if necessary. During the call the consumer may be educated about some of the basic tenets of managed care and/or provided with information about which plans or providers are available in the district, but they can not be enrolled. Information about the average number of calls received to date is available in the Procurement Library. The Contractor is expected to be able to track which district a consumer is calling from, and report that to the Department n a monthly.

The Contractor shall meet the performance standards for the HelpLine described in Section C.5 of the RFP.

The Contractor must have an acceptable disaster recovery plan in place in the event that the HelpLine site is disabled as specified in Section C.2.6.1.

C.2.5.1 Selection of Managed Care Plan

The Contractor shall assist Medicaid consumers with selection of a managed care plan that best meets their health needs or the needs of their family members who are Medicaid consumers. The Contractor must be prepared to discuss the options available including HIV SNPs, Medicaid Advantage plans, and mainstream managed care plans.

Using the most recent information available from the Department and/or the managed care plans, the Contractor must assist Medicaid consumers in verifying whether their existing practitioner participates in one or more available managed care plans. The Contractor is expected to provide assistance with primary care provider (PCP) selection if the enrollee is prepared to make a selection. However, if the enrollee is not prepared to make a decision, the PCP selection is the responsibility of the health plan.

C.2.5.2 Complaint System

It is expected that the Contractor will accept complaints via the HelpLine and, to the extent possible and within the Department's guidelines, assist the consumer. With regard to complaints, the Contractor shall:

- A. Develop and maintain a computer system for logging, tracking and reporting complaints, including the disposition of the complaint, received through the Helpline or other means, consistent with the Department protocols and procedures.
- B. Accept complaints and assist Medicaid consumers, as necessary, with inquiries, complaints and appeals relating to their rights, and report as directed by the Department.
- C. Attempt to resolve concerns of enrollees, including troubleshooting and triaging Medicaid consumer problems requiring attention of the Department, LDSS, or managed care plan.
- D. Report to the Department on complaints received, when the complaint was received, and whether the complaint was forwarded to the Department for follow-up, as directed by the Department.
- E. Contractor must be able to assess the complaint and forward to the Department for follow-up. In some cases, immediate action is required dependent upon the nature of the complaint.

C.2.6 Systems/Reporting Functions

C.2.6.1 System Requirements

The Contractor must develop and maintain the secure computer systems necessary to carry out the enrollment-related functions described in this RFP. Due to the complexity of the Medicaid managed care program in New York and the large total number of transactions that occur, it is essential that the system accurately manage these data. This includes all Medicaid eligibility data provided by the state as well as updates to that data. It is expected that the Contractor will generate additional data during the operation of the program, such as new exemptions and exclusions, mailing information, response information, documentation of phone calls, documentation of attendance at outreach sessions, etc. that will become part of the Contractor's database, and will affect actions on individual consumers. The system must be designed to distinguish consumers' current enrollment status, lock-in status, eligibility status, place of residence, exemption status, fair hearing status, and other information provided by the state or local district, or generated by the Contractor, that impacts whether a consumer can, cannot, or must join a managed care plan.

The Department expects that the Contractor will be able to make changes to the data system in a reasonable amount of time, dependent upon the scope of the change and the detail provided by the Department. The initial design, additional programming and changes to existing programming must be done accurately and tested to determine functionality. Quality Assurance mechanisms must be in place to ensure the system is functioning properly and all critical processes are occurring on time. Where problems are found, the Department shall be promptly notified, especially where enrollments

fail as a result of Contractor or State systems failures, or individuals are improperly disenrolled as a result of Contractor or State systems failures. When appropriate, the Contractor may also be required to notify managed care plans and/or individual consumers.

The eligibility database of record for the state Medicaid program is the Welfare Management System (WMS). Local districts enter new Medicaid cases, make changes to existing cases, and end eligibility as appropriate, on WMS. WMS also reflects managed care enrollment for Medicaid consumers. The state eMedNY data system is used for a variety of purposes, such as serving as a system for Medicaid providers to verify the eligibility status of Medicaid consumers. WMS updates eMedNY daily with eligibility information. In turn, eMedNY provides daily updates on eligibility information and periodic reconciliation files to the Contractor. The Contractor must submit managed care enrollment transactions daily to the state via the eMedNY system in a HIPAA-compliant format.

The Contractor must develop, document and maintain computer systems necessary to carry out all enrollment functions described in this RFP. The Contractor shall ensure that systems and files meet state and federal requirements including HIPAA. Currently, enrollment files exchanged between the enrollment broker and health plans, and the enrollment broker and the state systems, are HIPAA compliant. The consumer and managed care program data that is maintained on the current contractor database will be available for the new contractor. However, bidders must have their own database system to accept and manage the data. Specifically, the Contractor shall:

- A. Establish and maintain telecommunications lines with eMedNY (Electronic Medicaid New York) or WMS, or successor systems, the Department, other relevant government agencies and health plans, and provide an automated system capable of communication with eMedNY, WMS and the Department, and of meeting the Contractor's obligations hereunder;
- B. Establish and maintain the real-time system capability to communicate with eMedNY or WMS;
- C. Establish and maintain system capabilities to communicate with the Department, to perform activities, including but not limited to the following:
 1. Establish, maintain and update a database approved by the Department, necessary to perform functions within the Agreement;
 2. Maintain a daily file and record all enrollments, disenrollments, assignments, transfers, exclusions and exemptions, by reason;
 3. Assign as appropriate each Medicaid Consumer who has not made a choice of managed care plan, to a managed care plan according to the procedures and algorithm designed by the Department; and
 4. Develop and maintain capabilities to stop and re-start the auto-assignment process for individual Medicaid consumers.

- D. Establish and maintain system capabilities to communicate with the participating health plans (e.g. electronic bulletin board) to perform activities, including but not limited to the exchange and tracking of enrollment information;
- E. Permit the Department to access the Contractor's database;
- F. Maintain separate Contractor files of all processed and unprocessed enrollment applications;
- G. Maintain a disaster recovery plan that is acceptable to the Department, and demonstrate that plan at the Department's request. At a minimum, the Contractor must meet the following requirements:
 - 1. The disaster recovery plan must identify alternate processing sites that have been tested for use in the event of a disaster;
 - 2. The plan must describe the physical security at the recovery site;
 - 3. The contingency plan for short and long term interruption of services must be clearly described, including the frequency for testing;
 - 4. The plan must indicate that the Contractor has identified critical business and data practices and ensured their availability at times of high system resource utilization; and
 - 5. The plan shall indicate how critical data is duplicated or backed up.
- H. Maintain the procedures, provisions, conditions, and equipment for the security of its processing site. The Department or its designee shall have the unconditional right to make security inspections of the Contractor's organization at any time, without notice to Contractor. If the Department shall request additional security provisions, the Contractor shall not unreasonably delay or refuse to adopt the same;
- I. Maintain the systems capability to process managed care enrollments submitted by Facilitated Enrollers and Facilitated Enrollment Lead Organizations, as described in Section C.2.2.4

C.2.6.2 Reporting Requirements

The Contractor shall maintain a system of records as prescribed by the Department. Sample reports are included in the Procurement Library.

Unless otherwise indicated below, the Contractor must provide the following reports to the Department, in a format prescribed by the Department on a monthly basis:

- A. A weekly status report that summarizes all enrollment activity including the number and types of: mailings, HelpLine calls, enrollments, exemptions/exclusions and presentations.
- B. Enrollment summaries, by borough and by health plan, of all accepted enrollment transactions, including enrollment choice, verification enrollments (form received first, call

received first), auto-assign defaults, case additions, phone enrollments, facilitated enrollments, transfers and disenrollments.

- C. Exception reports (current period and cumulative since mandatory enrollment began) that summarize exemptions and exclusions requested, granted or denied, by category of exemption or exclusion, and for denials, reason for denial.
- D. HelpLine call activity including number of calls by day, voicemail rates, abandonment rates.
- E. Total number of complaints sorted by managed care plan, category, and resolution.
- F. Disenrollment summary by plan and reason.
- G. Returned mail report.
- H. Enrollments by plan and aid category.
- I. Productivity summary.
- J. Number of individual and group presentations, if any, the attendance at each presentation, information about cancellations, language of the presentation, (e.g. Spanish, Russian, etc.) and the number of enrollments generated.
- K. Automatic assignments by managed care plan assigned (not adjusted for eligibility), borough or county, and mandatory phase where applicable.
- L. Reports required by other provisions of this Agreement, including, but not limited to, reports on financial matters.
- M. Total number of enrollment verification calls and sub-totals on the success, failure, or other outcome, of the calls.
- N. Reports specific to the performance incentives described in Section C.4. in detail for the Department to evaluate re-payment of the allowed retainage.
- O. Reports specific to program type including SSI enrollments, Medicaid Advantage, HIV SNPs, or others as requested by the Department.
- P. Such other reports as the Department shall reasonably require.

The Contractor must maintain an extremely flexible reporting capability and must be able to respond to ad-hoc reporting requests, as well as changes in the standard reporting package. It is expected that the Department and/or local districts will often request reports on specific topics. It is essential that these ad hoc reports are completed in a reasonable amount of time, depending on the scope of the request, in order to allow the Department to make certain policy decisions related to the program. The Contractor's data system must be designed to easily retrieve the data necessary for such requests. The requests are likely to be related to enrollment and disenrollment requests; exemption

requests and decisions, special analyses (duplicate CINs, third party health insurance match); and mailing activity, including the outcome of specific cohorts of mailings, and HelpLine calls.

All reports shall be complete and accurate. Specific data sets shall also be provided to the Department as requested.

C.2.6.3 Fair Hearing Responsibilities

The Contractor shall pend actions such as the sending of reminder letters, processing an enrollment application, or auto-assignment, for a Medicaid consumer when it becomes known to the Contractor that the Medicaid consumer has requested and been granted a fair hearing and aid-to-continue, prior to the effective date of an enrollment or disenrollment.

The Contractor shall also maintain adequate records that clearly document actions taken on consumers and provide that documentation, including copies of all notices, forms, and system notes on contact with the consumer, and proof of mailing, to the Department or its designees as needed for the Department or its designee to defend the actions in fair hearings. Methods must be in place to maintain records of the action, when it was taken, what notice was sent, and the exact language of the notice. Such information includes but is not limited to records of outreach, enrollment, disenrollment, HelpLine calls, and copies of Medicaid consumer correspondence.

When a fair hearing request involves a decision made by the Contractor, the Contractor will prepare the documentation to be used by the Department or its designee at the Fair Hearing. The Contractor shall also provide a copy of the documentation to the enrollee upon request.

C.3 General Contract Management Responsibilities

C.3.1 Organizational Structure/Staffing

The Contractor must ensure that the project is adequately staffed with experienced, knowledgeable personnel who can meet all responsibilities outlined in this RFP, including the performance standards specified in Section C.5. Areas of importance including but not limited to systems, quality assurance, call-center operations, and education/outreach materials, must be adequately staffed at all times during operational phases of the contract that results from this RFP. Given the scope of services and complexity of the Medicaid managed care program in New York, it is essential that adequate supervisory staff in terms of experience and numbers are in place to manage the services described by this RFP.

Key management staff includes the project manager and managers who oversee the following functions: HelpLine, systems analysis/data entry, education and enrollment counselors, and quality assurance.

Key management staff, with the exception of the HelpLine manager, must be located within 10 miles of the New York State Capitol building in Albany, N.Y.

The Contractor must provide the Department initially and annually thereafter, with an updated New York project organizational chart, depicting each functional unit of the organization, numbers and

types of staff for each function, identified lines of authority governing the interaction of staff, and relationships with major subcontractors. The names of management personnel must be shown on the organizational chart.

The Contractor must employ and train staff necessary to complete the agreed-upon tasks at the performance standard levels specified by the contract. Job descriptions and resumes of all key staff (including two references) must be provided to the Department with the proposal and upon any change once a contract is in place. The Department reserves the right to reject any proposed management personnel based on inadequate qualifications, poor references, or knowledge of previous inadequate performance. In addition, the Department may request changes in staff based on performance and quality.

A. Key staff must include:

1. One full-time New York Project Manager who must have managerial training and experience and a managed care, health-related and/or systems background. Knowledge of New York managed care providers, social services programs, health care advocacy groups, and geography is strongly preferred as well. The Department must be notified in writing, in advance, if there will be a change in the Project Manager. The notice must include an explanation for the change, and the name and credentials of the individual proposed to assume the position. In addition, the bidder must designate a deputy or second-in-command who can assist and complement the abilities of the project manager. The Department retains the right of final approval.
2. Full time managers who will oversee the following areas:
 - HelpLine Counselors Staff
 - Systems Analysis/Data Entry Staff
 - Education and Enrollment Counselors(Counselors)
 - Quality Assurance/Reporting

Any changes or additions in key staff once the contract has begun must be reported to the Department with resumes of replacement key staff of equal or better qualification(s) submitted to the Department for prior approval before staff begins employment. The Department retains the right to request the removal of staff for cause.

B. Other Staff

Supervisors must possess supervision experience and knowledge of their assigned area. Supervision staffing must be adequate to ensure proper direction and adequate oversight of employees.

The Contractor will be required to provide counselors in the county offices. It is expected that the field staff could be deployed interchangeably between counties. The number of staff necessary at each district will vary depending on the eligible population of the county and the anticipated volume of eligibility and renewal appointments. Need is greatest when a district is implementing mandatory enrollment. During that phase there should be at least one full time person on site (with a possible exception for counties with only one managed care plan). After the program becomes operational,

staff can be shared between counties (with approval from the State). Currently, there are approximately 90 enrollment counselors; approximately half of these are at sites in NYC.

Counselors should exhibit strong communications and interpersonal skills. The Contractor should employ bilingual and/or multilingual staff in order to accommodate the language requirements described in Sections 2.4.1 and 2.5.

Systems analysis staff must maintain awareness of policy changes within the New York Medicaid managed care program (proposed or otherwise) so that they can efficiently and effectively make the necessary system/process adjustments.

Clinical staff, such as nurses, are needed to review medical based exemption and exclusion requests and to work with the Department or its designee's Medical Director, staff, to assist in making determinations of the appropriateness of a consumer's request for exemption and/or exclusion. Clinical staff must be licensed to practice in New York State.

The Contractor must also ensure that adequate staff are available and trained to respond to internal research and analysis needs, or research requests from the Department or managed care plans, for research into specific cases, to determine if systems or procedural problems exist that affect the enrollment program. These research requests are ongoing, and are essential to ensuring that the Contractor's systems are functioning appropriately. It is expected that the Contractor shall have qualified staff that routinely monitor available data to preempt problems that affect the program, and report problems and potential solutions to the Department.

The Contractor shall hire staff in sufficient numbers and possessing technical skills to accommodate the needs of the program including language skills and cultural sensitivities appropriate to accommodate the needs of Medicaid consumers.

The Contractor must employ other qualified and experienced personnel necessary to successfully implement the project and carry out its operations.

In all districts, the county is expected to provide a work area in the form of a booth, desk, chair, etc. The broker provides its own computer equipment. Accessibility to other business machines varies between districts. The Contractor must be aware that phone line access within offices may be limited and other arrangements may therefore need to be made for on-site counselors. The Contractor should work with each LDSS to provide enrollment counselors with telephone line access. The Contractor will be responsible for providing enrollment counselors with all necessary administrative materials to carry out assigned work. In some districts, the broker will have access to printers and copiers and in others they will not.

C.3.2 Organize and Attend Meetings

The Contractor must be available for regular meetings and/or conference calls as may be determined by the Department on all aspects of this contract. In addition, the Contractor must meet with other Department contractors as requested by the Department or as deemed necessary by the Contractor to ensure a coordinated flow of information. The Contractor will also need to meet with the contracted health plans to exchange information regarding each health plan and to provide the managed care

organizations with an overview of the Contractor function related to the managed care program overall or specific aspects of the program including the implementation of changes or new enrollment initiatives. In some instances the Contractor will be expected to organize and lead such meetings with the health plans. The Contractor must, at the Department's request, meet with other interested parties or groups such as, but not limited to, community advocates, the legislature, other State agencies, and provider groups. If requested, the Contractor must prepare presentation materials or reports for the meetings. The Contractor must obtain approval from the Department prior to meeting with such groups.

All contacts with media organizations regarding work under this RFP must be approved by the Department in advance. The Contractor shall not make public statements related to any aspect of the New York Medicaid managed care program without the approval of the Department.

C.3.3 Maintain an Operational Work Plan/Policies and Procedures

The Contractor shall maintain a policy and procedures manual for each enrollment broker project and a county appendix as approved by the Department, and instruct appropriate Contractor staff in its content. The Contractor shall also develop detailed workplans for specific tasks as directed by the Department. Each workplan is subject to review and approval of the Department. This may include new managed care initiatives, the addition of other counties to the Agreement, or other projects or program changes as presented by the Department.

C.3.4 Develop and Implement an Internal Quality Assurance Program

Contractor must have a written internal quality assurance (QA) plan for monitoring and improving the enrollment process and the quality of service furnished to Medicaid consumers and health plans.

The QA plan must define how the Contractor will ensure that all services are delivered effectively and efficiently. The QA plan also should define the procedures and standards by which the Contractor will maintain and evaluate its performance.

The QA plan must be submitted to the Department for prior approval within thirty (30) days for review and approval of the contract by the Office of State Comptroller (OSC), and must include the following:

- A. QA standards for each area of evaluation listed above;
- B. Description of the QA procedures (monitoring, documenting and evaluating);
- C. Frequency of QA activities
- D. Identification of departments or individuals responsible for QA activities; and
- E. Examples of evaluation tools

Contractor must develop a comprehensive quality assurance (QA) program for the enrollment process and should work with the Department on determining the specific nature and extent of all periodic and ad hoc monitoring of the enrollment process, including, but not limited to:

- A. Monitoring live on-line and in-person enrollment and HelpLine staff knowledge, presentation skills, and success in communicating information to consumers;

- B. Assessing the adequacy of each counselor's training and understanding of program and its requirements through periodic staff testing and surveys of Medicaid consumers;
- C. Reviewing enrollment statistics to ensure nonbiased enrollments by counselors (e.g., there is not a disproportionate number of enrollments being processed by any counselor for any specific plan);
- D. Monitoring activities at LDSS offices, Contractor offices, and other off-site locations related to education/enrollment, and
- E. Testing and validating the accuracy and timeliness of all enrollment data entry activities.

At a minimum, the following specific QA tasks should be included in the Contractor's QA plan:

- A. Observe and document the findings for each counselor assigned to field presentations, by both Contractor and sub-contracted entities, if any;
- B. Monitor and document the findings for each enrollment counselor assigned to the HelpLine, including call recording;
- C. Review and document the findings for enrollment applications for each counselor;
- D. Review and document the findings for the review of batches of enrollment applications created in the mailroom and batches of enrollment applications returned to the mailroom from an enrollment supervisor or their designee;
- E. Review and document outcomes of plan enrollments received from managed care plans as applicable;
- F. Develop and implement a quality assurance instrument to measure consumers' satisfaction and obtain comments on presentations made in the community. The intent of the questionnaire is to provide a mechanism for quick feedback on the content and effectiveness of the presentations;
- G. Monitor the development, editing, printing, and implementation process for new or revised written materials such that materials produced are accurate and implemented within mutually agreed-upon time frames. The Contractor shall not be reimbursed for the printing of materials that are produced with material inaccuracies, including those resulting from typographical errors, or that do not incorporate all agreed-upon changes, nor for the re-printing of materials that are found to be in error, except when such materials or information were provided by the Department; and
- H. Quality assurance mechanisms in place to ensure that the appropriate written materials are being used in mailings. This includes QA systems to prevent the use of outdated materials, old versions of letters or other materials that have been revised, etc. In addition, the development of materials needs to include adequate review by the Contractor to ensure that all changes or modifications that have been requested have been accurately accomplished.

The frequency of the above will be determined in coordination with the Department. It is expected that the frequency of reviews and monitoring will be affected by past performance of individuals or program areas to best utilize QA staff resources and focus on potential problem areas.

The Contractor must periodically provide written reports, including pertinent documentary support, to the Department describing the results of their enrollment process QA efforts and documenting on the internal controls implemented to improve the enrollment process. As problems are identified the Contractor must provide early warning to the Department, and managed care plans, as appropriate.

The Department, or its designee, has the right to perform unannounced performance reviews or observations.

C.4 Managed Long Term Care Program

Currently, enrollment in a Managed Long Term Care Plan (MLTCP) is accomplished through the following process:

- The MLTCP conducts the clinical assessment of the potential enrollee using the Semi Annual Assessment of Member (SAAM); determines the potential enrollee meets programmatic eligibility criteria (age, residency, etc.); develops a plan of care for enrollee. Enrollee signs Enrollment Agreement.
- Enrollment package sent to LDSS. LDSS reviews documentation to verify Nursing Home (NH) eligibility level of care and that beneficiary meets all other enrollment criteria. Any questions due to incomplete/inconsistent material are sent back to the MLTCP for resolution.
- The LDSS determines the enrollee spenddown and informs Medicaid eligible applicant and plan of spenddown amount. The MLTCP collects the spenddown.
- If enrollee application is acceptable, LDSS approves; inputs information to PCP subsystem and changes coverage code; sends notice to enrollee.
- If LDSS disagrees with enrollment, application is discussed with MLTCP; if not resolved, move to dispute resolution process.
- If MLTCP denies enrollment, LDSS must concur with denial; if concur, sends notice to applicant; if LDSS does not concur, discuss with MLTCP; if not resolved, move to dispute resolution process.
- If enrollee is permanently placed in a nursing home, the LDSS determines institutional eligibility for full Medicaid coverage; determine the amount of the enrollee's net allowable monthly income (NAMI); notify plan of the amount of the NAMI to be collected. (The NAMI amount is the portion of the recipient's monthly income which must be applied toward the cost of care.)

- If MLTCP proposes to involuntarily disenroll an enrollee, MLTCP provides LDSS with supporting documentation. LDSS must concur or disagree with disenrollment based on review; if concur, sends disenrollment and fair hearing notices to enrollee; if LDSS does not concur, discuss with MLTCP; if not resolved, move to dispute resolution process.
- In NYC Managed Long Term Care program enrollments, disenrollments and transfer requests are submitted to the Contractor by the LDSS. The Contractor generates all appropriate enrollment, disenrollment and transfer notices to the consumer.

Bidders must include in their proposed approach a description of how they would provide the following services in all counties in the event the Department in its sole discretion opts to include MLTC enrollment functions in the contract resulting from this RFP:

- Verify enrollee’s clinical and programmatic eligibility through review of the Semi-Annual Assessment of Members (SAAM) assessment score or successor uniform assessment tool; review SAAM annual assessments.
- Review materials submitted by plans to justify continued enrollment when the member no longer meets nursing home level of care criteria as indicated by the SAAM score. Continued enrollment assessments are conducted during the second half of the year (or in the anniversary month of enrollment for PACE). Plan must justify that the enrollee would likely be nursing home eligible again within 6 months without the plan's services for the member to remain enrolled.
- Review/process denial of enrollments, and involuntary disenrollments. Issue Denial of Enrollment Notices, and Fair Hearing Notices (including Fair Hearing notices specific to MLTC). Develop a dispute resolution process regarding enrollment/disenrollment decisions with plans.

The expected monthly volume of MLTC applications is between 900 – 1500 per month under the voluntary enrollment program. This volume is not guaranteed and actual volume will fluctuate over the term of the agreement. Bidders should identify the costs associated with these responsibilities separately in the Cost Proposal. The technical aspect of this component is incorporated into the broker technical proposal. The cost proposal requires the bidder to develop separate costs for the MLTC component of this RFP.

The State reserves the right to include or exclude the MLTC component based on the availability of funds to support this component and the submission of a proposal by a bidder with the ability to fulfill the responsibilities related to this component based on the information in this RFP.

C.5 Contractor Performance Standards

The Contractor is expected to fully meet all requirements and maintain the staffing necessary to perform the tasks described in the scope of work and any subsequent contract task expansions. The Department has selected specific Contractor responsibilities on which to measure performance. Performance is measured across all local districts combined unless stated elsewhere in this section.

Performance is measured on a monthly basis. The Contractor shall reduce the monthly claim for each core performance category (mailings, enrollment, HelpLine, outreach, and systems) by ten percent (the “retainage”). This reduction shall be reflected in the total of each monthly invoice submitted by the Contractor.

The Contractor may bill the Department for the retainage if the performance standards are met. The Department will consider each core performance category independently. If the performance standards for a category are met for the month of measurement, the retainage amount for that category will be reimbursed to the Contractor. If performance standards are not met for the month of measurement, the retainage for the measurement month shall only be returned to the Contractor if the standards are met in the following month (e.g., if the March retainage is withheld it will be returned if the Contractor meets the standards for April). The retainage shall not be returned if the standards are not met in the following month.

Performance standards for each core performance category are listed as follows:

Mailings

- 95% of initial enrollment packet mailings to identified populations within five days of the initial receipt of the information files from the Department.
- Less than 5% of initial enrollment packet mailings go to exempt or excluded populations known to the Contractor at the time of mailing.
- Routine internal quality assurance standards for mailings are followed and met in accordance with the QA plan approved by the Department.
- Notification of the Department within 24 hours of any instance when there is a delay in routine mailings to mandatory populations.

Enrollment Application Processing

- 95% or more of hardcopy enrollment forms processed within three business days.
- 97% of electronic files and phone enrollments processed within one business day.
- 95% or more of plan choice confirmation notices mailed within three business days of acceptance.
- 95% of exemption forms reviewed and responded to within three business days of receipt.
- Routine quality assurance standards for enrollment processing are followed and met in accordance with the QA plan approved by the Department.

Outreach and Education Activities

- Monthly auto-assignment rate is below 30% for NYC and 30% for all Non NYC local districts served. Rates will be calculated separately for NYC and for all other local districts served.
- Routine quality assurance standards for field presentations are followed and met in accordance with the QA plan approved by the Department. Any alteration of the frequency or strategy for monitoring Education and Enrollment Counselors shall only be made with prior approval of the Department.

HelpLine

- 80% or more of calls answered with a live voice.
- Average waiting/hold time for a live voice less than 2 minutes.
- 95% or more of calls returned within 24 hours.
- Abandoned call rate is less than 8%.
- Routine quality assurance standards for HelpLine are followed and met in accordance with the QA plan approved by the Department. Any alteration of the frequency or strategy for monitoring HelpLine Enrollment Counselors (shall only be made with prior approval of the Department.

Systems and Reporting

- Complete and accurate weekly reports, as prescribed by the Department, must be delivered by noon on the Wednesday of the week following the week of the report.
- Complete and accurate monthly reports, as prescribed by the Department, must be delivered by the tenth business day of the month following the month of the report.
- Priority systems changes are completed and tested within agreed-upon timeframes
- Routine quality assurance standards for systems maintenance and reports are followed and met.

D. PROPOSAL REQUIREMENTS

D.1 General Submission Requirements

This section provides direction for preparing proposals in response to this RFP. Bidders are responsible for carefully reading the RFP and responding to all requests for information. Proposals that fail to conform to the specified format, as well as those that do not include all required information, may be considered non-responsive, at the Department's sole discretion. As a result, the Department may reject such proposals.

No financial or cost information is allowed in the Technical Proposal. Separate technical and cost proposals must be submitted in response to this RFP. The bidder's proposal should be submitted in two separately sealed volumes. Volume I should contain the bidder's technical proposal and Volume II should contain the bidder's cost proposal. Compliance with this provision will be evaluated as part of the Compliance Evaluation screening process explained in Section E.2 of this RFP.

Instructions related to preparing and submitting the proposals are listed in Section F.3 of this RFP. Proposals submitted in response to this RFP are due at the time and day specified in the schedule of Key Events on the cover of this RFP.

Proposals will not be accepted by fax or email. Proposals may be delivered in person, by mail, or private carrier to the procurement officer as specified in Section F.3 of this RFP.

Bidders are to presume the contract will begin on July 1, 2011 for the purposes of completing any of the summaries, worksheets, schedules and other documents provided as attachments to this RFP.

D.2 Technical Proposal

The proposal should reflect a solid understanding of the various activities and tasks required under the contract. When developing the Technical Proposal, bidders should take into account what has been developed to date. The Procurement Library contains information about the current program, beyond what has been attached to this RFP. Bids should be prepared with the goal of continuing what has already been developed in the current program with relation to printed brochures, notices, forms, media and advertising, and equipment purchasing and leasing. Bidders should be clear about what materials or equipment they propose to develop or purchase new.

Data presented in the reports attached to this RFP and in reports in the Procurement Library represents activity in support of the program throughout the State.

To promote uniformity of preparation and to facilitate review, technical proposals should include the following information, in the order prescribed below; be direct clear and concise; and comply with the following general format requirements.

The Technical Proposal should include the following:

- A. Transmittal Letter;

- B. Table of Contents;
- C. Executive Summary;
- D. Proposed Approach;
- E. Vendor Responsibility Attestation (see Section F.11 and Attachment 5); and
- F. Letter of Credit Commitment Letter (see Section F.4 and Attachment 9)

The Technical Proposal materials should be separate from the sealed Cost Proposal, labeled “**Enrollment Broker RFP #1102040410 – Technical Proposal**” and:

- Use letter size (8.5 x 11 inch) paper (double sided text and 11 pt. font or larger are preferred);
- Be presented in three (3)-ring binder(s)
- Use tab dividers for each section of the proposal; and
- Clearly number pages of the proposal, with each section of the proposal separately numbered and identified in the Table of Contents.

D.2.1 Transmittal Letter

Do not include any information regarding the cost of the proposal in the Transmittal Letter.

The Transmittal Letter should be submitted on the official business letterhead and signed in ink by an official of the bidding organization. The signatory should be authorized to bind the organization to the provisions of the RFP and Proposal. The Transmittal Letter may be single-spaced.

The Transmittal Letter will be evaluated as part of the Compliance Evaluation screening. Failure to comply may result in disqualification of the bidder’s proposal. The Transmittal Letter should include:

- A. The bidder’s complete name and address, including the name, mailing address, email address, fax number and telephone number for both the authorized signatory and the person the Department should contact regarding the proposal;
- B. An attestation that the bidder will locate key management staff, as described in Section C.3.1, within 10 miles of the Capitol Building in Albany.
- C. A statement indicating the legal structure of the entity submitting the offer;
- D. A statement that the bidder accepts the contract terms and conditions contained in this RFP including any exhibits and attachments;
- E. A statement confirming that the bidder has received and acknowledged all Department amendments to the RFP, as may be amended;
- F. A statement confirming that the bidder is prepared, if requested by the Department, to present evidence of legal authority to do business in New York State, subject to the sole satisfaction of the Department;
- G. A statement that the bidder (i) does not qualify its proposal, or include any exceptions from the RFP and (ii) acknowledges that should any alternative proposals or extraneous

terms be submitted with the proposal, such alternate proposals or extraneous terms will not be evaluated by the Department;

H. A statement that the proposal of the bidder will remain valid for a minimum of 365 calendar days from the closing date for submission of proposals;

I. A statement in which (i) the bidder either:

1. discloses any potential conflict of interest, including but not limited to, all business, financial, or beneficial relationships or interests in any local departments of Social Services offices, and/or all business, financial, beneficial and/or ownership interests in any managed care plans and/or health insurance programs operating in New York State. In cases where such a relationship(s) and/or interest(s) exists, (ii) the bidder must describe how an actual or potential conflict of interest and/or disclosure of confidential information relating to an award under this RFP will be avoided, and (iii) the bidder guarantees knowledge and full compliance with the New York State Public Officers' Law, as amended, including but not limited to Sections 73 and 74, with regard to ethical standards applicable to State employees; OR

2. discloses there is no conflict(s) of interest.

J. If a proposal is submitted which proposes to utilize the services of a subcontractor(s), the bidder should identify all subcontractors that it intends to use in fulfilling the requirements of this project and relevant experience of each. The role of the subcontractor(s) should be clearly defined and relevant experience should be described. The bidder shall submit a letter from each planned major subcontractor stating their commitment to participate in the project described in this RFP, and their understanding of what their responsibilities will be in relation to this project.

In an appendix to the Transmittal Letter, a subcontractor summary for each subcontractor listed;

The summary document should contain the following information:

1. Complete name of the subcontractor;
2. Complete address of the subcontractor;
3. A general description of the type and scope of work the subcontractor will be performing;
4. Percentage of work the subcontractor will be providing;
5. A statement confirming that the subcontractor is prepared, if requested by the Department, to present evidence of legal authority to do business in New York State, subject to the sole satisfaction of the Department; and
6. The subcontractor's assertion that it does not discriminate in its employment practices with regards to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin, or handicap.

K. A statement that the bidder has experience in providing enrollment broker services in at least one state for Medicaid during the past five years.

D.2.2 Table of Contents

D.2.3 Executive Summary

The Executive Summary should provide an overview of the proposing organization, with the bidder's key strengths highlighted. It should include a brief summary of the planned approach, how it is consistent with the RFP requirements, and describe the bidder's ability to expand its services as needed to support the State's plan to assume responsibility for Medicaid administrative services. It should not include any cost information. The executive summary should be a maximum of **eight (8) pages** in length, including tables, exhibits, addendums or brochures. Any materials submitted beyond this length will be disregarded by evaluators.

D.2.4 Proposed Approach

In each of the following sections, the bidder should describe its relevant experience by responding to each question listed below. The objective of this portion of the proposal is to demonstrate the bidder's experience, the expertise of personnel who will render the requested services, the bidder's ability to logically plan and complete the many requirements detailed in this RFP, and the bidder's ability to successfully produce the required deliverables. Bidders proposing to procure the services of subcontractors should also demonstrate the experience and expertise of each entity, and describe how work will be coordinated and managed by the bidder. A lack of detail in responses will not be evaluated favorably, such as proposals that merely offer to conduct the work required under this RFP in accordance with the scope of work. Where the questions request a description of the bidders' experience, bidders should provide detail as to how the experience cited could or will be applied to the requirements in this RFP.

Responses to technical proposal questions below should be preceded by repetition of the question and should be in the same sequence listed below. Any attachment(s) submitted in response to a question should be marked clearly with the question number to which it refers.

D.2.4.1 Corporate Background and Experience

- A. The bidder should provide suitable evidence that the bidding entity has sufficient organizational experience to provide the services requested by submitting relevant information on past projects. Project descriptions should include the client name, contact person, phone number and email address, duration of the project, a description of the scope of services provided and a description of project components that are similar to the services defined in this RFP. The bidder should provide a listing and description of five projects taking place within the past five years that involved one or more of the following activities as one of the project's major components:

- Medicaid Enrollment
- Managed Care Enrollment
- Managed Care Education
- Large Scale Mailing Programs
- Consumer Relations
- Outreach/Public Relations

- Data Systems Development and Operations
- B. The bidder should provide a listing and description of all corporate projects taking place within the past eight years that involved activities in any New York County, or with the State of New York. Include information pertaining to any subcontractors.
 - C. The bidder should provide information regarding any instance in which a federal or state agency has ever made a finding of non-compliance against the bidder (or any proposed subcontractor) regarding any civil rights requirements. This includes any findings for non-compliance with ADA regulations.
 - D. The bidder should submit information demonstrating organizational corporate capacity to provide services as defined by this RFP. This can include a narrative description, organizational charts, etc.

D.2.4.2 Program Implementation

When responding to Sections D.2.4.2.1 through D.2.4.2.10 below, the bidder should fully address and respond to each of the requirements in the referenced section from section C as appropriate. This section should explain in detail the bidder's specific approach to managing and performing the required tasks and activities.

Bidders should also describe the proposed computer and data systems to be used, including hardware and software used for each project area.

Bidders should demonstrate the ability to expand services in all areas to support the State's efforts in assuming responsibility for Medicaid administrative services.

Bidders will be scored on thoroughness and responsiveness of the plans they submit.

D.2.4.2.1 Mailings

- A. Provide a detailed description of the bidder's relevant experience conducting a mailing program and relate that experience to the mailing program requirements specified in Section C.2.1.
- B. Explain how the bidder will use files of Medicaid Consumer information supplied by the Department as described in Section C.2.1 to conduct a targeted mailing to mandated populations within five business days of initial receipt of information from the State, and the selection process for choosing who shall receive mailings. Describe how, at a minimum, these initial mailings will contain such materials described in section C.2.4.1 of the RFP.
- C. In accordance with the mailing schedule described in Section C.2.1, explain how the bidder will mail to each Medicaid Consumer who has not enrolled or made a choice of managed care plan within 30 days of the bidder's initial mailing, a second notification. Describe how the bidder will mail to each Medicaid Consumer who has not enrolled or made a choice of managed care plan within 45 days of the initial mailing, and to whom the second notification

has been mailed, a third notification encouraging the consumer to choose a managed care plan.

- D. Describe how the bidder is capable of maintaining the flexibility to conduct additional targeted mailings such as those targeted to the SSI mailings as described in Section C.2.1. concurrently with the routine mandatory mailings.
- E. Describe the bidder's experience developing and maintaining data systems that can track and generate, or prompt the generation of all appropriate mailings and phone calls, track returned mail and how that experience is applicable to the mailing program described in Section C.2.1.
- F. Describe how the bidder will meet the performance standards for Mailings described in Section C.5.

D.2.4.2.2 Enrollment

- A. Provide an overview of the bidder's relevant experience with enrollment programs such as that described in Section C.2.2. and how that experience is applicable to the program described in Section C.2.2. While detailed descriptions should be provided in response to the questions later in this section see D.2.5.2, bidders are strongly encouraged to describe their understanding of the existing program and what is proposed to continue and enhance the enrollment program.
- B. Describe the approach to fulfilling the requirements for enrollment processing described in Section C.2.2.1, within the timeframes stated and with appropriate checking for eligibility, exemption or exclusion status, and fair hearing status. Include in the discussion how the bidder will meet performance standards for the Enrollment Application Processing described in Section C.5.
- C. Describe the experience with data systems that clearly demonstrate the ability to receive electronic enrollments from health plans as described in Sections C.2.2.1 and C.2.2.4, and provide feedback to plans on the receipt of those files, and the result of each transaction.
- D. Since all of the files exchanged with the health plans must be HIPAA-compliant electronic files, describe the bidder's experience that demonstrates its experience and familiarity with the HIPAA transaction sets.
- E. Describe the bidder's processing and coordination of forms to ensure enrollment effective the first of the next month as described in Section C.2.2.1.
- F. Explain the procedures for disenrollment processing, including how the bidder will determine who is eligible to disenroll to fee-for-service Medicaid, or transfer to another plan, the timing of disenrollment processing, notification of consumers, notification of managed care plans, etc. as described in Section C.2.2.7.

- G. Describe how the bidder will maintain the ability to handle facilitated enrollments, including Family Health Plus facilitated enrollments, submitted as described in Section C.2.2.4, including the routine checking of those enrollments against eligibility files and updates so that the enrollments are processed efficiently with the earliest possible effective date of enrollment.
- H. Describe the experience developing and maintaining data systems to track a consumer's mandatory or voluntary status. Data systems must be capable of tracking the consumer's ability to change, including the ability to track when an individual is locked into a health plan, when that period is ending, or when an individual can leave a plan for good-cause reasons.

HIV Special Needs Plans

- A. Describe the bidder's approach to meet the requirements described in Section C.2.2.2 related to HIV Special Needs Plans, including but not limited to a description of the bidder's training of enrollment counselors in the differences between Special Needs Plans and the other managed care plans, and any differences in enrollment procedures and confidentiality rules.
- B. Address how the bidder will accommodate requests from persons living with HIV AIDS who live in NYC about managed care enrollment.
- C. Describe the bidder's ability to promptly mail information packets to consumers who call or otherwise request additional information regarding HIV SNPs.

Auto-assignment

- A. Describe the bidder's experience that would demonstrate the ability to manage the auto-assignment process described in Section C.2.2.6.
- B. Describe the role of the data system in the auto-assignment process, including a discussion of how the system accounts for consumers who have moved since the original notice was sent, lost eligibility or applied for exemption or exclusion status, had an exemption or exclusion approved since the process began, or asked for a fair hearing. Describe how the system can be expanded to accommodate new populations.
- C. Describe the bidder's method for monitoring and tracking auto-assignments.

Determination of Eligible Individuals/Exemption and Exclusion Processing

- A. The bidder should explain how it will identify and work with individuals who may be exempt or excluded from mandatory enrollment and assist individuals in applying for exemption or exclusion status as described in Section C.2.2.5. Also include a description of how the bidder will work with the local districts in the different approval processes described in Section C.2.2.5.

- B. The bidder should explain how it will manage the eligibility, exemption, and exclusion data provided by the Department as described in Section C.2.2.5. Describe how this function will be accomplished electronically, on a daily basis. Describe how this data system will be capable of tracking exemption requests and decisions, preventing further actions from taking place on those beneficiaries whose requests are being processed, such as routine mailings requiring enrollment or auto-assignment to a plan.
- C. Describe the staffing plan for working with consumers regarding their potential exemption or exclusion status, as detailed in Section C.2.2.5. This includes describing how staff will be dedicated to helping consumers complete and process the exemption and exclusion forms. Describe how the bidder's staff will be able to discuss the exemption categories with callers and identify the one or more exemptions that the consumer may apply for. Describe the case management approach that will lead to granting the consumer the most favorable type of exemption and if exemption requests are denied, assisting the consumer to enroll in a plan that meets his/her needs.
- D. Describe how the bidder will, within 3 business days, review all exemption requests, and if incomplete, contact enrollees to complete missing information, as outlined in Section C.2.2.5.
- E. Describe how the bidder will assist in processing timely disenrollments related to exemption and exclusion requests of persons already enrolled in a plan, including expedited disenrollments for persons eligible (e.g. those with urgent medical needs, including end-stage renal disease, non-SSI adults with serious and persistent mental illness (SPMI) or non-SSI children with serious emotional disturbances (SED), and those non-consensually enrolled).

Medicaid Advantage

- A. Describe how the bidder will ensure timely enrollment to the Medicaid Advantage plans, including allowing enrollment up until the last business day of the month, for enrollments effective the first of the next month.
- B. Describe how staff will be assigned to act as a contact to assist in resolution of enrollment issues to ensure that the Medicare Advantage enrollment and the Medicaid Advantage enrollment are in sync.

D.2.4.2.3 Outreach and Education Activities

- A. Provide a description of the bidder's experience performing outreach and education tasks and how that experience can be applied to the requirements described in Section C.2.3.
- B. Describe how the bidder will conduct the group and face-to-face information sessions described in Section C.2.3.1. Include the process for routing, scheduling, and tracking requests for in-person meetings, examples of meeting sites, and the frequency/availability and geographic distribution of such meetings. How will consumers become aware of the information sessions available to them, and how does the bidder propose to encourage both

attendance and enrollment into managed care plans at these sessions?

- C. Describe how the bidder proposes to use the additional funds described in Section C.2.3.3 for special outreach activities. Explain how the proposed activities will contribute to the overall managed care enrollment program. If these funds will be used to contract with another entity, describe the scope of work and services to be provided. Describe the process that will be used to evaluate the effectiveness and efficiency of each type of outreach/educational effort, especially the special outreach activities that fall under Section C.2.3.3.
- D. Discuss how the bidder will gain access to and serve communities, including hard-to-reach populations, and culturally and linguistically diverse areas of New York City.
- E. Describe the bidder's proposed staffing structure for outreach and education activities described in Section C.2.3, to achieve results. Discuss staff training.
- F. Describe the approach to assisting consumers with the selection of a PCP. Include a description of the process to comply with the Social Services Law Section 364-j requirements described in Section C.2.3.2.
- G. Describe how the bidder will meet performance standards for Outreach and Education Activities described in Section C.5

D.2.4.2.4 Materials and Advertising

- A. Describe the bidder's experience managing the development and production of a large number and variety of printed materials and notices that demonstrates the ability to meet the requirements for written materials described in Section C.2.4.1.
- B. Provide additional detail regarding the approval process for revising or developing new written materials, training curricula, etc. as described in Section C.2.4.1.
- C. Explain how the bidder will manage the translation of revised and new written materials and audiotapes, described in Section C.2.4.1., and the bidder's experience managing translations.
- D. Provide a description of how the materials in Section C.2.4.1 will be maintained, and (as needed) developed, for effective outreach and education of the eligible population to be enrolled.
- E. Describe examples of the types of written materials that will be distributed in order to inform the public about the program. Provide samples of actual materials you have developed with other accounts.

D.2.4.2.5 HelpLine

- A. Describe the bidder's experience that demonstrates the ability to establish and maintain a HelpLine in accordance with the program requirements in Section C.2.5.

- B. Describe the HelpLine staffing, including expected qualifications, and explain how staffing levels can be flexible to change based on the size of the beneficiary population or the expansion or contraction of the enrollment program based on program changes initiated by the Department. Discuss how HelpLine staff will be trained in order to respond to inquiries, including refresher training and training on new program changes.
- C. Describe how HelpLine calls, requests, and complaints will be tracked and reported to all relevant parties.
- D. Explain how a pre-printed enrollment or disenrollment form and/or pre-enrollment information will be generated as necessary.
- E. Explain how the bidder proposes to effectively utilize HelpLine staff to direct callers to health plans' member services units for questions about access to benefits, complaints, or other issues with which the health plans should be involved.
- F. Describe the HelpLine staff's capabilities in answering inquiries regarding providers who participate in managed care plans, and languages spoken by managed care plan participating providers and how to identify the location of provider sites. Include in the description a discussion of how calls from non-participating counties will be handled.
- G. Describe how the bidder will meet performance standards for the HelpLine described in Section C.5
- H. Describe the bidder's complaint system in accordance with the specifications in Section C.2.5.2, including the role of staff and the tracking systems used to monitor the status of complaints.

D.2.4.2.6 Systems and Data Reporting

- A. Describe the bidder's experience with and capabilities to meet all data exchange and reporting requirements, including a full description of the systems development and maintenance necessary to fulfill the system requirements described in this RFP and specifically in Section C.2.6.1. In addition the response should explicitly describe the system abilities to meet the flexibility, timeliness and quality needs of the Department described in Section C.2.2.1. Describe the bidder's ability to modify systems to respond to an expansion of the broker's responsibilities that may result from State takeover of the Medicaid Program (e.g. assumption of local district responsibilities in enrollment processing).
- B. Describe how the bidder will develop its disaster recovery plan including the minimum requirements outlined in Section C.2.6.1. Bidders do not have to submit an actual disaster recovery plan with the proposal, however the response should demonstrate a full understanding of disaster recovery procedures and how the bidder will apply its experience in disaster recovery when developing an acceptable plan for the Department specific to this project.

- C. Describe which division or key person(s) in the proposed organization would be responsible for data management.
- D. Describe the bidder's system security and confidentiality and HIPAA policies, and explain how these will be implemented. Include a discussion of physical security elements, software security elements, staff training in confidentiality protocols, and consumer representation protocols.
- E. Describe the bidder's ability to meet the minimum reporting needs described in Section C.2.6.2 and performance standards for the Systems and Reporting in Section C.5.
- F. Describe which division or key person in the proposed organization will be responsible for reporting.
- G. Describe how the bidder will maintain flexible reporting capability and ability to respond to ad-hoc reporting requests, as well as changes in the standard reporting package.
- H. In accordance with Section C.2.6.3, describe the bidder's method of pending actions such as the sending of reminder letters, processing enrollment applications, or auto-assignment, for a consumer when it becomes known that the consumer has requested and been granted a fair hearing and aid-to-continue, prior to the effective date of an enrollment. Include a description of the bidder's approach to monitoring and tracking fair hearing or other legal delays.
- I. Describe the bidder's process for maintenance of records that clearly document actions that have been taken on such consumers and provide such documentation to the local district as needed for that district to defend the actions in a State Fair Hearing described in Section C.2.6.3.

D.2.4.2.7 Organizational Structure/Staffing

- A. Submit current resumes (including two references) of all key staff members. Include job descriptions and qualifications for each staff position. Identify bilingual or multilingual staff and the languages that they speak. Key staff members are identified as those positions listed in C.3.1.
- B. Submit information that demonstrates the bidder's ability to dedicate the necessary resources required to provide the requested services. This should include a focus on data system(s) capacity and corporate support.
- C. Provide a complete discussion of staffing. As described in Section C.3.1, all information regarding language needs, experience, supervision, quality assurance, and systems staffing should be fully addressed. The bidder should include in the discussion how possible expansion of the bidder's role as outlined in Section B.6 will be addressed.
- D. Attach all relevant organizational charts and charts of proposed staffing levels, with titles. The organizational chart should include all the functional units required by the RFP in C.3.1.

- E. Provide the proposed training strategy to train new staff, and maintain continuing education, or refresher training, for existing staff.
- F. Describe the bidder's proposal to staff the program. The response should demonstrate how the bidder will ensure a person is clearly designated as a lead contact for NYC and other regions as defined by the State on routine issues, who will be knowledgeable of the different policies and procedures in those counties.
- G. Describe how a policy and procedure manual will be maintained, what staff shall maintain the manual, how the manual will be made available to staff, and how changes to the manual will be made available to staff.
- H. Describe how the bidder will coordinate with each LDSS to determine office space availability and telephone data access.

D.2.4.2.8 Quality Assurance

- A. Describe the bidder's quality assurance program, including a discussion of all areas described in Section C.3.4.
- B. Provide a description of the types and number of staff who will be involved in the quality assurance program.
- C. Describe the quality assurance program to assure acceptable functioning of the data systems.
- D. Provide an example of one additional enrollment process the bidder is proposing to monitor for quality assurance that is not already mentioned in Section C.3.4 . Explain why it is considered important to evaluate this process, and discuss how the evaluation will be performed.
- E. Describe how the bidder will ensure timely notification of the Department of any operational issues detected during the course of routine business.
- F. Describe experience with consumer call recording.

D.2.4.2.9 Implementation and Workplan

- A. Describe bidder's recruitment plan for ensuring ideal staffing levels. Include bidder's methodology for determining the appropriate number and sites for offices.
- B. Describe bidder's proposed computer and data system, including hardware and software used for each type of major function, and how or if the bidder intends to use equipment purchased by the Department under previous enrollment broker contracts.

- C. Explain bidder's general approach to manage and/or plan for the major work tasks. Include a proposed workplan and timeline showing major milestones to complete operation.

D.2.4.2.10 Managed Long Term Care (MLTC)

- A. Describe the bidder's process for reviewing the SAAM and other documentation upon initial application for the program and for reviewing plan requests for continued enrollment when the member no longer scores as nursing home eligible. Include in the description the staff responsible for reviewing the eligibility documents (SAAM), their experience and the training that will be provided to staff.
- B. Describe the bidder's process for reviewing denials and requests for involuntary disenrollments and the dispute resolution process for resolving enrollment/disenrollment issues with plans. Include in the discussion a description of how the bidder will ensure that appropriate notices will be sent including fair hearing notices when appropriate.

D.3 Cost Proposal

D.3.1 Overview

The Procurement Library contains extensive information about the current program, beyond what has been attached to this RFP. Bids should be developed with the goal of continuing what has been developed with relation to printed brochures, notices, forms, and other existing materials that represent the program in the local districts served. Bidders should be clear about what materials or equipment they propose to develop or purchase new.

In addition, bidders should develop bids assuming the continuation of the mandatory Medicaid managed care program in the counties currently participating. All information presented in the reports attached to this RFP and in reports in the Procurement Library represents activity in support of the program in the counties currently covered by the contract and for responding to calls from non-broker counties and possible assumption of the county roles in processing enrollments in all counties, should the State assume responsibility for administration of the Medicaid program. Any statistical information is not a guarantee of performance.

The bidder must submit a Cost Proposal separate from the Technical Proposal. The Cost Proposal should be submitted in a sealed package and should be clearly labeled "***Enrollment Broker RFP #1102040410 – Cost Proposal***". In addition, the Cost Proposal (including all copies thereof) should meet the following general format requirements:

- Submit in separate three-ring binders;
- Use tab dividers for each section of the proposal; and
- Clearly number pages of the proposal, with each section of the proposal separately numbered and identified in the Table of Contents.

Cost Proposals should be accurate, clear and concise and include:

Table of Contents
Detailed Summary of Cost
Bid Form (Attachment 2)
M/WBE Utilization Plan (Attachment 4)

Each of these sections is described below.

D.3.2 Detailed Summary of Costs

Bidder should provide a detailed explanation supporting the proposed costs to provide the requested services. Bidder should clearly explain what activities, costs, etc. were included in the proposal for each program cost area described in Section D.3.4 below. Please note that the Department will not accept contingent bids. Bidders must not add a “bidder’s assumption” section to their proposal or state that their price is contingent upon certain events or actions.

D.3.3 Bid Form

The bidder must present the total all inclusive not to exceed per unit costs for each of the following five program areas, using the Offeror’s Bid on Program Areas – Cost Worksheet found on the Bid Form in Attachment 2, for the first four years of the contract period. In determining monthly volume, activities for all service areas shall be combined to determine the applicable payment rate. When considering the per unit cost levels, please note that payment will be based on the volume of activity in a month and the specific per unit cost for that volume level, not a combination of two levels.

1. Mailings
2. Enrollment Application Processing
3. Outreach and Education Activities
4. HelpLine Activities
5. Systems/Reporting and QA Functions

All costs, except for those described under “Additional Costs” at the end of this section, must be contained within the five program cost areas. This includes costs for furniture and equipment purchasing and/or rental, property rental/leasing, postage, administrative costs, systems development and maintenance, reporting costs, overhead, fringe, and fees, etc. The program cost areas are described below. It is expected that the contractor will provide a discount as volume increases.

The prices proposed by the bidder in the cost worksheets will be held in effect for the full four years of the initial contract period, unless the Department determines that significant program changes necessitate an amendment to those prices. After the first four-year contract period, the Department may exercise its option to renew the contract for an additional one year, for a total contract term of five years. The prices for the one year extension may be eligible for an inflationary increase of the lesser of three (3) percent or the percent increase in the National Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington D.C. 20212 for the 12 month period ending ninety (90) days prior to the renewal date for contract years four and five. This provision does not apply to the Additional Costs rate; this rate will not be

increased during the one year extension. As with all State contracts, the duration of the contract is subject to availability of funds.

D.3.3.1 Mailings

Bidders shall propose a total all inclusive not to exceed per unit cost for conducting the mandatory and voluntary mailings as described in Section C.2.1, within the ranges shown below. The per unit measurement specifies only the initial mandatory packets and the voluntary mailing packets mailed. At a minimum, the following should be included in the mailing cost proposal: any start up costs, cost of producing the mailing packets, including the materials specified in Section C.2.4 of this RFP; staffing; equipment; the production of the reminder mandatory mailings to those households that do not respond to the initial mandatory mailing, as described in Section C.2.1 of this RFP; and the postage necessary to carry out the initial mailings and the reminder mailings. The per unit price paid is determined by the total number of mailings in the month. Actual payment will not blend multiple tiers or prices. For example, if 38,000 mailings are sent in a month, the payment due to the Contractor is 38,000 multiplied by the price per mailing at the 25,001-60,000 level. The volume we expect but do not guarantee, is approximately 30,000 a month.

<u>Monthly Number of Mailings Completed</u>	<u>Per Unit Bid Price</u>
Up to 25,000 mailings in a month	\$ _____ per voluntary and/or initial mandatory mailing
From 25,001 to 60,000 mailings in a month	\$ _____ per voluntary and/or initial mandatory mailing
Over 60,000 or more mailings in a month	\$ _____ per voluntary and/or initial mandatory mailing

D.3.3.2 Enrollment Application Process

Bidders shall provide a total all inclusive not to exceed per unit cost for each enrollment processed to completion. The per unit bid price shall include the costs associated with processing the enrollment applications to completion as described in Section C.2.2. Enrollment costs must include start up costs, costs associated with facilitated enrollments and the survey of a sample enrolled by facilitated enrollers; exemption and exclusion processing; auto-assignment processing; HIV SNP, Family Health Plus, Medicaid Advantage, Medicaid Advantage Plus and Managed Long Term Care Plan enrollments; transition enrollments including disenrollments and transfers; health assessment forms; the cost of producing and providing enrollment forms to health plans and facilitated enrollers; and all notices associated with these processes.

- Reimbursement will be based on the per unit bid amount, depending upon volume of unduplicated enrollment applications processed to completion. Unduplicated enrollments are those enrollment transactions that result in an error free enrollment or a correct enrollment denial. An enrollment must be denied when a person is not eligible to be enrolled, e.g. a person who is receiving Medicare. Paper and electronic transactions are eligible for reimbursement, including transfers.
- The contractor will not be paid for duplicate enrollments. Duplicate enrollments would be an enrollment that was mishandled by the contractor, and therefore must be processed again; or, an

enrollment for a consumer that completes a phone enrollment and subsequently mails in an enrollment form. The contractor will not be paid for pending enrollments or for duplicate enrollments that result when errors or mistakes that are within the contractor's control cause a transaction to fail or otherwise remain incomplete. The contractor will not be paid for transfers that result from plan terminations or acquisitions in which people are assigned to a default plan. The contractor will be paid for transactions resubmitted by health plans. Auto assignments are not eligible for reimbursement.

It is expected that the contractor will provide a volume discount as enrollments increase. The per unit price paid is determined by the total number of enrollments in the month and the per unit price level into which that total volume falls. Actual payment will not blend multiple tiers or prices. The volume we expect but do not guarantee is approximately 75,000 a month.

<u>Monthly Enrollment Applications Processed</u>	<u>Per Unit Bid Price</u>
Up to 60,000 enrollments processed in a month	\$ _____ per enrollment processed
From 60,001 to 100,000 enrollments processed in a month	\$ _____ per enrollment processed
Over 100,000 enrollments processed in a month	\$ _____ per enrollment processed

D.3.3.3 HelpLine Activities

Bidders shall propose a cost for a total all inclusive not to exceed per unit price to provide HelpLine services including all activities described in Section C.2.5, including managing incoming information calls, verification calls, complaints and outreach calls to potential auto-assignees. The proposed costs shall at a minimum include staffing and equipment, including computers, necessary to provide these services to all programs (HIV SNP, Family Health Plus, Medicaid Advantage, Medicaid Advantage Plus and Managed Long Term Care Plan). It is expected that the contractor will provide a volume discount as call volume increases. The unit is defined as a call that is answered by a live person or a call made by HelpLine staff in response to a message left on the HelpLine. The expected, but not guaranteed, volume is approximately 90,000 calls per month.

<u>Number of Calls Answered per Month</u>	<u>Per Unit Bid Price</u>
Up to 75,000 calls a month	\$ _____ per call
From 75,001 to 150,000 calls a month	\$ _____ per call
Over 150,000 calls a month	\$ _____ per call

D.3.3.4 Outreach and Education Activities

Bidders shall propose a per FTE total all inclusive not to exceed cost for a baseline level of Contractor staffing to provide outreach and education as described in Section C.2.3. of this RFP. This includes, but is not limited to, the costs for Contractor staff; production of materials necessary for all presentation and outreach sessions such as brochures, enrollment forms, flip charts, and other materials specified in Section C.2.3.1; local travel for field staff; and equipment to support outreach activities, including computers. Reimbursement shall be for the amount proposed for the baseline staffing, and for each additional staff person as approved by the Department, at the incremental cost proposed by the bidder. The baseline was chosen based on experience with the presentation responsibilities, and the expectation that there would be certain efficiencies as staff are added over the baseline levels. The baseline and incremental staff costs proposed must not include the costs of

these other activities such as the sub-contracting with community organizations except in as much as the Contractor staff are used to train and monitor the community organization(s).

In addition, the Department expects to make up to \$500,000 available each year of the contract for other activities such as sub-contracting with another entity, special outreach events, or other outreach and education activities proposed by the Contractor or the Department as needs arise during the contract term.

Outreach/Field Staffing

Cost

Baseline staffing of 40 FTE

\$ _____ per month

Each FTE above or below the baseline

\$ _____ per FTE per month

D.3.3.5 Systems, Reporting and QA Staffing

Bidders shall propose a per FTE total all inclusive not to exceed cost for a baseline level of staffing to maintain the systems and reporting functions necessary to support the enrollment, education and outreach, HelpLine, and mailings program described in this RFP, including the specific systems-related functions and specifications described in Section C.2.6. and the QA program described in Section C.3.4. The costs shall include at a minimum all staff dedicated to systems, reporting and QA, and all hardware, software, and shared system operating time related to running and maintaining the data systems required for the program described in this RFP. Reimbursement shall be for the amount proposed for the baseline staffing, and for each additional staff person as approved by the Department, at the incremental cost proposed by the bidder. The baseline was chosen based on experience with the systems, QA, and reporting responsibilities and the expectation that there would be certain efficiencies as staff are added over the baseline levels. Bidders must include a contingency that describes how the Department will be billed if the FTE level should fall below the baseline level.

Systems, Reporting and QA Staffing

Cost

Baseline staffing of 18 FTE

\$ _____ per month

Each FTE above or below the baseline

\$ _____ per FTE per month

D.3.3.6 Additional Costs

Certain program activities will be reimbursed to the Contractor on a cost basis plus a fee. Bidders shall propose a fee rate for these activities, not to exceed 20%. The Department prior to commencement of such work must approve any such work by the Contractor. Activities include development work to revise the existing written enrollment, education, and outreach materials, or the development of new materials. Also included is the placement of media and advertising, and revision of any of the existing media materials.

Additionally, the Department may request that the Contractor perform tasks necessary to respond to needs related to the managed care program, such as special mailings, focus groups, and/or surveys.

The bidder must present the fee used for Additional Costs, as described in this section, in the Offeror's Bid on Program Areas - Cost Worksheet found in Section A. of Attachment 2.

D.3.3.7 Optional Activities – Pricing is Required

MLTC Enrollment Activities

Bidders shall provide a total all inclusive not to exceed per unit cost for each enrollment application processed to completion. The per unit price for determining beneficiaries' initial and ongoing clinical eligibility for enrollment through verification of SAAM assessment score, review SAAM annual assessments, process denials of enrollments and involuntary disenrollments, develop a dispute resolution process with the plans for resolving issues about enrollment and disenrollment. We expect but don't guarantee the volume to be about 1,000 a month.

Monthly Enrollment Applications Processed

Per enrollment processed in a month

Per Unit Bid Price

\$ _____ per enrollment processed

E. METHOD OF AWARD

E.1 General

The Department will establish separate technical and cost evaluation committees and conduct a comprehensive and impartial evaluation of all proposals submitted. The evaluation committee will be comprised of members of the Department and other individuals designated to serve on the committee.

At the discretion of the Department of Health, all bids may be rejected. The technical and financial proposals will be evaluated separately. Bidders must complete both evaluations successfully to be considered for contract award. The results of the technical and financial evaluations will be weighted and combined for purposes of awarding contracts. The weighting will be as follows: 70% of the total points allowed for the technical proposal, and 30% of the total points allowed for the cost proposal.

E.2 Minimum Compliance Evaluation

The Department will evaluate each proposal to determine if it includes all of the required information as set forth in the RFP. Proposals found to be incomplete or non-responsive may be disqualified.

E.3 Comprehensive Technical Evaluation

The Department will conduct a comprehensive technical evaluation of all proposals passing the minimum technical qualifications evaluation. The Department will examine whether all critical elements described in the RFP have been addressed, the quality of each approach proposed, the capabilities of the bidder, and any other aspect determined relevant by the Department.

The highest scoring technical proposal will receive the maximum score of 70 points. Other bidders will receive a proportional score using the following formula:

$t = (x/y) * 70$ where:

x = technical score of proposal being scored

y = technical score of highest technical scoring proposal

70 = total technical points available, and

t = normalized technical score for bidder being scored

E.4 Cost Proposal Evaluation

The Department will evaluate cost proposals for all bidders that meet the minimum technical evaluation threshold.

The bidder with the lowest total bid will receive the maximum score of 30 points. Other bidders will receive a proportional score using the following formula:

$t = (y/x) * 30$ where

x = cost of bid being scored,

y = cost of lowest bid,
30 = total cost points available, and
t = Cost score for bidder being scored

E.5 Requests for Supplemental Information Regarding Proposals

During the evaluation period, the Department may request bidders to provide supplemental information for the purpose of clarifying their proposal. This information must be in writing and will be included as a formal part of the bidder's proposal. Bidders cannot change their bids or price during this process.

E.6 Final Selection and Contract Award

The evaluation of the bids will include but not be limited to the following considerations:

The Technical Score and the Cost Score will be combined into a Total Combined Score

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

1. Lowest cost;
2. Minority/Women-owned Business Enterprise (M/WBE) utilization;
3. Past Experience
4. References

E.7 Notification of Award

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

F. ADMINISTRATIVE ISSUES

F.1 Issuing Agency

This Request for Proposals is being issued by the New York State Department of Health. The Department is responsible for the requirements specified herein and for the evaluation of all proposals. This RFP, any follow-up questions and answers document, and updates/modifications can be found on the Department of Health website (<http://www.health.ny.gov/funding>).

F.2 Inquiries

Prospective bidders may submit questions relating to the RFP in writing either by mail or email to the designated contact listed on page iv of the RFP. Each question must cite the particular RFP part and section to which it refers. Questions must be received by the Department, at the address above, on or before the date specified in the schedule of key events on the cover page of the RFP.

Prospective bidders should note that all requests for clarification and exceptions, including those relating to the terms and conditions of the contract, are to be raised prior to the submission of a proposal.

This RFP is posted on the Department of Health's website at <http://www.nyhealth.gov/funding>. Questions and answers, as well as any updates or modifications, will also be posted on the Department's website at <http://www.nyhealth.gov/funding>. All such updates will be posted on or about the date identified on the cover sheet of this RFP. There will not be a bidder's conference in conjunction with this RFP.

F.3 Submission of Proposals

The bidder must submit its proposal in two parts: technical and cost. The hardcopy sets and CDs of the technical proposal should be packaged, labeled and sealed separately from the hardcopy sets and CD of the cost proposal. Each package should be clearly labeled as to the type of contents (technical or cost proposal). Information required from bidders and detailed explanations of the required format for the technical and cost proposals are outlined in Section D.

Bidders should submit:

Technical Proposal: two (2) originals, 10 bound copies in hardcopy format and two (2) electronic copies in a standard searchable PDF format on a closed session CD-R (not CD-RW), with copy/read permissions only ; and

Cost Proposal: two (2) signed originals, 5 copies in hardcopy format and one (1) electronic copy in a standard searchable PDF format on a closed session CD-R (not CD-RW), with copy/read permissions only.

Original proposals should be marked as such. Where signatures are required, the original of the proposals should be signed in ink.

No electronic or email submissions will be accepted. All copies must be received by the Department of Health no later than 3:00 p.m. Eastern Time by the date specified on the cover sheet of this RFP. In case of any discrepancy between the electronic and the hard copy documents the hard copy shall supersede.

The responses to this RFP should be clearly labeled “*Enrollment Broker RFP #1102040410 – Proposal Submission*” and directed to:

Ms. Cherlyn More
New York State Department of Health
Office of Health Insurance Programs
Empire State Plaza
Corning Tower, Room 2019
Albany, NY 12237

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

F.4 Letter of Credit

Without additional cost to the Department, and as a material condition of the Contract, the Contractor must furnish, for the initial period of one year to be automatically extended, without amendment, for additional one year periods from the expiration date, for the duration of the contract term (including any extensions), unless notice to not extend is sent by the financial institution at least ninety (90) days prior to the expiration date, an irrevocable Standby Letter of Credit (SLOC) for the benefit of the Department in the amount of two million (\$2,000,000) U.S. Dollars. In the event of notice of non-extension, the Department may draw up to the full amount. The SLOC shall be issued by a financial institution ("Issuer") licensed to do business under the laws of the State of New York. The Issuer shall be subject to the approval of the Department. The form for the SLOC shall be subject to the approval of the Department. The Contractor must provide a draft SLOC to the Department within ten (10) business days of notice from the Department of contract approval. Failure to provide the draft SLOC to the Department within ten (10) business days of such notice will constitute grounds for termination for cause. The executed SLOC must be provided to the Department within ten (10) business days of the Department's approval of the draft SLOC. The Department reserves the right to extend the due date for the executed SLOC based on circumstances the Department determines to be reasonable. Failure to provide the final SLOC to the Department within the date set will constitute grounds for termination for cause. The SLOC must contain provisions that satisfy the following requirements:

1. No Contingent Obligations: The obligations of Issuer under the SLOC shall in no way be contingent upon reimbursement by the Contractor.
2. Required Notices:
Issuer is required to provide the Department with written notice of: i) any failure by the Contractor to abide by its SLOC agreement with the issuer; ii) any failure of the Issuer to renew the SLOC. Such written notice shall be provided so that it is received by the Department within five (5) business days of each such event. As set forth in ii, should the

Contractor fail to obtain an SLOC from another financial institution, the Department shall be entitled to draw the balance of the SLOC within one(1) business day of receipt of such notice.

3. The SLOC must provide funds to the Department for any liability, loss, damage, or expense as a result of the Contractor's failure to perform fully and completely all requirements of the Contract. Such requirements include, but are not limited to, the Contractor's obligation to pay liquidated damages, indemnify the Department under circumstances described in the Contract and the Contractor's obligation to perform the services required by the Contract throughout the entire term of the Contract.
4. The SLOC shall also provide that the bank where the drafts are drawn must be located within New York State.

F.5 Incurred Costs

The State of New York is not liable for any cost incurred by prospective bidders prior to the approval of an executed contract by the Comptroller of the State of New York. Additionally, no cost will be incurred by the State for any activity by the selected Contractor prior to the contract award.

F.6 Reserved Rights

The Department of Health reserves the right to:

1. Reject any or all proposals received in response to the RFP;
2. Withdraw the RFP at any time, at the agency's sole discretion;
3. Make an award under the RFP in whole or in 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 the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments;
9. Change any of the scheduled dates;

10. Eliminate any mandatory, non-material specifications that cannot be complied 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 365 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 a bidder's proposal and/or to determine a bidder's compliance with the requirements of the solicitation.

F.7 Public Information

Disclosure of information related to this procurement and the resulting contract shall be permitted consistent with the laws of the State of New York and specifically the Freedom of Information Law (FOIL) contained in Article 6 of the Public Officers Law. The State shall take reasonable steps to protect from public disclosure any of the records relating to this procurement that are exempt from disclosure. Information constituting trade secrets or critical infrastructure information for purposes of FOIL shall be clearly marked and identified as such by the Contractor upon submission. . Determinations as to whether the materials or information may be withheld from disclosure will be made in accordance with FOIL at the time a request for such information is received by the Department.

F.8 Payment

The Contractor shall submit invoices to the State's designated payment office:

NYS Department of Health
Office of Health Insurance Programs
Division of Managed Care
Bureau of Intergovernmental Affairs
Corning Tower Building, Room 2074
Albany, NY 12237

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, by email at epunit@osc.state.ny.us or by telephone at 518-486-1255. Contractor acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment 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/epay>.

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, 9th 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.

The Contractor must furnish the Department with sufficient evidence, vouchers, bills and receipts as required by the Department as proof of proprietary expenditure of each initial payment.

Payments to Contractor will be reimbursed based on monthly invoices to the Department in accordance with the approved proposal of the winning bidder.

Invoices shall be submitted by the tenth (10th) working day of the month following the month of service. Costs shall be separated by local district, or a separate invoice or voucher shall be submitted for each local district covered under this Agreement. Shared costs shall be allocated between the local districts serviced under the Agreement using a method approved by the Department. Requests for reimbursement shall be supported by adequate documentation to support the payment and shall contain sufficient detail such that the Department can identify and evaluate the appropriateness of the charges. The Department may request copies of vendor invoices and any other related source documents.

The Contractor shall reduce the monthly claim for each core performance category (mailings, enrollment, HelpLine, outreach, and systems) by ten percent (the "retainage"). This reduction shall be reflected in the total of each monthly invoice. The Contractor may bill the Department for the retainage if the performance standards are met. The Department will consider each core performance category independently. If the performance standards for a category are met for the month of measurement, the retainage amount for that category will be reimbursed to the Contractor. If performance standards are not met for the month of measurement, the retainage for that month shall only be returned to the Contractor if the standards are met in the following month (e.g. if the March retainage is withheld, it will be returned if the Contractor meets the standards for April). The retainage shall not be returned if the standards are not met in the following month.

Performance standards for each core performance category are listed in Section C.5.

F.9 Contract Term

This agreement shall be effective upon approval of the NYS Office of the State Comptroller. Work cannot begin until the Office of the State Comptroller approves the agreement resulting from this RFP process.

It is anticipated that the Department will award a contract effective July 1, 2011, allowing for a three-month transition period during which both the current enrollment broker contract and the new enrollment contract will both be in effect. Enrollment applications received on or after October 1, 2011, will be the sole responsibility of the new Contractor. If the contract is awarded to the current enrollment broker, the new contract term is anticipated to be effective October 1, 2011. The initial term of the contract, whether it is a new contractor or the current contractor, will be 48 months.

The Department may offer one contract extension for an additional period of time not to exceed one year for a total contract term of five years. The prices for the one year extension may be eligible for an inflationary increase of the lesser of three (3) percent or the percent increase in the National Consumer Price Index for all Urban Consumers (rate-U) as published by the United States Bureau of Labor Statistics, Washington D.C. 20212 for the 12 month period ending ninety (90) days prior to the renewal date for contract years four and five. This provision does not apply to the Additional Costs; this rate will not be increased during the one year extension. As with all State contracts, the duration of the contract is subject to availability of funds. The Department may renegotiate the terms and conditions of the contract in the event applicable local, state, or federal law, regulations or policy are altered from those existing at the time of the contract in order to be in continuous compliance therewith.

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.

F.10 Debriefing and Vendor Protests

Once an award has been made, bidders may request a debriefing of their proposals in accordance with State Finance Law. Requests must be received no later than ten (10) business days from date of award or non-award announcement.

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 OSC website at: http://www.osc.state.ny.us/agencies/gbull/g_232.htm.

F.11 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 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. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of Health or the Office of the State Comptroller for a copy of the paper form. Bidders must also complete and submit the Vendor Responsibility Attestation (Attachment 6).

F.12 State Consultant Services Reporting

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

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

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

Both of these forms are included as attachments to this document.

F.13 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 bidders 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 Bidders. 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.

F.14 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 of 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.

F.15 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/>.

F.16 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 bidder meeting the registration requirements but who is not so registered in accordance with the law.

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

DTF.

The winning bidder must complete and submit to the Department of Health the form ST-220-CA, Attachment 7, certifying that the ST-220-TD was filed with DTF. Failure to make either of these filings may render a winning bidder non-responsive and non-responsible. Winning bidders shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

F.17 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.

F.18 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 20% of monies used for contract activities (Minority-owned – 10%; Women-owned – 10%). In order to assure a good-faith effort to attain this goal, the DOH requires that bidders complete the M/WBE Utilization Plan (Attachment 4) 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. LIST OF APPENDICES

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

- APPENDIX A - Standard Clauses for All New York State Contracts
- APPENDIX B - Request for Proposal
- APPENDIX C - Proposal
The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.
- APPENDIX D - General Specifications
- APPENDIX E

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

- Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1**:
 - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - **C-105.2** – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
 - **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.
- Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2**:
 - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - **DB-120.1** – Certificate of Disability Benefits Insurance
 - **DB-155** – Certificate of Disability Benefits Self-Insurance
- Appendix G - Notices
- Appendix H - Health Insurance Portability and Accountability Act (HIPAA) (if applicable)
- Appendix X – Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

H. ATTACHMENTS

1. Procurement Library Contents list
2. Bid Form
3. No Bid Form
4. M/WBE Procurement Forms
5. Vendor Responsibility Attestation
6. Links to N.Y.S. Taxation and Finance Contractor Certification Form ST-220-TD and N.Y.S. Taxation and Finance Contractor Certification Form ST-220-CA
7. State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term
8. State Consultant Services Form B, Contractor's Annual Employment Report
9. Letter of Credit Commitment Letter
10. Sample Standard Contract Language with Appendices
 - Appendix A – Standard Clauses for All New York State Contracts
 - Appendix X - Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)
 - Appendix D – General Specifications
 - Appendix H – Federal Health Insurance Portability and Accountability Act (HIPAA)
 - Appendix G - Notices

ATTACHMENT 1

PROCUREMENT LIBRARY CONTENTS

- Terms and Conditions
 - Partnership Plan 1115 waiver Terms and Conditions
 - Federal-State Health Reform Program (F-SHRP) 1115 waiver Terms and Conditions
- Auto Assignment
 - WMS MA MC Auto Assignment Criteria and Process
 - Quality Incentive and Auto-assignment Algorithm Methodology August 2010
- Current Program Materials
 - Brochures
 - Forms
 - Notices
 - Outreach and education and enrollment materials
 - Sample Reports
 - Monthly reports
 - County report lists
 - Miscellaneous reports
 - Plan and hospital lists
- Semi Annual Assessment of Members (SAAM)
- HIPAA Companion Guide ASC X12N 834 Transaction Set
- CSC daily file for broker
- Operational Protocol Appendices

NOTE: Other relevant materials may be added to the Procurement Library as determined by the Department.

Attachment 2

**NEW YORK STATE
DEPARTMENT OF HEALTH**

BID FORM

PROCUREMENT TITLE: Enrollment Broker Services

RFP #1102040410

Bidder Name: _____

Bidder Address: _____

Bidder Fed ID No: _____

A. _____ bids the following:
(Name of Offerer/Bidder)

Offeror's Bid on Program Areas – Cost Worksheet	
<u>D.3.3.1 Number of Mailings Completed</u>	Per Unit Price
Up to 25,000 mailings per month	\$_____per voluntary/mandatory initial mailing
25,001 to 60,000 mailings per month	\$_____per voluntary/mandatory initial mailing
Over 60,000 mailings per month	\$_____per voluntary/mandatory initial mailing
<u>D.3.3.2 Monthly Enrollment Applications Processed</u>	Per Unit Price
Up to 60,000 enrollment applications processed per month	\$_____per enrollment application processed
60,001 to 100,000 enrollment applications processed per month	\$_____per enrollment application processed
Over 100,000 enrollment application processed per month	\$_____per enrollment application processed
<u>D.3.3.3 HelpLine Activities</u>	Per Unit Price
Up to 75,000 calls per month	\$_____per call
75,001 to 150,000 calls per month	\$_____per call
Over 150,000 calls per month	\$_____per call
<u>D.3.3.4 Outreach/Field Staffing</u>	Cost
Baseline staffing of 40 FTE	\$_____ per month
Each additional FTE above or below the baseline	\$_____ per FTE per month
<u>D.3.3.5 Systems, Reporting and QA Staffing</u>	Cost
Baseline staffing of 18 FTE	\$_____ per month
Each additional FTE above or below the baseline	\$_____ per FTE per month
<u>D.3.3.6 Additional Costs – remains constant for full term of contract, including renewals</u>	
Additional Cost Fee %	_____ % on all approved additional costs
Optional Activities – PRICING IS REQUIRED	Cost
D.3.3.7 MLTC Monthly Enrollment Applications Processed	\$_____ per enrollment application processed

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

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

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

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

No Yes

If yes, please answer the next questions:

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

No Yes

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

No Yes

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

(Add additional pages as necessary)

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

No

Yes

2b. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding:

(Add additional pages as necessary)

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

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(E-mail Address)

Attachment 3

**NEW YORK STATE
DEPARTMENT OF HEALTH**

NO-BID FORM

PROCUREMENT TITLE: Enrollment Broker Services

RFP# 1102040410

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

We do not provide the requested services. Please remove our firm from your mailing list.

We are unable to bid at this time because:

Please retain our firm on your mailing list.

(Firm Name)

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(E-mail Address)

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

Attachment 4

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. M/WBE Utilization Plan
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

Bidder Name:	
RFP Title: Enrollment Broker Services	RFP Number: 1102040410

Description of Plan to Meet M/WBE Goals

--

PROJECTED M/WBE USAGE

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

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:

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

New York State Department of Health

WOMEN OWNED BUSINESS ENTERPRISE (WBE) INFORMATION

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

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

New York State Department of Health

SUBCONTRACTING UTILIZATION PLAN

Agency Contract: _____ Telephone: _____

Contract Number: _____

Dollar Value: _____

Date Bid: _____ Date Let: _____ Completion Date: _____

Contract Awardee/Recipient: _____

Name

Address

Telephone

Description of Contract/Project Location: _____

Subcontractors Purchase with Majority Vendors:

Participation Goals Anticipated: _____ % MBE _____ % WBE

Participation Goals Achieved: _____ % MBE _____ % WBE

Subcontractors/Suppliers:

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

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

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

FOR OFFICE USE ONLY

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

New York State Department of Health

MWBE ONLY

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

To: _____ Federal ID Number: _____
(Name of Contractor)

Proposal/ Contract Number: _____

Contract Scope of Work: _____

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

Name of MWBE: _____

Address: _____

Federal ID Number: _____

Telephone Number: _____

Designation:

MBE - Subcontractor

WBE - Subcontractor

MBE - Supplier

WBE - Supplier

Joint venture with:

Name: _____

Address: _____

Fed ID Number: _____

MBE

WBE

Are you New York State Certified MWBE? _____ Yes _____ No

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

at the following price: \$ _____

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

Date Proposal/ Contract to be started: _____

Date Proposal/ Contract to be Completed: _____

Date Supplies ordered: _____ Delivery Date: _____

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

Date

Signature of M/WBE Contractor

Printed/Typed Name of M/WBE Contractor

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

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

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

New York State Department of Health

M/WBE STAFFING PLAN

Check applicable categories:

Project Staff
 Consultants
 Subcontractors

Contractor Name: _____

Address: _____

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

(Name and Title)

Date

Attachment 5

Vendor Responsibility Attestation

To comply with the Vendor Responsibility Requirements outlined in Section F.11., Vendor Responsibility Questionnaire, I hereby certify:

Choose one:

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

Signature of Organization Official: _____

Print/type Name: _____

Title: _____

Organization: _____

Date Signed: _____

Attachment 6

An electronic fill-in version of the *NYS Taxation and Finance Contractor Certification Form ST-220-TD*, can be found at:

http://www.tax.state.ny.us/forms/form_number_order_st_y.htm

An electronic fill-in version of the *NYS Taxation and Finance Contractor Certification Form ST-220-CA* can be found at:

http://www.tax.state.ny.us/forms/form_number_order_st_y.htm

Attachment 7

<p>State Consultant Services</p> <p>FORM A</p>
--

<p><u>OSC Use Only</u></p> <p>Reporting Code:</p> <p>Category Code:</p>
--

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

New York State Department of Health	Agency Code 12000
Contractor Name:	Contract Number:

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

Name of person who prepared this report:

Title: Phone #:

Preparer's signature:

Date Prepared: / /

Page of
(use additional pages if necessary)

Instructions

State Consultant Services

Form A: Contractor's Planned Employment and

Form B: Contractor's Annual Employment Report

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

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

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

Completing the Reports:

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

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

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

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

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

Attachment 8

<p>State Consultant Services</p> <p>FORM B</p>
--

<p><u>OSC Use Only</u></p> <p>Reporting Code:</p>
--

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:	

Scope of Contract (Chose one that best fits):

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

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

Name of person who prepared this report:

Title: _____ Phone #: _____

Preparer's signature:

Date Prepared: / /

Page of
(use additional pages if necessary)

Instructions

State Consultant Services

Form A: Contractor's Planned Employment and

Form B: Contractor's Annual Employment Report

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

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

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

Completing the Reports:

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

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

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

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

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

Attachment 9

Letter of Credit Commitment Letter Template Page 1 of 1

When the Bidder submits a proposal to this RFP, the Bidder should submit an executed Commitment Letter, in the form set forth below, from a financial institution which is licensed to transact business in the State of New York, on the financial institution's letterhead. The executed commitment letter should be included as part of the Bidder's Technical Proposal.

Date

State of New York Department of Health Office of Health Insurance Programs Corning Tower,
Room 2019 Empire State Plaza Albany, New York 12237

To Whom It May Concern:

RE: [ENROLLMENT BROKER RFP] RFP No. 1102040410

Irrevocable Standby Letter of Credit Commitment Letter

[Name of Financial Institution] is licensed to transact business in the State of New York.

Please accept this communication as a letter of commitment to issue an irrevocable Standby Letter of Credit (SLOC) in the amount of two million U.S. dollars (\$2,000,000) in the event [Bidder] is awarded a contract in connection with the above-referenced RFP.

[Name of Financial Institution] and [Bidder] understand and acknowledge that in the event [Bidder] is awarded a contract in connection with the above referenced RFP, the proposed SLOC is subject to review and approval by the Department of Health prior to issuance.

The subject SLOC will be furnished for the initial period of one year, and shall be deemed automatically extended, without amendment, for additional one-year periods from the expiration date, for the duration of the Contract (including any extensions), unless notice to not extend is sent by [Name of Financial Institution] at least ninety (90) days prior to the expiration date. Upon receipt of such notice, the Department of Health may draw up to the full amount then available by presentation of the sight draft on [Name of Financial Institution].

Sincerely,

[Name and Title] [Address, Telephone and email]

ATTACHMENT 10

SAMPLE STANDARD NYS CONTRACT LANGUAGE WITH APPENDICES

MISCELLANEOUS / CONSULTANT SERVICES

STATE AGENCY (Name and Address): . NYS COMPTROLLER'S NUMBER:
 . ORIGINATING AGENCY CODE:12000
 .

CONTRACTOR (Name and Address): . TYPE OF PROGRAM(S):
 .
 .

CHARITIES REGISTRATION NUMBER: . CONTRACT TERM
 . FROM:
 . TO:

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

FUNDING AMOUNT FOR CONTRACT
 TERM:

FEDERAL TAX IDENTIFICATION NUMBER: .

MUNICIPALITY NO. (if applicable): .

STATUS:
 CONTRACTOR IS () IS NOT () A .
 SECTARIAN ENTITY .

CONTRACTOR IS () IS NOT () A . () IF MARKED HERE, THIS CONTRACT'S
 NOT-FOR-PROFIT ORGANIZATION . RENEWABLE FOR 1 ADDITIONAL
 . ONE-YEAR PERIOD(S) AT THE SOLE
 . OPTION OF THE STATE AND SUBJECT
 . TO APPROVAL OF THE OFFICE OF THE
 . STATE COMPTROLLER.

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT

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

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

Contract No.:

IN WITNESS THEREOF, the parties hereto have executed or approved this AGREEMENT on the dates below their signatures.

_____	.	_____
CONTRACTOR	.	STATE AGENCY
	.	
	.	
	.	
_____	.	_____

By: _____	.	By: _____
_____	.	_____

Printed Name	.	Printed Name
Title: _____	.	Title: _____
Date: _____	.	Date: _____

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

STATE OF NEW YORK)
)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)

ATTORNEY GENERAL'S SIGNATURE	.	STATE COMPTROLLER'S SIGNATURE
_____	.	_____
Title: _____	.	Title: _____

Date: _____ . Date: _____

STATE OF NEW YORK
AGREEMENT

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

WITNESSETH:

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

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

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

I. Conditions of Agreement

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

II. Payment and Reporting

- A. The CONTRACTOR shall submit complete and accurate invoices and/or vouchers, together with supporting documentation required by the contract, the State Agency and the State Comptroller, to the STATE's designated payment office in order to receive payment:

.
.

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

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, by email at epunit@osc.state.ny.us or by telephone at 518-486-1255. CONTRACTOR acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment 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/epay>.

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, 9th Floor
Albany, NY 12236

III. Term of Contract

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

IV. Proof of Coverage

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

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

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

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

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

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

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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 State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments 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. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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 Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may

not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

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

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

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

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

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

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

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS.

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

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.

If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING.

To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

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:

\$ _____ From ____/____/____ to ____/____/____.
(Value before amendment) (Initial start date)

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

\$ _____ From ____/____/____ to ____/____/____.

This will result in new contract terms of:

\$ _____ From ____/____/____ to ____/____/____.
(All years thus far combined) (Initial start date) (Amendment end date)

APPENDIX D
GENERAL SPECIFICATIONS

- A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:

All specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specification, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.

- B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, telegram, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.
- C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety be liable to the State of New York for any excess cost on account thereof.
- D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.
- E. The Department of Health will make no allowances or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.
- F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.
- G. The successful bidder will be required to complete the entire work, or any part thereof as the case may be, to the satisfaction of the Department of Health in strict accordance with the specifications and pursuant to a contract therefore.
- H. Contractor will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such

jurisdiction.

I. Non-Collusive Bidding

By submission of this proposal, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

- a. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- b. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
- c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

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

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

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

- J. A bidder may be disqualified from receiving awards if such bidder or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its or its employ, has previously

failed to perform satisfactorily in connection with public bidding or contracts.

- K. The Department reserves the right to make awards within ninety (90) days after the date of the bid opening, during which period bids shall not be withdrawn unless the bidder distinctly states in the bid that acceptance thereof must be made within a shorter specified time.

- L. **Work for Hire Contract**
Any contract entered into resultant from this request for proposal will be considered a "Work for Hire Contract." The Department will be the sole owner of all source code and any software which is developed or included in the application software provided to the Department as a part of this contract.

- M. **Technology Purchases Notification -- The following provisions apply if this Request for Proposal (RFP) seeks proposals for "Technology"**
 - 1. For the purposes of this policy, "technology" applies to all services and commodities, voice/data/video and/or any related requirement, major software acquisitions, systems modifications or upgrades, etc., that result in a technical method of achieving a practical purpose or in improvements of productivity. The purchase can be as simple as an order for new or replacement personal computers, or for a consultant to design a new system, or as complex as a major systems improvement or innovation that changes how an agency conducts its business practices.
 - 2. If this RFP results in procurement of software over \$20,000, or of other technology over \$50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.
 - 3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.
 - 4. The responses to this RFP must include a solution to effectively handle the turn of the century issues related to the change from the year 1999 to 2000.

- N. **YEAR 2000 WARRANTY**
 - 1. **Definitions**

For purposes of this warranty, the following definitions shall apply:
 - a. Product shall include, without limitation: any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein which perform any date/time data recognition function, calculation, comparing or sequencing. Where services are being furnished, e.g. consulting, systems integration, code or data conversion or data entry, the term Product shall include resulting deliverables.

- b. Vendor's Product shall include all Product delivered under this Agreement by Vendor other than Third Party Product.
- c. Third Party Product shall include products manufactured or developed by a corporate entity independent from Vendor and provided by Vendor on a non-exclusive licensing or other distribution Agreement with the third party manufacturer. Third Party Product does not include product where Vendor is: a) corporate subsidiary or affiliate of the third party manufacturer/developer; and/or b) the exclusive re-seller or distributor of product manufactured or developed by said corporate entity.

2. Warranty Disclosure

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

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

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

3. Warranty Statement

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

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

In the event of any breach of this warranty, Vendor shall restore the Product to the same level of performance as warranted herein, or repair or replace the Product with

conforming Product so as to minimize interruption to Authorized User's ongoing business processes, time being of the essence, at Vendor's sole cost and expense. This warranty does not extend to correction of Authorized User's errors in data entry or data conversion.

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

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

O. No Subcontracting

Subcontracting by the contractor shall not be permitted except by prior written approval and knowledge of the Department of Health.

P. Superintendence by Contractor

The Contractor shall have a representative to provide supervision of the work which Contractor employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the Contractor.

Q. Sufficiency of Personnel and Equipment

If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the Contractor to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.

R. Experience Requirements

The Contractor shall submit evidence to the satisfaction of the Department that it possesses the necessary experience and qualifications to perform the type of services required under this contract and must show that it is currently performing similar services. The Contractor shall submit at least two references to substantiate these qualifications.

S. Contract Amendments

This agreement may be amended by written agreement signed by the parties and subject to the laws and regulations of the State pertaining to contract amendments. This agreement may not be amended orally.

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

T. Provisions Upon Default

1. In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor.

2. If, in the judgment of the Department of Health, the Contractor acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor. In such case the Contractor shall receive equitable compensation for such services as shall, in the 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 Nonprocurement Programs.
 - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
 - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Z. Confidentiality Clauses

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.
2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.
3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.
4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.
5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.
6. All subcontracts shall contain provisions specifying:
 - a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and
 - b. that the subcontractor specifically agrees to be bound by the confidentiality

provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

AA. Provision Related to Consultant Disclosure Legislation

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

BB. Provisions Related to New York State Procurement Lobbying Law

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

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

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

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.

EE. Audit and Access to Premises and Records

1. The Contractor shall provide, at no cost, access to the premises and/or records associated with this Contract when requested by the Department or other Federal and/or State oversight entities to evaluate, through inspection or other means, the quality, appropriateness and timeliness of services performed under this Contract. This obligation shall extend beyond termination of the Contract.

2. The Contractor must ensure the cooperation of any subcontractor with the requirements of this section.

FF. Disputes

1. In the event a conflict as described in Section V of Appendix D cannot be resolved, the Contractor and the Department agree to meet in good faith and use every reasonable effort to resolve such dispute and shall not resort to any formal proceedings to resolve such dispute until they have reasonably determined that a negotiated resolution is not possible. A designee of the Commissioner of the New York State Department of Health shall decide any dispute or controversy between the Department and the Contractor, which cannot be disposed of through negotiation. Both the Department and the Contractor shall present written statements of issues and facts in dispute. The designee of the Commissioner shall make a determination and issue a written decision within fifteen (15) calendar days. Upon issuance of such decision, the parties shall proceed diligently with the performance of this Contract and shall comply with the provisions of such decision.
2. The decision of the designee of the Commissioner shall be final and conclusive unless the Contractor submits a written appeal to the Commissioner of the New York State Department of Health. Such appeal must be submitted within fifteen (15) calendar days of the date of the decision by the designee of the Commissioner. In the event of an appeal, the Commissioner shall promptly review the dispute resolution decision and shall confirm, annul, or modify it. The Contractor shall be afforded the opportunity to be heard de novo and offer evidence in support of its appeal. The decision of the Commissioner shall be final and conclusive.
3. During the time that the parties hereto are attempting to resolve any dispute in accordance with the provisions of the Contract, each of them shall diligently perform its duties hereunder.

GG. Litigation/Claims

The Contractor shall promptly notify the Department in the event that the Contractor learns of any actual litigation in which it is a party defendant in a case, which involves or impacts services provided under this Contract. The Contractor, within fifteen (15) calendar days after being served with a summons, complaint, or other pleading which has been filed in any Federal or State court or administrative agency, shall deliver copies of such document(s) to the Contract Administrator. The term "litigation" includes an assignment for the benefit of creditors, and filings in bankruptcy, reorganization and/or foreclosure.

HH. Indemnification

1. The Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the State and the Department from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by the Contractor, its agents, employees, partners or subcontractors, without limitation; provided however, that the Contractor shall not indemnify for the portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the State.

2. The Contractor shall indemnify, defend and hold the Department harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and cost which may be finally assessed against the Department in any action for infringement of a United States Letter Patent with respect to the Products furnished, or of any copyright, trademark, trade secret or other third party proprietary right in relation to the Products furnished or utilized, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at the Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of the Contractor. Where a dispute of claim arises relative to a real or anticipated infringement, the State may require the Contractor, at Contractor's sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner shall require.
3. The Contractor shall not be obligated to indemnify that portion of damages, expenses (including reasonable attorneys' fees), claims, judgment, liabilities, cost or other dispute based upon; i) Department's unauthorized modification or alteration of a Product; ii) Department's unauthorized use of the Product in combination with the products not furnished by the Contractor; iii) Department's unauthorized use in other than the specified operating conditions and environment.
4. In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if the Contractor believes that it may be enjoined, the Contractor shall have the obligation, at its own expense and sole discretion as the State's exclusive remedy to take action in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part(s) thereof, as applicable, (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the Department up to the dollar amount of the Contract Award. Time is of the essence in matters where the uses of any item(s) or part(s) thereof are enjoined.
5. For all other claims against the Contractor where liability is not otherwise set forth in the Contract as being "without limitation", and regardless of the basis on which the claim is made, the Contractor's liability under the Contract for direct damages shall be limited to two (2) times the dollar amount of the contract including any amendments. Unless otherwise specifically enumerated herein, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the Contractor is required to back-up the data or records as part of the work plan), even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.
6. Notwithstanding the foregoing or anything herein to the contrary, the Department will not consider any limitation of liability for personal injury or death, infringement, or

damage to real or personal property, regardless of the nature of the damages sought for any such claim.

7. The Department may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due the Contractor, or may proceed against the performance and payment bond, maintenance or demolition bond, or letter of credit, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.
8. The Department does not agree to any indemnification provisions that require the Department to indemnify or hold harmless the Contractor or third parties.

II. Termination

1. By written notice, this Contract may be terminated at any time by the Department for convenience upon thirty (30) calendar days written notice or other specified period without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or purchase order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, the Department shall remain liable for all accrued but unpaid charges incurred through the date of the termination. The Contractor shall use due diligence and provide any outstanding deliverables.
2. The Department reserves the right to terminate the Contract in the event it is found that the certification filed by the Contractor in accordance with Section 5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its termination right by providing written notification to the Contractor.

JJ. No Waiver

No term or provision of the Contract shall be deemed waived and no breach excused, unless such waiver or consent to breach shall be in writing and signed by the party claimed to have waived or consented. No consent by a party to, or waiver of, a breach under the Contract shall constitute a consent to, a waiver of, or excuse for any other, different or subsequent breach. The rights, duties and remedies set forth in the Contract shall be in addition to, and not in limitation of, rights and obligations otherwise available at law.

KK. Choice of Law

Except where the Federal Supremacy Clause requires otherwise, this Contract shall be governed by and construed in accordance with the laws of the State of New York without giving effect to its conflict or choice of laws principles. All disputes, controversies or claims arising out of or in connection with, this Contract shall be litigated in a court of competent jurisdiction within New York State. The parties agree to waive any right to a trial by jury.

LL. Severability

If any provision of the Contract is determined to be invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity or enforceability of any other part or provision of the Contract.

MM. Force Majeure

1. A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled by the State or the Contractor, its subcontractors, or others under the Contractor's or its subcontractor's control. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the Department in the performance of the Contract which non-performance, by exercise of reasonable diligence, cannot be prevented. The Contractor shall provide the Department with written notice of any force majeure occurrence as soon as the delay is known.
2. Neither the Contractor nor the Department shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the Department to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.
3. Notwithstanding the above, at the discretion of the Department where the delay or failure will significantly impair the value of the Contract to the Department, the Department may:
 - a. Accept allocated performance or deliveries from the Contractor. The Contractor, however, hereby agrees to grant preferential treatment to the Department with respect to product, materials, or services; and/or
 - b. Purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the product, materials, or services which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the Department; or
 - c. Terminate the Contract or the portion thereof, which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relevant part thereof.
4. In addition, the Department reserves the right, at its sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of the Contractor; (ii) the volatility affects the marketplace or industry, not just the particular source of supply utilized for performance of this Contract; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects the Contractor's performance that continued performance of the Contract would result in a substantial loss.

NN. ENTIRE AGREEMENT

This Agreement, including the appendices listed on the cover page, constitutes the entire Agreement between the parties with respect to the subject matter. All prior agreements, representations, statements, negotiations and undertakings are superseded. The terms, provisions, representations and warranties contained in this Contract shall survive performance hereunder.

OO. CONFIDENTIALITY OF DATA

Contractors must comply with the following state and federal laws and regulations:

- Section 367b(4) of the NY Social Services Law
- New York State Social Services Law Section 369(4)
- Article 27-F of the New York Public Health Law
- Social Security Act, 42 USC 1396a(a)(7)
- Federal regulations at 42 CFR 431.302, 42 CFR Part 2
- The Health Insurance Portability and Accountability Act (HIPAA), at 45 CFR Parts 160 and 164

The Contractor agrees to ensure that any agent, including a subcontractor, to whom they provide Medicaid Confidential Data/Protected Health Information (MCD/PHI), agrees to the same restrictions and conditions that apply throughout this Contract. The provisions of this section shall survive the termination of this contract and shall bind the Contractor so long as the Contractor maintains any MCD/PHI relating to applicants or recipients.

PP. TRANSITION PLAN

1. The Contractor shall provide full support and assistance in the transition of operations to a successor contractor or to the Department, in order to provide for an orderly and controlled transition to either the Department or a successor contractor; minimize any disruption of services covered under this agreement; and retain the value of systems, procedures, materials and operating practices developed under this contract.
2. No later than one year prior to the end of the Agreement, the Contractor shall provide a Transition Plan to the Department. The Plan shall include:
 - i. Proposed approach to transition;
 - ii. Transition work plan, including detailed tasks and sub-tasks;
 - iii. Schedule for transition; and
 - iv. Documentation update procedures during transition.

The Transition Plan shall be updated six-months prior to the end of the Agreement, and again as necessary.

3. Along with the Transition Plan, the Contractor shall submit a statement of resources that would be required by the Department or a successor contractor to take over operation of the scope of services. This statement shall be based on the Contractor's experience in the provision of the scope of services and shall include Contractor resources devoted to this contract. This Resource Statement shall be updated no

later than six months prior to the end of the Agreement, and submitted on the same schedule as the Transition Plan and update. The statement shall include:

- i. An inventory of all application software used to perform the functional components of the scope of services.
 - ii. An inventory of all hardware, system software, and other technical environment resources required to perform all aspects of the scope of services.
 - iii. The number and type of personnel required to perform the functions of the contract, including data processing staff and administrative staff.
4. As requested by the Department, the Contractor shall begin training staff or designated agents in the operation of the services covered in this Contract. Training shall be completed by at least three months prior to the end of the Agreement. Such training shall include computer functions, training materials, and other manual functions.
5. Beginning with the submission of the initial Transition Plan and Resource Statement, the Contractor shall designate a staff person as Transition Coordinator. This individual shall serve part-time in this capacity until the Department initiates a request for the transition activity. At the time the Department requests the Contractor initiate transition activity, this individual shall become a full time Transition Coordinator until termination of the contract.
6. The Contractor shall maintain staffing adequate to meet obligations under this Agreement during the transition period.

Appendix H

for CONTRACTOR that uses or discloses individually identifiable health information on behalf of a New York State Department of Health HIPAA-Covered Program

- I. Definitions. For purposes of this Appendix H of this AGREEMENT:
 - A. “Business Associate” shall mean 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”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and implementing regulations, including those at 45 CFR Parts 160 and 164.
- II. Obligations and Activities of Business Associate:
 - A. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this AGREEMENT or as Required By Law.
 - B. Business Associate agrees to use the appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this AGREEMENT.
 - C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this AGREEMENT.
 - D. Business Associate agrees to report to Covered Program as soon as reasonably practicable any use or disclosure of the Protected Health Information not provided for by this AGREEMENT of which it becomes aware. Business Associate also agrees to report to Covered Program any Breach of Unsecured Protected Health Information of which it becomes aware. Such report shall include, to the extent possible:
 - 1. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3. Any steps individuals should take to protect themselves from potential harm resulting from the breach;
 - 4. A description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and
 - 5. Contact procedures for Covered Program to ask questions or learn additional information.
 - E. 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 Business Associate on behalf of Covered Program agrees to the same restrictions and conditions that apply through this AGREEMENT to Business Associate with respect to such information.

- F. Business Associate agrees to provide access, at the request of Covered Program, and in the time and manner designated by Covered Program, to Protected Health Information in a Designated Record Set, to Covered Program in order for Covered Program to comply with 45 CFR § 164.524.
- G. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Program directs in order for Covered Program to comply with 45 CFR § 164.526.
- H. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Program available to Covered Program, or to the Secretary of the federal Department of Health and Human Services, in a time and manner designated by Covered Program or the Secretary, for purposes of the Secretary determining Covered Program's compliance with HIPAA, HITECH and 45 CFR Parts 160 and 164.
- I. 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. Business Associate agrees to provide to Covered Program, in time and manner designated by Covered Program, information collected in accordance with this AGREEMENT, to permit Covered Program to comply with 45 CFR § 164.528.
- K. Business Associate agrees to comply with the security standards for the protection of electronic protected health information in 45 CFR § 164.308, 45 CFR § 164.310, 45 CFR § 164.312 and 45 CFR § 164.316.

III. Permitted Uses and Disclosures by Business Associate

- A. Except as otherwise limited in this AGREEMENT, Business Associate may only use or disclose Protected Health Information as necessary to perform functions, activities, or services for, or on behalf of, Covered Program as specified in this AGREEMENT.
- B. Business Associate may use Protected Health Information for the proper management and administration of Business Associate.
- C. Business Associate may disclose Protected Health Information as Required By Law.

IV. Term and Termination

- A. This AGREEMENT shall be effective for the term as specified on the cover page 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; provided that, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Appendix H of this AGREEMENT.

- B. Termination for Cause. Upon Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for Business Associate to cure the breach and end the violation or may terminate this AGREEMENT if Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or Covered Program may immediately terminate this AGREEMENT if 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, Business Associate shall return or destroy all Protected Health Information received from Covered Program, or created or received by Business Associate on behalf of Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - 2. In the event that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of Business Associate and Covered Program that return or destruction of Protected Health Information is infeasible, 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.

V. Violations

- A. Any violation of this AGREEMENT may cause irreparable harm to the STATE. Therefore, the STATE may seek any legal remedy, including an injunction or specific performance for such harm, without bond, security or necessity of demonstrating actual damages.
- B. Business Associate shall indemnify and hold the STATE harmless against all claims and costs resulting from acts/omissions of Business Associate in connection with Business Associate's obligations under this AGREEMENT. Business Associate shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and save harmless the STATE from suits, actions, damages and costs, of every name and description relating to breach notification required by 45 CFR Part 164 Subpart D, or State Technology Law § 208, caused by any intentional act or negligence of Business Associate, its agents, employees, partners or subcontractors, without limitation; provided,

however, that Business Associate shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the STATE.

VI. Miscellaneous

- A. Regulatory References. A reference in this AGREEMENT to a section in the Code of Federal Regulations means the section as in effect or as amended, and for which compliance is required.
- B. Amendment. Business Associate and Covered Program 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 HIPAA, HITECH and 45 CFR Parts 160 and 164.
- C. Survival. The respective rights and obligations of Business Associate under (IV)(C) of this Appendix H 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 Covered Program to comply with HIPAA, HITECH and 45 CFR Parts 160 and 164.
- E. HIV/AIDS. If HIV/AIDS information is to be disclosed under this AGREEMENT, Business Associate acknowledges that it has been informed of the confidentiality requirements of Public Health Law Article 27-F.

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.