**NEW YORK STATE DEPARTMENT OF HEALTH**

## A Request for Proposal for

## Office of Health Insurance Programs
## Division of Program Development and Management

RFP No. 1111091053

# NYS EPIC, American Indian Health and New York Prescription Saver Card Program

---

Schedule of Key Events

| | | |
|---|---|---|
| RFP Release Date | | 1/25/12 |
| Written Questions Due Date | By 3pm (ET) | 2/14/12 |
| Response to Written Questions | (On or About) | 3/02/12 |
| Proposal Due Date | By 3pm (ET) | 3/26/12 |

## DESIGNATED CONTACTS:

Pursuant to State Finance Law ÄÄ139-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:

Ms. Pamela Petrie Baldasaro
NYS Department of Health
Office of Health Insurance Programs
Corning Tower, Room 2019
Empire State Plaza
Albany, NY 12237
Phone: (518) 486-6830
Fax #: (518) 486-1432
E-mail: ppb03@health.state.ny.us

## Permissible Subject Matter Contact:

Pursuant to State Finance Law Ä139-j(3)(a), the Department of Health also identifies the following allowable contacts for communications related to the following subjects:

- RFP Release Date
- Submission of written proposals or bids
- Debriefings
- Submission of Written Questions

Mr. Joseph Zeccolo
NYS Department of Health
Office of Health Insurance Programs
Corning Tower, Room 2019
Empire State Plaza
Albany, NY 12237
Phone: 518-486-6830
Email: jxz02@health.state.ny.us

### Permissible Subject Matter Contact:

Pursuant to State Finance Law Ä139-j(3)(a), the Department of Health also identifies the following allowable contacts for communications related to the following subject:

- Procurement Library

Mr. Charles Teuscher
EPIC Program
NYS Department of Health
260 Washington Avenue Extension
One Corporate Plaza, Suite 101
Albany, NY 12203
Phone: 518-452-6826

*For further information regarding these statutory provisions, see the Lobbying Statute summary in Section V.J Administrative Requirements Lobbying Statute of this solicitation*

# TABLE OF CONTENTS


## SECTION I - PROCUREMENT OVERVIEW

**A.** Introduction é é é é é é é é é é é é é é é é é é é é é é é é é é é é .... I-1

**B.** Project Objective é é é é é é é é é é é é é é é é é é é é é é é é é é ... I-1

**C.** Contract Selection and Term of the Contract é é é é é é é é é é é é ... I-1

**D.** Scope of Work Summary é é é é é é é é é é é é é é é é é é é é é é . I-1

## SECTION II - OVERVIEW OF THE EPIC PROGRAM, AMERICAN INDIAN HEALTH AND NEW YORK PRESCRIPTION SAVER CARD

**A.** Introduction é é é é é é é é é é é é é é é é é é é é é é é é é é é é II-3

**B.** EPIC Benefit Structure é é é é é é é é é é é é é é é é é é é é é é é . II-3

**C.** Covered Medications Under The EPIC Program é é é é é é é é é é é . II-4

**D.** EPIC Program Exclusions and Limitations é é é é é é é é é é é é é ... II-4

**E.** EPIC Legislative Mandate é é é é é é é é é é é é é é é é é é é é é ... II-4

**F.** American Indian Health é é é é é é é é é é é é é é é é é é é é é é II-6

**G.** New York Prescription Saver Card é é é é é é é é é é é é é é é é é . II-6

## SECTION III - STATEMENT OF WORK

**A.** Introduction é é é é é é é é é é é é é é é é é é é é é é é é é é é é III-7

**B.** Implementation é é é é é é é é é é é é é é é é é é é é é é é é é é . III-10

**C.** Operations é é é é é é é é é é é é é é é é é é é é é é é é é é é . III-15

**D.** Systems and Reporting é é é é é é é é é é é é é é é é é é é é é ... III-46

**E.** New York Prescription Saver é é é é é é é é é é é é é é é é é é é . III-54

**F.** American Indian Health é é é é é é é é é é é é é é é é é é é é é .. III-60

**G.** EPIC Turnover at End of Contract é é é é é é é é é é é é é é é é é . III-62

**H.** New York State Department of Health é é é é é é é é é é é é é é é .. III-67

**I.** Bid Response Requirements é é é é é é é é é é é é é é é é é é é . III-69

## SECTION IV - PROPOSAL REQUIREMENTS

**A.** Introduction é é é é é é é é é é é é é é é é é é é é é é é é é é é é .. IV-80
**B.** Proposal Requirements Overview é é é é é é é é é é é é é é é é é é IV-80
**C.** Proposal Submission Instructions é é é é é é é é é é é é é é é é é é IV-86
**D.** Technical Proposal Contents é é é é é é é é é é é é é é é é é é é . IV-87
**E.** Price Proposal Contents é é é é é é é é é é é é é é é é é é é é é . IV-91
**F.** Evaluation Process é é é é é é é é é é é é é é é é é é é é é é é .. IV-93

## SECTION V - NEW YORK STATE ADMINISTRATIVE REQUIREMENTS

**A.** Issuing Agency é é é é é é é é é é é é é é é é é é é é é é é é é é . V-95
**B.** Legal Basis é é é é é é é é é é é é é é é é é é é é é é é é é é é é V-95
**C.** Inquiries é é é é é é é é é é é é é é é é é é é é é é é é é é é é . V-95
**D.** RFP Issuance and Amendments é é é é é é é é é é é é é é é é é é .. V-95
**E.** Submission of Proposals é é é é é é é é é é é é é é é é é é é é é V-97
**F.** Department Responsibilities é é é é é é é é é é é é é é é é é é é .. V-99
**G.** General Contractor Requirements é é é é é é é é é é é é é é é é é V-99
**H.** Vendor-To-Vendor Relationships é é é é é é é é é é é é é é é é é .. V-100
**I.** Payment é é é é é é é é é é é é é é é é é é é é é é é é é é é é é . V-100
**J.** Lobbying Statute é é é é é é é é é é é é é é é é é é é é é é é é .. V-109
**K.** Accessibility of State Agency Web-Based Intranet and..é é é é é é é é V-110
Internet Information and Applications
**L.** Information Security Breach and Notification Act é é é é é é é é é é é V-111
**M.** Public Information é é é é é é é é é é é é é é é é é é é é é é é .... V-111
**N.** State Consultant Services Reporting é é é é é é é é é é é é é é é é V-111
**O.** New York State Tax Law Section 5-A é é é é é é é é é é é é é é é .. V-112
**P.** M/WBE Utilization Plan For Subcontracting and Purchasing é é é é é é V-112
**Q.** Piggybacking é é é é é é é é é é é é é é é é é é é é é é é é é é . V-113
**R.** Appendices é é é é é é é é é é é é é é é é é é é é é é é é é é é V-113

**APPENDIX I – CONTRACT REQUIREMENTS**.....V-115

## ATTACHMENTS

Numerical Series é é é é é é é é é é é é é é é é é é é é é é é é é é é . A-1
Alphabetical Series é é é é é é é é é é é é é é é é é é é é é é é é é é . A-70

# SECTION I - PROCUREMENT OVERVIEW

## A. INTRODUCTION

The New York State Department of Health (the Department) is soliciting proposals to procure a responsive and responsible contractor to support the Departmentôs operation of the New York State Elderly Pharmaceutical Insurance Coverage (EPIC) Program, as well as the prescription drug coverage component of the American Indian Health Program for seven American Indian Nations in New York State and the New York Prescription Saver Card Program a drug discount card program. This procurement is being undertaken in accordance with New York State (NYS) Finance Law, Article XI.

The contractor selected through this Request for Proposal (RFP) will work to provide all necessary services stipulated herein, with emphasis on application and enrollment processing including the production of identification cards, participant and provider relations, premium payments, pharmacy enrollment, mailings, auditing, processing and reimbursement of pharmacy claims including coordination of benefits for dispensed prescription drugs, a prospective drug monitoring program, outreach, and systems development. Bidders are allowed to subcontract any functions that may benefit from an organization with a more in-depth background, experience and skill to carry out the function required. However, proposals may not bid for the operation of just one or two programs; bids must include the administration of all functions included in this RFP, and for the operation of the three programs.

## B. PROJECT OBJECTIVE

The Departmentôs prime objective for this procurement is to competitively acquire the services of a contractor to support the Departmentôs operation of the EPIC Program, as well as the prescription drug coverage component of the American Indian Health Program for seven American Indian Nations in New York State and the New York Prescription Saver Card Program a drug discount card program.

## C. CONTRACTOR SELECTION AND TERM OF THE CONTRACT

Since the quality and service levels required of the three programs is of paramount importance to the Department, contractor selection will be based on ñBest Valueò. Although the price will be a factor, the overall value in terms of ñquality, cost and efficiencyò pursuant to Article XI of the New York State Finance Law will be the prime determinate.

The Department intends to award a contract that will extend seven years.

## D. SCOPE OF WORK SUMMARY

The scope of work for the contractor is divided into three components: Implementation, Operations, and Turnover.

The Implementation Phase includes the tasks required to successfully implement the three prescription drug programs for the Department. These tasks include: program initiation, requirements validation, system design, system development, testing, data conversion, operational readiness, and implementation. The Operations Phase includes maintenance, normal operational and technical functions and any enhancement tasks requested by the Department that need to be performed throughout the life of the contract to operate the three prescription drug programs in accordance with new State and Federal mandates, program policy changes and

program growth. The Turnover Phase represents a period of transition during which all three prescription drug programs and all related operational and technical support activities that have been maintained and operated by the contractor will be turned over to the Department or successor contractor(s).

The anticipated contract start date is on or about April, 2012 for implementation of the three prescription drug programs with operations to begin on or about July 2012. For purposes of submitting a proposal, April 1, 2012 is used throughout the RFP as the beginning of implementation activities for all three prescription drug programs. July 1, 2012 is also used throughout the RFP as the beginning of operations for all three prescription drug programs which include but are not limited to the claims processing year. Regardless of the actual start date, the successful bidder will be required to begin operations three months after the actual start date of the contract which may be subsequent to April 1, 2012. The contract term shall be seven years from the actual start date.

# SECTION II - OVERVIEW OF PROGRAMS

## A. INTRODUCTION

Within the Department of Health, the Office of Health Insurance Programs is responsible for administering public health insurance programs. These responsibilities include the oversight of the EPIC Program and the New York Prescription Saver Card Program. The American Indian Health Program, a separate office within the Department of Health has oversight of the prescription drug coverage component of the American Indian Health Program for seven American Indian Nations in New York State.

EPIC is a state-sponsored prescription drug assistance program serving approximately 283,000 seniors age 65 and older who meet income eligibility, and residency requirements and are not receiving full Medicaid benefits. In SFY 2010-11 the NYS EPIC program paid approximately $298 million in drug claims. Additional EPIC program statistics can be found in Attachment 3, Tables 1 through 7. EPIC is designed to supplement Medicare Part D. Eligible EPIC members are required by law to enroll in a Medicare Part D plan. EPIC may assist new members who are not already enrolled in a Part D plan in selecting a plan. EPIC also reevaluates member plans annually and, if a plan no longer meets the Medicare criteria for a benchmark plan, EPIC members in that plan are reassigned into other benchmark plans that meet their needs.

EPIC also identifies members who may be eligible to receive additional benefits from either Social Security or Medicare and has a process in place to apply for these benefits electronically through the Request for Additional Information (RFAI). These include the Low Income Subsidy (LIS) and the Medicare Savings Programs Qualified Medicare Beneficiary Program (QMB), the Specified Low Income Medicare Beneficiary Program (SLMB) and the Qualified Individual -1 (QI-1). EPIC also assists with the recertification process for these programs through helpline calls and letters.

EPIC utilizes and generates its own identification cards with unique identification numbers. Cards are generated initially for new members and replacement cards are available if lost. The Program has an open retail network which includes over 4,600 contracted in-state pharmacies, in-state mail order pharmacies that dispense specialty drugs and contracted network mail service pharmacies offered through certain Medicare Part D plans. EPIC performs extensive editing and coordination of benefit functions at the point-of-sale. Prescriptions must be initially processed through the Medicare Part D plan, EPIC will then cover the claim amount that falls within the memberôs Medicare Part D coverage gap, also at the point-of-sale. EPIC has a call center helpline, a third party benefit recovery program, as well as a prospective Drug Utilization Review program. In addition EPIC completes electronic file matches with the NYS Department of Tax and Finance, as well as the Social Security Administration, to confirm reported income.

## B. EPIC BENEFIT STRUCTURE

Based on legislative changes in 2011, the EPIC Program effective January 1, 2012 will offer a coverage gap only benefit design that the selected contractor must administer:

EPIC will provide one free plan with no fees or deductibles. EPIC eligibility requirements are: NYS resident, 65 or older, with income up to $35,000 single or $50,000 married. Applicant cannot be receiving full Medicaid benefits but can have a Medicaid spenddown. EPIC will provide supplemental drug coverage which is limited to drugs purchased when the member

enters the Part D coverage gap (donut hole). EPIC will also pay for Medicare Part D excluded drugs purchased in the Part D coverage gap.

The program will offer Part D premium assistance by paying the monthly Part D plan premiums up to the cost of a basic benchmark plan for members with income up to $23,000 single or $29,000 married. Members with higher incomes must pay their monthly Part D drug premiums. EPIC currently makes payments for approximately 93,000 members per month.

Applicants can apply for EPIC before enrolling in a Medicare Part D drug plan, EPIC may assist them in selecting a plan. However, members cannot receive EPIC benefits before they are enrolled in a Part D plan. EPIC members receive a Special Enrollment Period (SEP) enabling them to join a Medicare Part D drug plan at any time of the year. EPIC members must maintain their Part D coverage to remain in EPIC.

Members are responsible to pay any Medicare Part D deductible (if they have one), and Part D co-payments/coinsurance until they reach the Medicare coverage gap. Once they reach the coverage gap, EPIC supplementary coverage will begin. EPIC will not cover drugs in the Part D catastrophic phase.

## C. COVERED MEDICATIONS UNDER THE EPIC PROGRAM

EPIC reimburses for Medicare Part D covered drugs purchased in the Medicare Part D coverage gap or Part D excluded drugs purchased in the coverage gap, subject to applicable co-payments and days supply limits. EPIC covers almost all prescription medications dispensed by network pharmacies, as well as insulin, insulin syringes and insulin needles. New prescriptions and refills are covered.

For claims in the Part D coverage gap covered by EPIC as the secondary payer, the Part D plan will set the allowed quantity and days supply of the drug. For covered drugs purchased in the coverage gap in the Part D excluded classes, EPIC covers up to 100 tablets or capsules, or a 30-day supply, whichever is greater. It also covers up to a 30-day supply for products other than tablets or capsules (such as liquids, patches, inhalers, creams, ingestible). Prescriptions must be purchased at participating pharmacies, with refills allowed.

## D. EPIC PROGRAM EXCLUSIONS AND LIMITATIONS

Medications that do not require a prescription (such as aspirin and vitamins) and a small number of drugs known as DESI drugs are not covered by EPIC. The purchase of medical devices (for example: diabetes supplies, test strips, glucometers, walkers, wheel chairs) and medical supplies (cotton balls, band aids, and oxygen) are not covered. Prescription purchases that are made before coverage begins and prescriptions purchased at a pharmacy that is not registered in New York State and/or not participating in EPIC are not covered by EPIC.

## E. EPIC LEGISLATIVE MANDATE

Chapter 913 of the Laws of 1986 established the EPIC Program to provide pharmaceutical assistance for the elderly of New York State. Coverage of prescription drugs, insulin and insulin needles/syringes was made available to New York State residents 65 years of age and older with low and moderate incomes, who are not receiving Medicaid benefits. Currently through 12/31/2011, in order to receive benefits, lower income seniors (up to $20,000 if single, and $26,000 if married) pay an annual fee, and upper income seniors ($20,001 to $35,000

single, and $26,001 to $50,000 married) meet an annual deductible. Depending on income level and marital status, annual fees range from $8 to $300, and annual deductibles range from $530 to $1,715. Seniors then pay a co-payment ranging from $3 to $20 for each prescription, depending on the cost of the drug. When out-of-pocket expenditures exceed an annual co-payment limit (determined by income level and marital status), seniors receive their prescriptions at no cost for the remainder of their coverage year. Attachment 2 contains the EPIC regulations.

***Since January, 2006*** when Part D began, EPIC has implemented a series of programmatic changes through legislative amendments to the Elder Law designed to maximize participation and utilization of Part D benefits while protecting the benefits provided to seniors.

***On July 1, 2006,*** EPIC became the authorized representative for enrollees for Medicare Part D. Income eligible members were required to provide information needed to apply for the full extra help low income subsidy (up to 135% Federal Poverty Limit) under Medicare Part D. Those approved were required to enroll in a Medicare Drug Plan unless enrollment would result in significant additional financial liability to the member. Extensive educational and outreach efforts were undertaken to encourage members to join Medicare Part D.

***Effective July 1, 2007,*** all eligible EPIC enrollees were required to enroll in a Medicare Drug Plan unless enrollment resulted in significant additional financial liability on behalf of the enrollee. EPIC began to pay Part D premiums up to the Medicare approved amount (benchmark) for Fee Enrollees, and lowered the EPIC Deductible by the annual benchmark amount. Partial-LIS income eligible participants (135% - 150% Federal Poverty Limit) were also required to apply for LIS.

***On July 1, 2008,*** legislation amended the EPIC pharmacy reimbursement methodology defined in the Elder Law to limit reimbursement for brand name drugs to the Average Wholesale Price (AWP) minus 16.25 percent plus a dispensing fee. A State Maximum Allowable Cost (SMAC) was added to the EPIC pricing for generic drugs. The reimbursement for generic drugs was limited to the lower of: AWP minus 25 percent, SMAC, and federal Upper Limit (FUL), each with a dispensing fee added, or the pharmaciesô usual and customary price. The current dispensing fees ($4.50 for generics, $3.50 for brands) were continued.

***On October 1, 2008,*** the EPIC definition of a covered drug was amended to require generic substitution for multi-source brand drugs, with some exceptions. A prior authorization process was implemented for exceptions. Also on this date, coordination of benefits at the point-of-sale was strengthened by requiring the pharmacy to consult with prescribers to ask if a Part D drug could be prescribed, instead of billing EPIC as primary for Part D non-formulary drugs.

***On July 1, 2009,*** EPIC was changed to reimburse Part D covered drugs purchased at participating mail order pharmacies registered with the NYS Board of Pharmacy and located out of New York State. This provides another option for Part D members to save on medication purchases. Also effective July 1, 2009, state law required seniors potentially eligible for a LIS from Medicare Part D to supply EPIC with the information needed to apply on their behalf for the benefit or a Medicare Savings Program.

***On October 1, 2010,*** EPIC began providing secondary coverage only for drug claims when approved by membersô Part D drug plans. EPIC will allow an exception and pay drug claims denied by membersô Part D plans if a coverage determination and two levels of Medicare appeals have been submitted and denied by their Part D plan. Membersô doctors or health care

providersô may contact EPIC to request temporary coverage of up to a 90 day supply of the drug to allow access to drugs while the appeals are processed and evaluated by Part D plans.

***On July 1, 2011,*** EPIC will pay the member portion of the Medicare Part D monthly premium for participants with income up to $23,000 for single or $29,000 for married persons. Payments are processed each month. No payments are made on behalf of EPIC members with incomes higher than these levels. The law limits EPIC payments to the low-income benchmark amount established by the CMS.

***Finally, effective January 1, 2012,*** the new EPIC coverage gap program begins. It is free and there are no fees or deductibles. It provides supplemental coverage for prescription drugs purchased in the Medicare Part D coverage gap and Part D excluded drugs purchased in the coverage gap. EPIC will continue to help with Part D premium assistance each month consistent with the process described above beginning July 1, 2011. The most recent EPIC legislation is provided in Attachment 1a.

## F. AMERICAN INDIAN HEALTH

As stated earlier, the Department administers the American Indian Health Program (AIHP) for American Indians of all ages residing on reservations in the State, and is responsible for providing access to medical care, dental care, pharmacy and preventive health education for Native Americans living in reservations within the State. Health care services are provided to nine recognized American Indian Nations in New York State. For efficiency and cost-effectiveness, the EPIC program administers the prescription drug coverage component of the AIHP program (AIH) for seven of the American Indian Nations in New York State.

The AIH program is a state funded program that currently provides prescription drug coverage to approximately 8,400 members. In October of 2010, approximately 1,600 members were added to the AIH program. In SFY 2010-11 the AIH program had approximately 11.2 million in drug spend (approximately 158,000 OTC and prescription drug claims). Program duties and responsibilities for AIH are specified in the Statement of Work section III.F of this RFP. Enrollment and claim data for AIH can be found in Attachment 3, Table 1.

## G. NEW YORK PRESCRIPTION SAVER CARD

Section 280 of New York State Public Health Law established a drug discount card program effective April 1, 2009 called the New York Prescription Saver Card (NYPS). The program helps uninsured individuals afford the medicines they need, by extending manufacturer and pharmacy discounts negotiated by the State for the EPIC program. NYPS is available to individuals between the ages of 50 and 64, as well as disabled individuals regardless of age, with income up to $35,000 for single individuals and $50,000 for married individuals. The legislation authorizing the program is provided in Attachment 1b.

Program duties and responsibilities for NYPS are specified in the Statement of Work section III.E of this RFP. For the period April 2009 through March 2011, NYPS processed approximately 77,000 prescription drug claims. The average discount for brand and generic drugs is 25% and 68% respectively. Enrollment and claim data for NYPS can be found in Attachment 3, Table 1.

# SECTION III STATEMENT OF WORK

## A. INTRODUCTION

### 1. Objective

Through this RFP, the New York State Department of Health (NYSDOH) seeks the services of a qualified contractor to operate three prescription drug assistance programs. The primary program is the Elderly Pharmaceutical Insurance Coverage Program (EPIC), which has approximately 283,000 members, and in addition the prescription drug coverage component of the American Indian Health Program (AIH) for seven of the American Indian Nations in New York State and the New York Prescription Saver (NYPS), a cash discount card program. The goal of the RFP is to solicit proposals that:

**a.** reflect an understanding of the constituencies assisted by each of the benefit Programs and minimizes Program administrative costs without negatively impacting members;

**b.** identify and describe a thorough implementation plan as well as a plan to maintain effective quality assurance;

**c.** explain in detail the technical systems that will be utilized to run the Programs and respond to the needs of the NYSDOH;

**d.** provide an effective and highly efficient operation that takes advantage of state-of-the-art technology and that offers the flexibility needed to implement Program changes in a timely manner; and

**e.** ensure an efficient and effective transition and Program turnover to a subsequent contractor or New York State.

**Bidders should note that recent legislative amendments will result in changes in scope of EPIC operations (i.e. EPIC changing to a coverage gap only program effective 1/1/12) compared to the current contract operations.** Consequently, numbers, data or statistics which may appear in the exhibits referenced throughout this RFP are for informational purposes only and should not be used or viewed by prospective offerors as guarantees or representations of any levels of past or future performance or participation.

For the purposes of this RFP, the terms bidder, offeror and vendor as well as the terms bid, offer or proposal, may be used interchangeably. Attachment A Glossary of Terms provides a listing of acronyms and terminology used throughout this RFP. Unless otherwise specified references to the ñProgramò include the EPIC, AIH, and NYPS programs.

### 2. Summary of Contractor Responsibilities

#### A.2.1 Duties and Responsibilities

The contractor will have responsibility for the following major tasks:

**a. Implementation**

The contractor must take the necessary steps to assure an efficient and cost effective transition from the current contractor, if applicable, of EPIC, AIH claims processing, and the NYPS beginning April 1, 2012.

### b. Contract Term, Scope of Operations, and Administrative Charges

The contractor is responsible for the cost effective operation of EPIC, AIH claims processing, and the NYPS for a seven (7) year contract term running from April 1, 2012 through March 31, 2019. Such operation must include, but not be limited to, performing the following functions listed in the matrix below:

| **Contractor Functions:** | **EPIC** | **NYPS** | **AIH** | **Comments** |
|---|---|---|---|---|
| Implementation | X | X | X | |
| Member Enrollment | X | X | X | AIH requires limited support |
| **a.** Application processing | X | X | | |
| **b.** Eligibility Determination | X | X | | |
| **c.** Enrollment Processing and ID Card Generation | X | X | X | |
| **d.** EPIC Re-enrollment | X | | | |
| **e.** Online Enrollment | X | X | | |
| **f.** Written Materials | X | X | X | Following NYS review & approval |
| Part D Reassignments | X | | | |
| Premium Payment/Reconciliation with Medicare Part D plans | X | | | |
| Tax Match | X | | | Match applicants income to NYS tax department income |
| Request for Additional Information (RFAI) Process | X | | | |
| Member Relations, Helpline and Written Communications | X | X | X | AIH Limited |
| Pharmacy Enrollment | X | X | X | Networks for all 3 programs established and in place ï No separate enrollment for AIH |
| Provider Relations and Helpline | X | X | X | AIH very limited support |
| Claims Processing | X | X | X | |
| Formulary File Maintenance and Maximum Allowable Cost List | X | X | X | Only AIH includes OTC coverage |
| Prospective Drug Utilization Review | X | X | X | |
| Pharmacy Audit | X | | | |
| Manufacturer Rebate Support | | X | | NYPS rebate applied at POS |
| Banking Services | X | X | X | Separate accounting and payment systems required for each program |
| Mailroom Services | X | X | | |
| Fair Hearing | X | | | |
| Outreach | X | X | | Include budgeted amount of $200,000 within the final paid claim administrative fee |
| Systems and Reporting | X | X | X | Exclude cost of ñsystems changeò hours ï AIH limited activity |
| Turnover | X | X | X | |

Note: Functions are subject to change throughout the term of the contract.

Offerors should prepare bids by looking at the functions (above) for each Program. As part of the cost proposal a separate final paid claim administrative fee is required for each Program. An Offerorôs final paid claim administrative fee for NYPS and AIH should reflect the lower level of effort associated with the reduced number of functions as well as the resources that would be shared with EPIC. Currently, EPIC enrollment comprises 92.9%, AIH 2.6%, and NYPS 4.5% of the combined enrollment for the three Programs. For information on Price Proposal requirements see Sections IV.C and V.I of this RFP. Attachment 11 explains the Price Proposal exhibits which must be filled out by Offerors (do not put cost numbers in technical proposal).

A detailed description of operating procedures is contained in a set of procedural manuals in the Procurement Library. Attachment B contains the list of documents available in the Procurement Library. Attachment 6 contains the 2008-2009 annual report which provides data and historical information regarding the EPIC Program. Bidders are encouraged to review the procedural manuals as well as the Program requirements defined in this Statement of Work, Sections III.A through III.G to ensure an understanding of the processes required of the contractor. Note: These documents reflect EPIC operations and procedures prior to the legislative changes effective 7/1/2011 and 1/1/2012. As a result, bidders should evaluate these materials carefully in light of the recent changes to EPIC.

# B. IMPLEMENTATION

## 1. Objectives

The major implementation objectives of this procurement are as follows:

**a.** Provide an efficient, orderly and controlled transition from the current contractor.

**b.** Minimize any disruption of enrollment and claims processing and other services provided to applicants, members, pharmacies, providers and manufacturers; and

**c.** Create new systems or retain or enhance the value of existing systems, procedures and operating practices.

## 2. Current Contractorôs Responsibilities for Support of Successor

Significant features of the current contractorôs commitment regarding turnover are summarized in this section. A portion of the turnover plan, prepared by the current contractor under the current contract, is available in the Procurement Library.

### B.2.1 Duties and Responsibilities

**a. Training**

The training effort must focus on providing the successor contractorôs management with information about all operational aspects of the Programs. The training objective is to familiarize the successor contractor with operations, policies, and procedures. Training will be accomplished through a mixture of formal presentations and on-the-job training. This Program will consist of a turnover training group which, under the Stateôs direction, will provide the required training for successor contractor personnel. The current contractor will develop instructional materials to facilitate the learning process.

**b. Documentation Update**

During the implementation period, the current contractor must review and update or create the documentation of procedures, processes and system design to assure prescribed format, completeness, and accuracy by the end of the implementation period.

**c. System Software**

A copy of the non-proprietary EPIC software owned by the State will be made available to qualified bidders in the procurement library. For purposes limited to this procurement, the Department as part of the procurement library, will provide the bidder with a limited non-exclusive and royalty free license to the nonproprietary EPIC software owned by the State. The bidder is limited to the use of such software exclusively for purposes of bidding on this RFP.

Pursuant to the current contract, the State owned computer programs, procedural manuals, operating plans, documentation, data, records and related items arising out of or related to the Programs (except for the proprietary software listed as ñThird Party Proprietaryò in Attachment 5) will be made available to the successor contractor at their request.

The successor contractor will be responsible for the costs of any proprietary software

utilized in their operation including, but not limited to any modifications, enhancements, patches and/or updates.

**d. Transfer Management and Consulting**

A high level team whose members are familiar with the Programs will coordinate the current contractorôs turnover activities. The current contractorôs team will be led by a project manager responsible for planning and monitoring turnover progress.

**e. Facilities/Storage Space**

The current contractor has the EPIC/NYPS call center at 260 Washington Avenue Extension, Albany, New York. Rented storage units, one with dimensions of 2,000 square feet and the second with dimensions of 1,200 square feet are being utilized by the current contractor for record retention. The storage units are located at 916 New Loudon Road, Latham. The current contractor will be responsible for working with the successor contractor to transfer physical records. To the extent that any of these records are transferred, the contractor must ensure that HIPAA and personal privacy requirements are adhered to.

See number five (5) below for requirements concerning the establishment of local office/storage space. The cost of all facilities must be built into the Offerorôs final paid claim administrative fee.

**f. Pre-Printed forms and Supplies Inventory**

Pre-printed forms and supplies paid for under the current contract become the property of New York State. A minimum of a three-month inventory of all pre-printed forms and supplies is required to be made available by the current contractor throughout turnover. The inventory will be made available to the successor contractor at the end of the contract at no cost.

## 3. State Responsibilities for Support of Successor

### B.3.1 Duties and Responsibilities

**a. Project Management**

The State will assume supervisory responsibility for implementation project management. Periodic project review meetings will be held with representatives of the State, the current contractor and the contractor.

**b. Pre-Printed Forms and Supplies Inventory**

The State will oversee the transfer of all pre-printed forms and supplies from the current contractor to the contractor.

## 4. Successor Contractor Responsibilities

### B.4.1 Duties and Responsibilities

The contractor is required to perform all implementation activities beginning April 1, 2012. Specific responsibilities include the following tasks:

**a. Assemble Account Management Team**

The contractor is required to assemble an account management team to oversee

implementation. The account management team is expected to work closely with the State and the current contractor during the implementation period. After implementation activities are completed, the account management team of the contractor will assume responsibility for the operations. The account management team must be identified and installed at the beginning of the implementation period.

**b. Planning**

Upon approval of a contract award by OSC, the contractor must prepare a detailed implementation plan within 14 calendar days for State approval. This plan must include but is not limited to:

- **i.** planned activities;
- **ii.** staffing level plans;
- **iii.** progress reports;
- **iv.** outstanding issues;
- **v.** schedule of events; and
- **vi.** schedule of parallel testing of all computer processing systems to ensure the system is being transitioned satisfactorily. See Section V.I.1.B.3 of the RFP for penalties of non-compliance.

**c. Implement Personnel Function and Begin Hiring**

The contractor is required to ensure that upon the expiration of the current contract, sufficient experienced and trained personnel are available to continue all operations without interruption of service to applicants, members, pharmacies providers, and manufacturers. The personnel function is to be established and all hiring completed during the implementation period.

**d. Train New Personnel**

The contractor will be responsible for staffing all functions with trained employees. For requirements concerning staffing see Section C.18, Organizational Structure and Staffing. To take advantage of the current contractorôs turnover training, the contractor must commit personnel to the formal and on-the-job training provided, unless otherwise agreed to by the State. The current contractorôs emphasis will be on training the contractorôs management personnel. The new contractor will be responsible for training of non-management personnel.

**e. Equipment/Software**

The contractor is responsible for the purchase, maintenance, repair and the eventual replacement of equipment necessary to support the Programs.

The contractor is responsible for the processing and development, or acquisition where appropriate, of the computer programs, files and systems software necessary to perform all of the contractorôs functions. Additionally, the contractor will be responsible for ensuring full compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, included, but not limited to Appendix H of the contract.

A number of applications and systems software and related items developed and modified under the current contract are owned, fully and without restriction, by the State and will be made available at no cost at the election of the contractor for its use in the operation of certain functions. Attachment 5 contains a list of these programs labeled ñWithout Restrictionò. The software and documentation for these programs is available for review in the procurement library. For purposes limited to this procurement, the Department as part of the procurement library, will provide the bidder with a non-exclusive, non-transferable and royalty free license to the non-proprietary EPIC software owned by the State. The bidder is limited to the use of such software exclusively for purposes of bidding on this RFP. The successful contractor may either use this non-proprietary software or choose to develop and maintain its own software to meet the functional requirements set forth in this RFP. Regardless of which software choice the successful contractor elects, the successful contractor agrees to be responsible to make any modifications, enhancements, patches and/or updates to such software in order to meet the Program requirements. Such software shall also be fully tested by the successful contractor who shall prove to the Stateôs satisfaction that such software provides adequate support to ensure proper and accurate completion of all required Program functions.

The current Program also utilizes proprietary software for specific functions whereby the State has a nonexclusive, royalty free license in perpetuity (Attachment 5 contains a list of these programs labeled ñProprietaryò) to use the software subject to certain conditions. These conditions are contained in Section III.D.2 of this RFP. Should the successful contractor elect to utilize this proprietary software, the contractor would be required to maintain and modify the software (at its sole cost) to ensure that the functional requirements of the Programs are attained.

In addition, the Programs utilize various proprietary software packages available on the market identified in Attachment 5 as ñThird Party Proprietaryò. Should the contractor decide to utilize these proprietary software packages the contractor would be responsible for acquiring these software packages and maintaining them, at its sole cost.

Any data required to be transferred from the Programs will be made available to the successor contractor.

**f. Prepare a Disaster Planning Document**

The contractor will be responsible for developing the final disaster plan, presented as part of the proposal, into a fully functional and documented arrangement during the implementation process. Equipment backup must be tested for compatibility and capacity, with any identified shortcomings corrected.

**g. Back-up Facility**

The back-up facilities as presented as part of the proposal must be capable of operating within forty-eight (48) hours of a disaster and must be able to provide service during the interim period such that all areas of operation are functional and meet the performance standards set forth in this RFP. The back-up facility may be located outside of the Capital District, including outside of New York State, but must be within the continental United States of America. Should the backup facility need

to be utilized, the State will grant a period of up to three (3) months. Additional extensions of up to three (3) months may be granted at the discretion of, and with the prior approval of, the NYSDOH.

It should be noted that the use of back-up facilities, irrespective of their locations, on an emergency or interim basis does not release the contractor from the responsibility of contract performance.

Off-site storage of back-up operating instructions, procedures, reference files, system documentation, and operational files must begin during the implementation period.

**h. Assume Operational Responsibilities**

The contractor must assume responsibility without interruption of service to applicants, members, pharmacy providers, and manufacturers for the maintenance and development of forms, manuals, procedures, and documentation for all current operations. The contractor as part of implementation will be required to load historical data files.

## 5. Establishment of Local Office/Storage Space

The local office for the contractor must be located within the NYS Capital District region within ten (10) miles of the State Capitol, with access to at least two (2) parking spaces for EPIC staff. The contractor should also include storage space to be utilized for EPIC record retention as further set forth in Section III.2.B.2.1.e of this RFP.

At a minimum, the following key contractor staff must be located at the local Capital District office: account manager, an outreach manager, quality assurance manager, and a project manager with responsibility for system analysis, data access and reporting. Computer processing, help line staff, systems staff, finance, as well as other contractor staff may be located outside of New York State, but must be within the continental United States of America.

The cost for facilities including the local office and the storage space for record retention must be built into the contractorôs final paid claim administrative fee.

## 6. Pricing

Contractor compensation for implementation efforts of the three programs will be based on the implementation price, if applicable, contained in the contractorôs price proposal in Attachment 11, pricing schedule A.1 (do not put cost numbers in technical proposal). Payment of the implementation price will be made upon successful completion of the implementation subject to the approval of the Department. For information on price proposal requirements including the maximum implementation fee that may be charged, see Sections IV.C and V.I of this RFP.

# C. OPERATIONS

## 1. Member Enrollment

The EPIC and NYPS Programs have specific age, income eligibility and residency requirements. The contractor is responsible for enrolling eligible seniors in an efficient manner that is sensitive to the special needs of the elderly and disabled populations served by EPIC and NYPS. The State is looking to implement a new state of the art enrollment system which accomplishes the Program requirements listed below. Details regarding the current enrollment system as well as non-proprietary enrollment software are contained in the Procurement Library. Enrollment and processing volumes (prior to recent legislative changes) are provided in Attachment 3, Table 2.

### C1.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a. Application Processing**

**i.** Timely mailing of enrollment applications. The time required to mail enrollment forms to applicants must not exceed three (3) workdays, measured from the date the request was received to the date the form was delivered to the post office for mailing.

**ii.** Receive, image and process enrollment applications and supporting documentation submitted by applicants (A sample application, prior to the recent legislative change, is provided in Attachment 8a and 8b; See Attachment 10 Performance Standards for required timeliness of enrollment transactions.).

**iii.** Identify and resolve invalid or incomplete application information, or other potential errors (letters and calls). In no event shall the eligibility determination take longer than thirty (30) calendar days for any one case. All applications held in documentation review shall be responded to within three (3) workdays from the date of suspension and within three (3) workdays from the date of receipt of any requested documentation.

**iv.** Identify and resolve potential duplicate applications.

**v.** Identify and resolve any income or other discrepancies in applications from married couples.

**vi.** Maintain application forms or their facsimile, and supporting documents, for at least seven (7) years.

**vii.** Track and report applications generated from specific enrollment initiatives.

**viii.** Conduct periodic audits of the data entry process for applications, in accordance with State approved criteria.

**ix.** Develop and maintain an on-line EPIC and NYPS application process (see ñeò below).

**b. Eligibility Determination**

**i.** Determine eligibility of EPIC and NYPS applicants based on age, residency, income, Medicaid, Medicare Part D and other prescription coverage

consistent with statutory, regulatory and policy guidance provided by the State for each Program. (See Attachment 3, Table 2 for prior years application and renewal volume.)

**ii.** Establish and maintain a secure daily data exchange process, as directed by the State, with the New York State Department of Tax and Finance to verify reported income (see Tax Match section C.4). In addition, establish and maintain a secure process to receive income and date of birth information electronically from the Social Security Administration to confirm income compared to income limits for EPIC and for membership and premium assistance. As required, seek and apply additional documentation from the applicant to correct income levels reported for EPIC and NYPS.

**iii.** Establish and maintain a monthly feed with CMS to confirm Medicare Part D eligibility and enrollment for EPIC applicants and enrollees.

**iv.** Routinely conduct enrollment audits to verify the accuracy of application data and eligibility determination. Identify potential adjustments to application processing and system edits needed to ensure accuracy of eligibility determination.

**v.** Notify applicants of eligibility or ineligibility, as appropriate (See Attachment 10 Performance Standards for required timeliness of enrollment transactions).

**vi.** Provide applicants with a process for reconsideration of eligibility determination.

**vii.** Provide representation as needed for fair hearings related to eligibility (See Fair Hearings section C.15).

**c. Enrollment Processing**

**i.** Update member records including address changes through an on-line real-time system. The system must be capable of identifying what the last change was, the date of the change and the individual who made the change.

**ii.** Establish annual calendar year EPIC coverage periods based on income and marital status.

**iii.** Verify enrollment in Part D for new applicants, or assist in enrolling an appropriate Part D plan if needed.

**iv.** Issue EPIC and NYPS identification cards to each newly enrolled eligible member. Lost or stolen cards must be replaced and such requests tracked (See Attachment 10 Performance Standards for required timeliness of identification card generation). The identification cards, their production and distribution costs including postage must be included in the Offerorôs final paid claim administrative fee.

**v.** Track individual EPIC member personal data, as well as drug expenditures, and Part D status.

**vi.** Provide immediate coverage, on an expedited basis, to eligible seniors as needed.

**vii.** Provide members with individual benefit summary and detail reports on request, providing relevant information such as EPIC Part D premium payments, copayments, and prescription purchases.

**viii.** Send a letter to each EPIC member residing in Suffolk County at the end of their annual coverage period with a summary of their EPIC copayments for the period, which are subject to reimbursement by the County. The letter serves as an application to be submitted directly to the County by the senior. (Postage for these Suffolk County letters is reimbursed under Section V.I.1.G.iii of the RFP, it must be tracked separately from other postage expenses).

**d. EPIC Re-Enrollment**

**i.** Establish EPIC member coverage annually.

**ii.** Obtain updated information at least annually through an automated EPIC renewal application process for all members, with annual updates required in a limited number of cases where major changes in eligibility and premium assistance are probable.

**iii.** Reconfirm enrollment in Part D plans.

**iv.** Edit renewal information and verify on exception, and re-determine eligibility based on matches with NYS Department of Tax and Finance (A sample renewal form is contained in Attachment 8c).

**v.** Complete follow-up for members with no data matches.

**vi.** Maintain all HIPAA requirements, and ensure all security and privacy standards are met.

**e. Online Enrollment:**

**i.** For NYPS, replicate the current online enrollment process and operate the website consistent with all State requirements and ensure timely and accurate transfer of NYPS enrollment data. This function is in addition to paper application processing required for this Program. The current website is located at, https://nyprescriptionsaver.fhsc.com.

**ii.** For EPIC, design and implement, with NYSDOH approval, an on-line application process which allows for submission of electronic application data. Establish a process to ensure the accuracy and reliability of electronic signatures, and avoidance of fraud and abuse. Integrate receipt of electronic data with manual processing to assure all edits and controls are applied.

**iii.** Operate the websites consistent with NYS Office for Technology and Department of Health policies and procedures related to privacy, accessibility, confidentiality and technology standards. Establish an appropriate firewall protection to ensure confidentiality of data is fully maintained.

**f. Related Functions:**

**i.** Maintain inventory of standard written communications for members, and complete all standard mailings as required.

**ii**. Complete timely and accurate printing of large volumes of materials, applications, etc. for periodic mailings to Program members, as required by the State from time to time.

**iii**. Provide printing services and postage for mailings (exclude the cost of printing and postage in the final paid claim administrative fees, these expenses will be paid to the contractor as a reimbursable expense per Section V.I.1.G of the RFP).

**iv.** Complete timely and cost-effective arrangements for larger volume print jobs as approved by the State. See Attachment 4, Table 3 for EPIC printing and postage expenses prior to the new legislation effective 1/1/2012.

## 2. Part D Plan Reassignments

Effective January 1, 2012, all eligible EPIC members must be enrolled in a Medicare Part D plan in order to receive EPIC benefits. EPIC helpline staff may provide assistance on an exception basis to applicants, using the Medicare Part D on-line enrollment process, when they are found to be not yet enrolled in Part D. In addition, each year in October, EPIC members who currently are enrolled in Part D plans that will be losing benchmark status for the following year are given the option to move to a plan with a lower monthly premium. These members will be subject to an identification, data manipulation, notification and submission process. See Attachment 3, Table 5 for reassignment EPIC Program volume.

### C.2.1 Duties and Responsibilities

The contractor must perform the following EPIC tasks including but not limited to:

**a. Identification**

**i.** Review and accept Medicare Part D plan enrollment and Low Income Subsidy data from a monthly Coordination of Benefit (COB) file,

**ii.** Identifying members meeting the criteria for reassignment into a benchmark Medicare Part D plan.

**iii**. Identifying and researching any erroneous data from data sources and resolve any file issues prior to using data files for reassignment.

**b. Data Manipulation**

**i.** Assist in selecting a benchmark Medicare Part D plan that best fits the needs of each identified EPIC member.

**ii.** Using Part D plan formularies (provided by the State), claims and enrollment data, apply a statistical random selection algorithm, perform the default selection of a benchmark Medicare Part D plan for identified members (based on the drugs a member takes and the pharmacies the member utilizes). The algorithm must randomly select a default plan when it finds two or more choices of equal measure.

**iii.** Resulting data must be used to populate an on line interactive display of Medicare Part D plan choices presented in a hierarchy format that call center representatives can reference and modify in response to caller inquiries.

**c. Notification**

**i.** Distributing State-approved plan notification letters to members that are selected for Plan Reassignment. These letters will be specific to the EPIC member and provide the Medicare Part D plan selected and whether the member will receive premium assistance or not.

**ii.** Tracking correspondence systematically. Any members calling to select a different plan option must be recorded in the contractorôs on-line system and referenced when generating plan enrollment files. Plan reassignments must be separately indicated on the enrollment file.

**d. Submission**

**i.** Create and securely transmit (in a state approved format) Medicare Part D enrollment files to the Medicare Part D plans by a predetermined date in mid November prior to the plan enrollment effective date of January 1st. See Attachment 10 Performance Standards for the required timeliness for reassignment files.

**ii.** Updating the memberôs record with information to track opt-out dates, enrollment file sent dates, member interactions, and final determinations.

**e. Reporting**

**i.** Providing reports stating the counts of EPIC members who received Plan Reassignment letters ï generated by plan and by letter type.

**ii.** Generating a report of counts of EPIC members by Medicare Part D plan submitted on the enrollment files.

**iii.** Providing EPIC with a detailed bypass report of all members who received a Plan Reassignment letter, but were later removed from the Medicare Part D plan enrollment due to a legitimate reason (i.e., no longer active in EPIC).

**f. EPIC Helpline Staffing – Plan Reassignment**

**i.** Staffing the member helpline with an adequate number of representatives trained to respond to calls during each Plan Reassignment period. Providing trained staff to fulfill any necessary changes to Medicare Part D plan enrollment subsequent to the submission of enrollment files. Enrollment changes would be made for any member requesting to enroll in a different Medicare Part D plan than the one selected or for members that need to be reinstated back into their old plan.

## 3. Premium Payments/Reconciliation With Medicare Part D Plans

Effective July 1, 2011 NYS Elder Law requires EPIC to pay the member portion of the Medicare Part D monthly premium for participants with income up to $23,000 for single or $29,000 for married persons. Payments are processed each month. No payments are made on behalf of EPIC members with incomes higher than these levels. The law limits EPIC payments to the low-income benchmark amount established by the CMS. The contractor is responsible for creating and maintaining a comprehensive flexible premium payment/reconciliation process. A description of the premium payment process is included in the procurement library.

### C.3.1 Duties and Responsibilities

The contractor must perform the following EPIC tasks including but not limited to:

**a. Input File Processing**

- **i.** Obtain and upload, in a timely manner, the Part D premium rate file for New York State released each year by CMS.
- **ii.** Uploading low-income benchmark amount premium for NYS established by CMS for each calendar year.
- **iii.** Uploading payee name and address information by Carrier/Plan.
- **iv.** Uploading NYS Plan Contract ID-Plan Benefit Package by Carrier.
- **v.** Accessing Part D enrollment data and Low Income Subsidy (LIS) data supplied by CMS for EPIC members. Information may change monthly.
- **vi.** Accessing EPIC enrollment data (Effective and term dates, and income level).

**b. Calculate Monthly Payment**

- **i.** Identifying EPIC seniors and their corresponding Medicare Part D plan coverage dates (retroactive payments may be necessary).
- **ii.** Determining if EPIC member is eligible to have premiums paid based on their incomes.
- **iii.** Identifying the monthly premium amount for the applicable Part D plan.
- **iv.** Determining whether low income subsidy exists for current month or past months for EPIC member.
- **v.** Identifying monthly premium amount covered by CMS if low income subsidy is in effect.
- **vi.** Calculating monthly amount owed by EPIC to the Medicare Part D plan for each member, subsequent to any subsidy payment, but no more than the low-income benchmark amount established by CMS. If necessary, the current monthly payment amount may include adjustments (credits/payments) for prior months for the member based on retroactive EPIC or Part D plan enrollment dates or LIS effective/terminated dates.

**c. Create Premium Remittance Advice (PRA) Files**

- **i.** Creating a monthly member level detailed premium remittance advice file by Carrier.
- **ii.** Performing quality review of PRA files prior to submission to EPIC and perform robust edit checks on data based on data assumptions and process rules.
- **iii.** Providing EPIC with a detailed monthly data file containing enrollment and payment data by carrier.
- **iv.** Providing State-approved summary reports of monthly payment files to be used by EPIC to verify accuracy of payment amounts.
- **v.** Providing summary spreadsheet of monthly payments by payee name and

address for submission to NYSDOH Financial Management Group (required file layout in Attachment 15a).

**d. Distribute Premium Remittance Advice (PRA) Files**

- **i.** Maintaining Carrier/Plan contact distribution list.
- **ii.** Distributing monthly PRA files to carriers electronically via a secure method within two days of approval from EPIC, and as requested by EPIC.
- **iii.** Resolving technical issues with Plan receipt and access of PRA file.

**e. Reconciliation of Payments**

- **i.** Uploading premium payment discrepancy files submitted by carriers for a State-specified time period (currently every six months).
- **ii.** Reviewing premium payment discrepancy files submitted by Medicare Part D plans. Staff must either confirm accuracy of plan discrepant amount or calculate a revised discrepant amount.
- **iii.** Creating and maintaining on-line screens/files for inputting results of discrepant research.
- **iv.** Creating a summary reconciliation payment file by Medicare Part D plan in a State-approved record layout subsequent to State review and approval.
- **v.** Distributing reconciliation payment files to Medicare Part D plans.

**f. User Interface**

- **i.** Providing helpline support for questions regarding premium payment issues and for researching Plan/member generated payment issues.
- **ii.** Providing EPIC staff with on-line query access for the most recent three years of premium payment historical data.
- **iii.** Working with EPIC staff to develop and maintain a payment history database for contractor and EPIC staff.

## 4. Tax Match

The EPIC Program has a process in place to verify income eligibility with the NYS Department of Taxation and Finance. This secure process matches new and renewing EPIC members data (in a state approved record layout) to the latest tax records on file with Tax and Finance on a nightly business day basis. The files received back from Tax and Finance must be integrated into various other Program tasks. It is the contractorôs responsibility to continue this process by setting up a secure systematic interface with the NYS Department of Taxation and Finance that is able to systematically transmit and receive files.

### C.4.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

- **a.** Setting up, with State approval, a secure systematic interface with the NYS Department of Taxation and Finance.
- **b.** Sending daily secure electronic transmission of income utilizing senior name, social security number, address, and marital status (in a State approved format) reported by

the member to the NYS Department of Taxation and Finance for all new members and member renewals in a format compatible with the NYS Department of Taxation and Finance. See Attachment 10 Performance Standards for the required timeliness of the tax match process.

**c.** Working directly with the NYS Department of Taxation and Finance if problems occur in transmissions.

**d.** Determining income eligibility and eligibility for premium assistance for all new members and renewals based on information returned from the NYS Department of Taxation and Finance.

**e.** Notifying members systematically of any discrepancies via letter including planned action to be taken in a designated time period.

**f.** Updating tax match data to member records to show the date the tax match is complete and what letter, if any, was sent and to the user infrastructure for access by member helpline staff.

**g.** Maintaining daily cumulative reports of all letters pending appropriate action, segregated by type of action.

**h.** Taking proper action to cancel or change a memberôs status, and update memberôs record accordingly.

**i.** Providing a process for reconsideration of income eligibility determination.

**j.** Providing representation as needed for fair hearings pertaining to income.

**k.** Producing weekly, monthly and annual reports, in a State approved format, of the number of letters generated and actions taken, as well as the percentage of letters generated to the number of new members/renewals transmitted to the NYS Department of Taxation and Finance. See Attachment 3, Table 3 for tax match statistics.

## 5. Request for Additional Information (RFAI) Process

EPIC has developed an automated process to apply to the Social Security Administration (SSA) for the Medicare Extra Help Low Income Subsidy (LIS) and the Medicare Savings Program (MSP), on behalf of EPIC members whose income is equal or less than 150 percent of the federal poverty level. EPIC, via the contractor, mails a form called Request for Additional Information (RFAI) to income eligible members who are either new to the Program or have recently renewed. Members are required to complete and return the RFAI form to EPIC. The information is data entered and electronically transmitted to SSA via the contractor. Whether approved or denied for LIS, SSA subsequently transmits the data to Medicaid so members can also be considered for MSP benefit eligibility. See Attachment 3, Table 4 for previous RFAI mailing volume.

### C.5.1 Duties and Responsibilities

The contractor must perform the following EPIC tasks including but not limited to:

**a.** Completing reviews of EPIC enrollment files at least two times a year to identify LIS income eligible individuals who currently are not receiving the benefit, consistent with State and federal guidelines.

**b.** Establishing and maintaining a contractual relationship (for file submissions) with a SSA approved middleware vendor (the file submission costs charged by the SSA approved vendor must be included in the final paid EPIC claim administrative fee charged by the contractor). See Attachment 3, Table 6 for prior yearôs cost and transaction volume with the current middleware vendor.

**c.** Generating mailing materials and complete mailings to all EPIC members potentially eligible for LIS.

**d.** Providing trained and knowledgeable support on the member helpline to assist members in completing the required forms, responding to inquiries and completing follow-up calls as required.

**e.** Identifying non-responders, and complete second mailing to encourage participation. Undertake phone follow-up as required by the State for all non-responders.

**f.** Continuing to monitor responses and update records; generate and mail 60-day and 30-day cancellation letters for remaining non-responders.

**g.** Receiving returned forms, data enter information, update EPIC records and develop files for submission to SSA consistent with mandated formats.

**h.** Submitting completed records in proper format to SSA approved middleware vendor on a weekly basis during initiatives, consistent with technical requirements.

**i.** Reviewing rejected records, complete corrections as required and resubmit up to three times as allowed per member.

**j.** Matching external CMS Coordination of Benefits (COB) file to EPIC members to confirm enrollment in LIS and MSP and update EPIC records.

**k.** Completing termination activities for non-responders as directed by the State.

**l.** Completing follow-up on rejected records (in a timely manner) via the member helpline or written inquiries in order to resolve file mismatches and assure maximum enrollment in Extra Help. Any backlog and delays encountered by the contractor must be reported to the State.

**m.** Maintaining a fully accurate tracking system for RFAI functions, and providing timely and correct reports to EPIC on the status of RFAI mailings, responses by members, attempted file submissions to SSA approved vendor, acceptance/rejection of records by SSA, and status of EPIC members.

### 6. Member Relations and Written Communications

The comprehensive customer service function includes the use of toll-free information lines in order to respond quickly to all inquiries. The current Program provides two consolidated toll-free numbers available to members Monday through Friday **8:30 a.m. to 5:00 p.m.** Eastern Time. One number is dedicated to EPIC and one to NYPS. Through this call center, members, providers and the public speak with representatives who respond to a wide range of inquiries and resolve complaints. This requires the contractor to observe confidentiality protocols including all Health Insurance Portability and Accountability Act (HIPAA) requirements. The contractor must have trained, qualified and experienced translation services that are culturally and politically sensitive to assist members in languages other than English. It is recommended translators follow the National Council on Interpreting Health

Care (NCIHC) National Standards of Practice for Interpretation in Health Care or specify standards. TTY lines must be offered as well as the ability to accept calls from NY Relay services for the hearing impaired. (Attachment 4, Table 2 of this RFP illustrates the current contractorôs call center volume for the member line in 2009-2011). The call center must have the ability to track the calls by designated topics and produce cumulative reports. Additionally, individual calls must be documented by the call center representative in an on-line call tracking system that is capable of maintaining and printing an individualized record of all calls taken from a member.

Written inquiries also are received from members, caregivers, health care providers, elected officials and the general public as well as electronic mail originating through epic@health.state.ny.us or nyps@health.state.ny.us. Responses must be answered in an accurate, well-written and timely manner. (Attachment 4, Table 2 of the RFP contains the written inquires, and emails received by the current contractor in 2009-2011).

Bidders should note that recent legislative amendments will result in changes in scope of EPIC operations compared to the current contract operations. Consequently, numbers, data or statistics are for informational purposes only and should not be used or viewed by prospective offerors as guarantees or representations of any levels of past or future performance or participation.

### C.6.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a.** Developing and maintaining adequate staffing for a full service call center. Two dedicated call lines (individual lines for EPIC and for NYPS), using fully trained staff must be provided to support both Program operations at a minimum, during routine business hours, defined as Monday through Friday, 8:30 a.m. to 5:00 p.m. Eastern Time (subject to state approved holiday schedule). The call center operating facility must be located within the continental United States. All helpline staff must have completed an approved EPIC helpline training program conducted by the contractor.

**b.** Responding to general questions about EPIC and NYPS, providing assistance with enrollment, resolving eligibility and Program benefits issues, answering questions regarding the coordination of benefits with Medicare Part D and other primary drug coverage, resolving Part D premium payment issues, and claims payment problems, etc. Issues that require further research need to be resolved in a timely manner with accurate, clear and concise responses.

**c.** Ensuring staff are knowledgeable, professional and courteous, protecting client confidentiality and maintaining the security and integrity of all systems. Staff must be trained to understand and observe EPIC and HIPAA Program requirements related to confidentiality and operating guidelines for functions included in this RFP. Develop training tools including questions and answers.

**d.** Providing toll-free telecommunication nationwide services to maintain sufficient lines and telephone representatives in order to comply with the member helpline performance standards set forth in Attachment 10 of this RFP.

**e.** Providing a service oriented phone system design with minimal menu driven scripts. If a voice response system (VRS) is used, the VRS must include an option to speak

directly to a person. The system must have the capability to classify phone calls by topic and to customize hold messages. At a minimum, system reports on call volume wait times and abandonment rate must be provided as well as the other telephone statistics required to monitor and report the performance standards contained in Attachment 10.

**f.** Staffing the member helpline operation with at least one bilingual (English/Spanish) telephone representatives.

**g.** Providing qualified and experienced translation services for callers speaking languages in addition to English and Spanish, via helpline interpreter providers who are familiar with the National Standards of Practice for Interpreters in Health Care. For those members with a speech and a hearing impairment an alternate electronic communication method must be provided. Facsimile and internet communication methods also must be offered.

**h.** Providing all telephone representatives on-line access to the appropriate member files and records, (including imaged items) so that member specific questions can be effectively resolved to the extent possible during the telephone call. Such an on-line inquiry system must include the ability to track and document inquiries and provide updates on actions completed. The system must be able to generate call history reports and easily find individual call histories by name or identification number. All members of the Programs are identified with an ID that is not related to social security number.

**i.** Establishing and maintaining procedures that ensure timely and accurate responses while maintaining member confidentiality.

**j.** Providing a real time monitoring system that assures representatives are courteous and responsive to member inquiries. The system also must be accessible to spontaneous State monitoring at State designated locations.

**k.** Responding to all written inquiries from members, including electronic mail, with clear, concise, accurate and timely correspondence that is easily understood by the target population. See Attachment 10 Performance Standards for the required timeframe responsiveness for the written inquiry process.

**l.** Developing and providing informational materials to members subject to State prior approval, including but not limited to: covered pharmaceuticals, Medicare Part D questions, eligibility criteria, cost-sharing responsibilities and rights to appeal determinations affecting participation in the Program.

**m.** Developing written correspondence that is professional, well organized, accurate, friendly, easy to understand, grammatically correct with accurate spelling, and properly punctuated. While State staff routinely reviews written materials, it is the contractorôs responsibility to develop items that meet the above requirements. The contractor must provide any training that is necessary to maintain this level of quality in written materials.

**n.** Providing status reports to the State containing operational statistics for the member helpline and correspondence functions.

**o.** Providing a detailed quality assurance (QA) plan that describes the measures that

will be taken to assure standards are maintained.

**p.** Imaging all documentation within 48 hours of receipt. Maintaining a search and tracking document control system for all communications received that is available to the phone operators and State employees to assure current information is on file for materials submitted by members.

## 7. Pharmacy Enrollment

The contractor must perform all determinations of pharmacy provider eligibility, and enroll eligible pharmacies as needed, according to State regulations and guidelines. By law, all New York State pharmacies and some mail-order firms based out-of-state are eligible to apply to join as EPIC participating providers. At this time EPIC maintains a pre-existing, open network of approximately 4,600 pharmacies, which is a near-optimal level of participation. The NYPS network includes approximately 4,000 participating providers. Subsequently the contractorôs functions related to pharmacy enrollment will be primarily a maintenance function. A file of current participating pharmacy providers will be provided to the successful contractor. Attachment 16a and 16b provide a copy of the EPIC and the NYPS participating provider agreements.

### C.7.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a.** Maintaining and updating appropriate forms and instructional material for enrollment, banking information, participating provider agreements and disclosure of ownership statements.

**b.** Preparing, producing and distributing pharmacy provider enrollment packets. Packets must be mailed within two (2) workdays of the contactorôs receipt of the request. The contractor must maintain a chronological log of all requests made and enrollment packets sent. Enrollment of pharmacy providers with signed agreements must not exceed five (5) workdays.

**c.** Enrolling pharmacies registered in a contiguous state when such enrollment is certified as necessary by EPIC (see Section 253 of Title 3 of the NYS Elder Law). Mail-order non-New York State resident pharmacies registered in New York may be enrolled to process claims as secondary when such enrollment is certified by EPIC (see Section 249 of the NYS Elder Law).

**d.** Receiving and processing participating provider enrollment forms and signed agreements; notifying pharmacy providers of enrollment determinations. Providing pharmacy providers written notification, per EPIC policy, of determinations to deny enrollment, stating reasons for denial and outlining rights to appeal.

**e.** Maintaining a participating provider data file that includes updated and current data elements to support EPIC functions including banking information.

**f.** Maintaining a duplicate hard copy of participating provider records that contain all enrollment forms, correspondence, record of status changes and the participating provider agreement for the duration of the agreement. At the end of the agreement, these records, as well as an electronic file of all participating providers, must be transferred to the successor contractor.

**g.** Excluding pharmacies from enrollment (following State approval) based upon Medicaid terminations or NYS licensing suspensions.

**h.** Providing representation at all State fair hearings related to pharmacy provider enrollment denials.

**i.** Performing geographic mapping analyses to identify distribution of enrolled pharmacies and accessibility to pharmacy services by members.

**j.** Recertifying provider agreements as required by the State.

## 8. Provider Relations and Helpline

The contractor is responsible for providing support and assistance to the enrolled pharmacy providers to ensure that billing, operations and pharmaceutical practices are consistent with NYS law, EPIC, AIH and NYPS policies and procedures. Participating pharmacies obtain assistance with processing point of sale (POS) prescriptions and providers can receive information on applications, member eligibility, Program benefits, co-payments, Medicare Part D related questions and claim status, etc. It is the contractorôs responsibility to have a provider toll-free telephone line, **operating 24 hours per day, 7 days a week (24/7),** to respond to inquiries from pharmacy providers.

### C.8.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a.** Responding to written and telephone inquiries from pharmacies 24 hours a day 365 days per year to resolve enrollment, billing and claims payment problems and other pharmacy questions.

**b.** Providing pharmacist assistance to telephone inquiries in support of the on-line POS including point of sale overrides, and prospective drug utilization review system.

**c.** Providing sufficient toll-free provider number lines and telephone representatives who are fully knowledgeable and able to comply with the provider telephone performance standards set forth in Attachment 10 of this RFP. (Attachment 4, Table 2 of this RFP illustrates the current contractorôs call center volume for the provider line in 2009-2011).

**d.** Providing telephone representatives access to appropriate computer files in order to respond to inquiries and to input information as required by the operating Programs.

**e.** Imaging and analyzing documentation received from pharmacies and/or members regarding Part D plan coverage and claim denials.

**f.** Maintaining up-to date procedures to ensure timely and accurate responses while ensuring confidentiality of member and provider information.

**g.** Developing and distributing pharmacy provider and prescriber bulletins and e-mail communications that are used to disseminate information in a timely and efficient manner.

**h.** Delivering to the State, a complete list of pharmacy provider and prescriber bulletins issued indicating the content and issue date of each communication on a yearly basis and upon request.

**i.** Maintaining an environment whereby existing or new pharmacy providers and/or

software vendors can readily test their software to comply with Program claim submittal requirements. The contractor must provide assistance to pharmacy providers/vendors/Medicare part D plans to correct errors and avoid problems during processing of actual claims.

**j.** Developing and maintaining an effective working relationship with key pharmacy organizations and software vendors, in order to stay abreast of changes in pharmacy practices.

**k.** Completing surveys of enrolled pharmacies regarding billing transactions and general pharmacy practices, as directed by the State.

**l.** Assuring that all written correspondence to pharmacy providers and prescribers is professional, well organized, accurate, friendly, easy to understand, with correct grammar and spelling, and properly punctuated. The contractor must provide any training necessary to maintain this level of quality in written materials.

## 9. Claims Processing

The contractor must implement, operate and maintain a comprehensive claims processing system that is capable of processing all claims submitted under the Programs including compound claims. Based on legislative changes in 2011, the EPIC Program will offer a coverage gap only benefit design that the selected contractor must process claims for starting January 1, 2012. The selected contractor must be capable of processing participating retail pharmacy claims and scripts dispensed through participating mail service pharmacies. The contractor may also be required to process manually submitted claims on an exception basis. Claims for all covered drugs adjudicated at the participating retail pharmacies, through the participating mail service pharmacies, and on paper must be processed according to the coverage gap benefit design, Program provisions, and contracted arrangements in place. There will also be a small number of pre-2012 claims (estimated at 1,500) that will need to be processed by the contractor. These claims must be processed and paid according to the benefit design in place during 2011. The number of coverage gap claims paid for the 2012 calendar year is estimated to be 1.1 million.

The contractorôs claims processing system must include edits and controls to identify questionable claims, and prevent inappropriate payments. All Program provisions for drug utilization review, benefit design and other utilization or clinical management programs must be adhered to for all prescriptions. Historic claim processing volumes, prior to the most recent legislative changes, are contained in Attachment 3, Table 1 of this RFP.

Various restrictions and conditions are required for Medicare Part D coverage of prescriptions, based on the data submitted for claim payment. The contractor is responsible for enforcing edits within the claims processing system to ensure claims are processed first by the memberôs Medicare Part D plan. Follow-up with the patient, prescriber or the pharmacist provider may be required to determine whether the specific circumstances allow coverage under the Programs.

### C.9.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a.** Loading historical claims files to ensure that pre-2012 claims submitted can be processed (estimated at 1,500 claims). All claims submitted via the POS system or

paper Universal Claim Form (UCF) must be processed. The State will consider eliminating paper submissions if pharmacy provider participation is not affected and full member access is ensured. All POS claims must be adjudicated upon receipt, resulting in a final claim payable or rejected response. The on-line POS system must be capable of handling the volumes associated with the Program enrollment levels. Paper claim timeliness standards are contained in Attachment 10 Performance Standards.

**b.** Assuring the POS system is available to pharmacy providers for claim submission and adjudication (final disposition with payable or rejected response) 24 hours per day, seven days a week. The Offeror should specify in its proposal what hours will be utilized to update systems hardware and software. Limited State approved exceptions during non-peak hours will be allowed for maintenance and updates to system software and hardware. The State will consider reasonable adjustments to an approved maintenance window and schedule. See Attachment 10 for the online claims processing system availability performance standard.

**c.** Assuring the POS system supports the latest National Council for Prescription Drug Programs (NCPDP) standards and complies with HIPAA requirements. The current contractor utilizes NCPDP standard Version 5.1, and is moving to D.0 effective 1/1/12. The contractor is required to transition to newer versions as they become available <u>at no additional cost</u> to the State.

**d.** Keeping informed of NCPDP and HIPAA issues and developments and taking appropriate action to implement any changes in the claim processing system without negatively affecting claims, pharmacy provider participation and/or member access. All changes require prior State approval.

**e.** Assuring the POS system supports the following transactions:

- **i.** Eligibilityé é é .Within 365 calendar days of date of service
- **ii.** Claimé é é é é Within 365 calendar days of date of service
- **iii.** Reverseé é é é .Within 365 calendar days of original claim
- **iv.** Rebillé é é é é Within 365 calendar days of date of service

**f.** Processing compound claims that are submitted to EPIC through the paper Universal Claim Form (UCF) or via POS using NCPDP Version D.0 or any newer NCPDP versions implemented by the contractor. Compound claims must be reimbursed according to the applicable plan logic and benefit design.

**g.** Maintaining a POS denial/override and messaging State-approved process, in accordance with NCPDP standards, for Prospective DUR edits. Pharmacy providers must be offered the flexibility to override any denials by resubmitting the claim with Drug Utilization Review (DUR) intervention and outcome codes.

**h.** Developing and maintaining claim payment procedures (with State approval) and guidelines for an on-line real-time POS adjudication system that ensures accurate POS editing and responses to pharmacy providers while providing accuracy of claim payments for covered expenses only. The POS system must inform the pharmacist exactly how much to collect from the member. All reimbursement information to pharmacy providers must agree with the semi-monthly claim cycle reimbursement.

**i.** Assuring that all claims are assigned a unique internal control number for tracking purposes.

**j.** Assuring that all paper claims and receipts are electronically imaged and pre-screened before entry into the system.

**k.** Utilizing a claims control system that will track the progress and status of individual claims through on-line inquiry. The on-line system must be capable of selecting claims by key fields, including Date of Service, for inquiry purposes. Designated State staff at State designated locations must have access to this read only online inquiry system.

**l.** Processing all claims, including no payment claims (zero pay) through the claims processing system subject to the Programôs pricing logic and various edits. The claims processing system must be flexible and capable of integrating and enforcing the various utilization review, benefit design features and cost containment components of the current and future Program including but not limited to:

- **i.** messaging capability in the most recent NCPDP format;
- **ii.** editing on Medicare Part D and other insurance edits;
- **iii.** coordination of benefits with other payers;
- **iv.** a concurrent DUR program to aid the pharmacist at the POS; and
- **v.** tracking and covering drugs that are covered first by the Medicare Part D plan after a member reaches the coverage gap (donut hole). EPIC will also cover the Medicare Part D excluded drugs purchases in the coverage gap.

**m.** Providing a flexible claim processing system that allows for periodic amendments to the pricing formula at no additional cost to the State.

**n.** Maintaining claim cycles. EPIC claim cycles are to be processed twice a month: close-of-business (COB) on the 15th of each month, and again COB on the last day of the month. AIH claim cycles are processed on the 7th and the 21st of the month. NYPS claim cycles are processed every 2 business days. All claims adjudicated subsequent to the previous payment cycle must be included for final processing and payment as appropriate. Occasionally, adjustments to the claim cycle schedule and dollar amounts are required. The contractor must be able to insert additional cycles, or delay cycles or pay partial cycles, upon State request at no additional cost.

**o.** Producing remittance advices (RAôs) from each payment cycle that reflect the status of all claims adjudicated within that cycle. RAôs are to be provided to pharmacy providers electronically. The contractor must, however, have the ability and capacity to provide paper RAôs for selected pharmacy providers.

**p.** Assuring that payments to all pharmacies are processed through electronic funds transfer following contractor and prepayment audit reviews and State approval.

**q.** Assuring that the most recent two years of adjudicated claims (paid, void, reversed and denied) history data is accessible for on-line read only query by State staff at State designated locations. The contractor also will be responsible for archiving old histories back to the beginning of the Program (to comply with Freedom of Information Law (FOIL) requests) with procedures to readily retrieve and load such

claim records.

**r.** Maintaining a cumulative pharmacy-specific accounting file after each payment cycle. Tax data may need to be provided to the Internal Revenue Service for all pharmacies consistent with Federal requirements.

**s.** Updating in real-time on-line claim files with POS activity, and simultaneously updating member files with POS claims processing information.

**t.** Subjecting claims to edits that verify the drug prescribed is not obsolete. The edits must utilize the National Drug Code (NDC) Obsolete Date identified on the contractorôs source of drug data.

**u.** Adjusting and voiding individual claims as required. In addition, the contractor is required to allow multiple claims to be adjusted or voided by contractor staff via a batch processing transaction. (This is intended primarily to accommodate provider audit recoupment, recoupment from Medicare Part D plans and recovery of dollars from the Stateôs contracted vendor that operates a retrospective benefit recovery program.) Specific adjustment data must be linked to the original claim on the file and carried through to all relevant systems. The contractor must provide the ability to suppress financial recoupment from seniors.

**v.** Loading the State Maximum Allowable Cost (SMAC) pricing file once a month (on a State approved schedule) or more frequently based on State Approval for selected Generic Sequence Number GSN classes into the contractorôs claims processing system to ensure the proper application of lower of price logic for adjudicated claims. See Attachment 10 for the performance standard on the required timeliness and frequency of pricing reference files.

**w.** Identifying members who are enrolled in Medicare Part D and other insurance programs if applicable for the purpose of cost avoiding their claims at the POS since EPIC will be a coverage gap only program and is the payer of last resort. The contractorôs system must be capable of denying claims for those with other insurance, including sending messages to the pharmacy regarding the need to bill the other payer first. In addition, the processing must include the ability to process the remaining balance to the Program after payment by a primary payer. There must be systematic ability to override a denial. The system must be capable of locking a few select members to specific pharmacies as identified by the State.

**x.** Establishing and maintaining a process to allow pharmacies to verify member eligibility during call center hours.

**y.** Analyzing and monitoring claim submissions to identify errors, fraud or abuse, and reporting such information to the State in a timely manner.

**z.** Consistently process claims with the State-defined brand/generic classification provided in Attachments 7a & 7b and the Programôs lesser of logic effective 1/1/12 as defined in Attachment 7c.

**aa.** Maintaining the security of the claim files and ensuring full HIPAA compliance.

**bb.** Providing the capability for audit of payment, including retrieval of and access to original claim documents and on-line transactions, and copies of claim documents. This includes all file entries used in editing and adjusting the amount of a claim and

calculation of the total amount of reimbursement.

**cc.** Developing and delivering to the State monthly reports which present data substantiating that the POS system is in compliance with the system availability and processing performance standards contained in Attachment 10.

**dd.** Developing and delivering to the State reports which include claim utilization reports included in Attachment 14.

## 10. Formulary File Maintenance and State Maximum Allowable Cost List

The contractor must maintain and update, based on a NYSDOH approved schedule, a drug formulary file to support pharmacy drug claim adjudication and the Programôs defined pricing, and ensure that pharmacy claims are reimbursed according to the most current drug data available. A nationally recognized drug database source, (e.g. Medi-Span, etc.) must be utilized for weekly formulary maintenance. Read only on-line access to the formulary file data must be made available to staff at the State designated location. An update of the drug formulary file must be performed at a minimum, weekly to disallow coverage for drugs excluded due to changes in DESI status. The contractor must utilize its nationally recognized drug pricing source file(s) as the source of AWP information, however EPIC reserves the right to require a change in the source of AWP information and/or switch to a different pricing method during the term of the contract at no additional cost to the Department. As of the release date of the RFP, the three Programs utilize Medi-Span as the source of AWP information.

The contractor must maintain drug pricing data necessary to support the three Programs pricing methodology, process claims with the State-defined brand/generic classification provided in Attachments 7a & 7b, and subject the claims to pass through pricing as defined in the glossary of terms Attachment A. The three Programs will continue to utilize AWP as the basis of pricing until such time as it is determined by NYSDOH to be obsolete, unavailable and/or NYS legislation changes the basis of reimbursement from AWP to an alternative benchmark. In the event the statutorily mandated methodology of reimbursement changes during the term of the agreement, or other significant changes occur affecting reimbursement, NYSDOH reserves the right to require the contractor to adjust the fixed discounts and/or utilize alternative pricing benchmark(s) in order to maintain an equivalent level of discount to the three Programs at no additional cost to the Department.

The contractor is also required to create, load, update, and maintain a State specific Maximum Allowable Cost (SMAC) on generic drugs dispensed, setting the maximum price the three Programs will pay and the amount the dispensing network pharmacy will be paid for the ingredient cost of the drugs on the SMAC list. SMAC pricing is subject to Program lesser of logic claim reimbursement rules. The SMAC list must be updated and loaded into the claims processing system on a State designated schedule. As part of the **mandatory requirements**, the Offeror is required to attest in Attachment 11, pricing schedule A.8 that their SMAC list will generate at least an overall minimum discount of 70% off the aggregate AWP for paid generic claims for each calendar year and provide two governmental clients who currently utilize their proposed SMAC list (as of 11/15/2011). The Contractor will be required to annually calculate and demonstrate to the Department that they have met or exceeded the overall minimum discount of 70% off the aggregate AWP for paid generic claims for each program. The formula to calculate the overall annual

discount off of the aggregate AWP for all generic drugs paid to network pharmacies is provided in Attachment 11, pricing schedule A.8.

The Offeror has an obligation to maximize the discount achieved on behalf of the three Programs for generic drugs dispensed by network pharmacies. The overall minimum 70% discount off of the aggregate AWP for paid generic claims attested to by the Offeror must in no way modify the Offerorôs contractual obligation to maximize the Programôs aggregate discount off the aggregate AWP for paid generic claims for each of the three programs. Any delay to the scheduled update(s) within the control of the contractor or the failure to maximize generic claim discounts may result in withholdings or liquidated damages as provided in Section V.I.1.J of the RFP. The Department reserves the right to require the contractor to modify the SMAC list so as to ensure the contractor meets its obligation to maximize the discount achieved on behalf of the three programs for generic drugs dispensed by network pharmacies. During the term of the contract the contractor must provide the Department full access to the SMAC list including the SMAC prices used to price generic drugs paid to network pharmacies.

The cost of loading, updating and maintaining the SMAC list is not separately reimbursable and is included in the offerorôs final paid claim administrative fee. Any enhancements or new SMAC list(s) proposed by the offeror throughout the contract shall be provided at no additional cost to the State and must be included in the offerorôs final claim administrative fee.

## 11. Drug Utilization Review (DUR)

Drug utilization review (DUR) programs help to control costs and attempt to ensure that members are receiving safe and effective drug treatment. The objective of the therapeutic drug monitoring (TDM) program is to minimize the risk of drug incompatibilities or drug-induced illnesses resulting from member use of medications. The system must address the specific types of problems and risks associated with a population of very advanced age using multiple medications. The State is responsible for the prior review and approval of all DUR criteria. The contractor is responsible for operation and support of a comprehensive drug utilization review program, which includes prospective therapeutic drug monitoring. A retrospective therapeutic drug monitoring program is not required. The contractorôs tasks for the Programôs Prospective Drug Utilization Review (ProDUR) follows.

### C.11.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a.** Maintaining an on-line POS claim system which includes a ProDUR denial/override process. The ProDUR system must be comprehensive and flexible with multiple safety edits including the ability to deny on-line POS claims for safety reasons including but not limited to: serious drug-to-drug interactions, overutilization, high dose reasons, and therapeutic duplication;

**b.** Implementing and maintaining a fully integrated POS system capable of enforcing the Programôs benefit design features;

**c.** Implementing a flexible comprehensive system that allows a dispensing pharmacist to electronically override certain edits following NCPDP standards; and

**d.** Updating the contractorôs POS system on a continual basis with the latest patient

safety edits, including the capacity to electronically message pharmacists related to safety issues prior to the dispensing of the prescription drug.

## 12. Pharmacy Audit

The protection of Program assets is a top priority of the Programs. The selected contractor must have a strong audit presence. The contractor is responsible for the oversight and audit of pharmacies that dispense drugs for Program members. Systems must have logic programmed which help to focus audit resources. The selected contractor must have a staffed, well-trained and experienced audit unit encompassing a comprehensive pharmacy audit program.

### C.12.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a.** Providing ample audit resources including access to the contractorôs on-line systems to the State at the State designated location;

**b.** Conducting targeted on-site and targeted desk audits of participating pharmacies and participating mail-service pharmacies. Pharmacies that deviate significantly from normal patterns of dispensing in terms of cost, utilization, or coverage gap indicator are to be identified and targeted for audits in accordance with established selection and screening criteria. On-site audits also must be conducted upon request by the State, or when information is received by the contractor that indicates a pattern of conduct by a pharmacy that is not consistent with the Program design and objectives;

**c.** Providing comprehensive reports to the State detailing audits planned, initiated, in progress, completed, findings, recoveries based on actual findings (no projections);

**d.** Providing full cooperation with the State, any other authorized State agency, and any law enforcement authorities with audits and in the investigation, documentation, and litigation of possible fraud and abuse cases or any other possible misconduct which may affect the Programs, consistent with the requirements of Appendix A including provisions of access to protected health information and all other confidential information when required for audit purposes as determined by the State as appropriate. The contractor must respond in a timely fashion to all State audit requests for information and/or clarification;

**e.** Agreeing that any modifications to the required and agreed upon pharmacy audit program must receive prior approval by the State;

**f.** Providing the State with information that would identify:

- **i.** any person who knowingly makes a false statement or representation, or who by deliberate fraudulent device obtains any benefit under this Program,
- **ii.** any person or organization who fraudulently claims greater reimbursement for services than that to which they are legally entitled; and
- **iii.** potentially fraudulent billing practices of pharmacy providers (i.e. excessive prescriptions for drugs subject to abuse, double billing, billing for services not rendered) and notifying the State accordingly.

**g.** Recovering monies from pharmacy providers and/or adjusting claim payments in a timely manner;

**h.** Verifying directly with pharmacies (including phone calls) questionable claim submissions;

**i.** Recommending actions to the State as a result of pharmacy review and audit, such as suspension and termination from the EPIC network; and

**j.** Auditing compound claims to ensure compliance with the Programôs pricing logic.

## 13. Banking Services

The current Program utilizes State approved bank accounts that are managed, maintained, and reconciled by the contractor. The contractor may not establish any EPIC, NYPS or AIH related bank account unless such account and the depository bank is expressly approved by the New York State Office of the State Comptroller (NYSOSC). Revenue accounts are used for the monies received by the Program, including recoveries from Medicare Part D plans, State settlements, and pharmacy refunds. An additional account will be added for the deposit of NYPS rebate receipts. Disbursement accounts are for the payment of EPIC pharmacy provider claims and to refund excess EPIC member co-payments as well as payment of AIH and NYPS pharmacy provider claims. The NYSOSC performs transactions on a regular basis transferring money to and from these accounts, directly controlling the amount of money that resides in these accounts. It is the contractorôs responsibility to provide an accurate and secure accounting of all Program banking transactions and comply with all Federal and State requirements regarding such banking services. All bank charges are the liability of the contractor and must be built into the applicable claim administrative fee. See Attachment 3, Table 7 for a breakdown of current bank charges by the Programs.

### C.13.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a. Disbursement Accounts**

Utilizing a State approved bank located in New York State to provide banking services for the EPIC, AIH Prescription Processing and NYPS Programs, the contractor must provide separate banking services and fiscal accountability for each Program necessary to maintain the following payment and refund functions:

**i.** payment of pharmacy provider claims; and

**ii.** refunding excess member co-payments (only applies to EPIC).

The contractor must process electronic funds transfer (EFT) reimbursements, EFT returns, cleared checks, uncleared checks, stop payment orders, reissued checks and payment errors and also perform monthly bank reconciliation and other money management tasks. Pharmacy providers are reimbursed via EFT, pharmacy provider cycle claims for EPIC occur on the 15th and last day of each month, AIH Prescription Processing on the 7th and 21st, and NYPS every two business days. The contractor is required to perform a pre-payment audit of claims before making payments. Manual checks are issued to a very limited number of pharmacy providers in emergency or unusual situations. Payments must be mailed after receiving notification from the State. See Attachment 10 Performance Standards for the required timeliness standard for check and payment remittance advices. See Attachment 4, Table 1 for historic EPIC Program data on provider reimbursement.

Funding for the disbursement accounts is provided directly by the State to the bank based on funding memos received by the State from the contractor. The contractor must provide the State, by the fifteenth day of each month, an accounting of all banking transactions, including payments, transfers, charges and credits, made during the previous month for each account. The accounting must be in a state approved format and, at a minimum, be in accordance with generally accepted financial accounting standards.

**b. Revenue Accounts**

The contractor must provide separate banking services and fiscal accountability for deposits to the following accounts owned by New York State:

***i. Refunds and recoveries account***

The refund and recoveries receipt account is for the deposit of Medicare Part D plan recoveries, State settlements and pharmacy refunds. The New York State Office of the State Comptroller (NYSOSC) will periodically transfer funds from this account to a separate NYS account managed by the State.

***ii. Rebate Receipts for NYPS***

The rebate receipt account is for the deposit of participating manufacturer rebate payments (new account) for NYPS. NYSOSC will periodically transfer funds from this NYS account to a separate account managed by the State. For this new account the contractor must establish an accounting system subject to State approval which will ensure full accountability and accuracy.

**c. Bank Reconciliations**

The contractor must complete and provide to the State, separate reconciliations for each of the revenue and disbursement accounts. Each reconciliation must provide an exact accounting of all transactions recorded on the financial records of both the contractor and the bank during the previous month, ensuring the cumulative accuracy and agreement of the financial records of the contractor and the bank. All account reconciliations must be in a state approved format and, at a minimum, be in accordance with generally accepted accounting standards.

The contractor must additionally complete, and provide to the State, a monthly reconciliation of the Stateôs escrow account utilized exclusively for funding the disbursement accounts. The reconciliation must provide an exact accounting of all transactions recorded on the financial records of the State (which the State will furnish to the contractor) and the bank during the previous month, also ensure the cumulative accuracy and agreement of the financial records of the State and the bank. Each month-end balance in the escrow account must be reconciled to the specific member refunds and pharmacy provider EFT disbursements that have not cleared the bank by month-end. Any remaining differences between the uncleared items and the State escrow account balance must be fully researched and documented by the contractor. The reconciliations must be in a state approved format and, at a minimum, be in accordance with generally accepted accounting standards.

**d. Establishment of Accounts and Payment of Bank Fees**

Collateral to secure deposits must be pledged as required by the NYSOSC and NYS Finance Law. The contractor may not establish any EPIC, NYPS or AIH related bank account unless such account and the depository bank is expressly approved by the NYSOSC. Accordingly, all banking proposals and procedures will be subject to prior review and approval by the NYSOSC. It is the contractor responsibility to open and maintain the bank accounts for the Programs. All bank charges are the liability of the contractor and must be built into the applicable claims administrative fee. See Attachment 3, Table 7 for a breakdown of current bank charges by the Programs.

**e. Unclaimed Funds**

The contractor is required to provide an annual file to the NYSOSC for unclaimed funds. The contractorôs duties include but are not limited to:

**i.** notifying members and pharmacy providers annually by letter of uncashed stale checks;

**ii.** reissuing checks for parties responding to the letter on uncashed stale checks; and

**iii.** issuing upon State approval, a timely file to the NYSOSC division of unclaimed funds (in a state approved format defined by the NYSOSC).

## 14. Mailroom Services

The comprehensive nature of the Program requires that the contractor have a fully functional mailroom operation. The mailroom must be properly staffed with up-to-date equipment and knowledge of current cost effective methods for bulk mailings. Mailroom service includes the receipt and distribution of a large volume of incoming and outgoing mail. The contractor will be reimbursed as a reimbursable expense per Section V.I.1.G of the RFP for the postage and printing expenses of the Program, including but not limited to; brochures, benefit booklets, forms, applications, renewal forms, RFAI forms, etc. When the services of an outside vendor are required for these large mailings the entire cost will be reimbursed by the State (without contractor mark-up) and the contractor must follow competitive bidding guidelines as defined in Section V.I.1.G.1. For a historical list of the materials, printing and postage resources utilized by the Program see Attachment 4, Table 3.

### C.14.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a. Mail**

Providing the necessary mailroom services to meet the operating requirements of the three prescription drug Programs described in this RFP. Such services support the day-to-day receipt, tracking, and distribution of incoming mail. Preparation of outgoing mail includes, but is not limited to, stuffing, labeling, affixing postage, sorting, and delivery. The contractor must monitor, prioritize, and route for resolution all returned undeliverable mail sent to pharmacy providers, members, and other entities.

In addition to the routine operational mail activities, the contractor maintains

responsibility for periodic mailings to members and additionally to pharmacy providers. Any errors caused by the contractor, which result in additional costs shall be borne by the contractor.

**b. Postal Standards**

Preparing and sorting all outgoing mail consistent with postal requirements that obtain the best postal rates available for mailings. The contractor must stay informed of the latest postal requirements and options throughout the contract term and keep the State informed of new developments that would increase efficiency or save State costs.

**c. Print Orders**

Making the necessary printing arrangements for EPIC materials, such as application forms, brochures, benefit guides, pharmacy provider manual updates, pharmacy provider bulletins, special correspondence, renewal forms, RFAI forms, etc. The contractor must manage, support, order and maintain inventory control on all forms and report this to the State monthly. A minimum of a three-month supply of all pre-printed forms and materials must be maintained by the contractor. When the services of an outside vendor are required for materials for which the cost will be reimbursed by the State, the contractor must follow competitive bidding guidelines as defined in V.I.1.G.1 of the RFP.

**d. Courier**

Providing a courier service at contractor cost once daily from the EPIC State offices currently at 260 Washington Avenue Extension, Albany, to the NYS Department of Health at the Corning Tower, Empire State Plaza, Albany. This is in addition to daily deliveries from the EPIC State office to the Post Office (USPS) and the contractorôs office. From time to time, additional deliveries may be required to State and other offices in the Albany area. Should the State Office locations change during the term of the contract, the contractor is required to continue to provide the courier service at no additional cost.

## 15. Fair Hearings

The State is responsible for administering fair hearings. The contractor must participate in all fair hearings involving members or pharmacy providers. The contractor must ensure that copies of evidence and documents related to the hearing are distributed to the administrative law judge and to the member and/or pharmacy provider prior to the hearing in accordance with State regulations. For a detailed description of the fair hearing requirements see Attachment 13. Contractor staff familiar with the facts of the case must attend the fair hearings. Over the last five years of Program operation there have been less than five fair hearings.

## 16. Organizational Structure and Staffing

The successful implementation, operation and maintenance of the Programs rely on an effective organizational structure and a highly productive, motivated, and qualified workforce. The contractor must provide a strong experienced proven local based management team which includes but is not limited to key staff identified in Section III.B.5 of the Statement of Work dedicated solely to the Programs who have the responsibility,

authority and integrity to command and coordinate the appropriate resources necessary to implement and administrate the Program. As part of its proposal, the contractor must provide a detailed Staffing and Organizational Plan.

While there are limited requirements regarding staffing, the State is relying upon the experience and expertise of the contractor to propose and provide an adequate number of qualified staff including but not limited to pharmacy clinical staff to satisfy the Program requirements and performance standards contained in this RFP. The number of employees and titles of the current contractor are provided in Attachment 4, Table 4.

### C.16.1 Duties and Responsibilities

The contractor must perform the following tasks including but not limited to:

**a.** Maintaining an organization of sufficient size with the skills and experience necessary to administer, manage, and oversee all aspects of the Program during implementation and operation. At a minimum, the contractor must include within the local Capital District office the following key dedicated staff: account manager, outreach manager, quality assurance manager, and a project manager with responsibility for system analysis, data access and reporting.

**b.** Providing the operational, clinical and financial resources necessary to operate the Program in an efficient manner.

**c.** Classifying each of its dedicated staff for the Program, (including its local based staff) as key or non-key personnel by position. Key staff are defined as managers or supervisors of staff within the contractorôs overall Staffing and Organization Plan. These resources will be responsible for providing the overall leadership and management, obtaining necessary corporate resources, and creating standards and processes required for the successful implementation, operation and maintenance of EPIC, AIH and NYPS.

**d.** Providing supplemental staff upon State request. Supplemental staff are staff that the State, from time-to-time, may require the contractor to provide over the life of the contract. The billing and payment of these staff will be governed by the contractorôs price proposal in Attachment 11, pricing schedule A.7 and Section V.I.1.E (do not put cost numbers in technical proposal) of the RFP. Upon receipt of a transmittal for additional staff the contractor must supply qualified staff according to the Stateôs timeline.

**e.** Cooperating with the Stateôs technical and programmatic staff throughout the life of the contract in all functions of the Program. The State requires that dedicated key staff be full time and available on the contract start date.

**f.** Agreeing that the contractor will not transfer, reassign or replace a dedicated key staff person without the written approval of the State, which shall not be unreasonably withheld. If the State gives written approval for the transfer, reassignment or replacement of dedicated key staff such personnel will remain assigned to the performance of duties under this contract until replacement personnel, approved by the State, are in place performing the dedicated key staff functions.

**g.** Assigning staff resources to cover non-key roles deemed to be part-time in nature.

When the contractor proposes to have one individual fill more than one role, a rationale for the dual assignment must be provided within the staffing plan. All dedicated key staff positions must be a full-time role filled by a single, dedicated person that has the appropriate skills and experience.

**h.** Providing monthly updated organizational charts (similar to Attachment 18) depicting the actual staffed dedicated key and dedicated non-key filled positions versus the contractorôs proposed key and non key staff positions identified in the RFP by title and number of positions. The contractor may request that a positionôs status as ñkeyò or ñnon-keyò be changed. The determination of this request will be at the sole discretion of the NYSDOH.

**i.** Assuring that the dedicated key staff positions identified in the RFP are filled as required. The State shall be notified in writing at least one week prior to all dedicated key personnel vacancies when possible. This notification shall contain the date of the vacancy and an indication as to the nature of the change (i.e., resignation, termination or transfer).

**j.** Assuring that the account team has ready access to larger corporate resources and higher levels of senior management, and the support required from that management.

**k.** Be responsible for full, current and detailed knowledge of, and compliance with, the requirements of applicable Federal and New York State Laws and the pertinent regulations and guidelines promulgated there under. If the contractor is unable to comply with any regulatory or statutory requirement, the State shall be notified immediately.

NOTE: There is a Program requirement concerning the filling of positions designated as dedicated ñkeyò positions. This requirement and its effect on the contractorôs compensation is covered in the staffing section of the performance standards included in Attachment 10.

## 17. Outreach

The contractor is responsible for outreach activities related to the EPIC Program. The goals of EPIC outreach are to directly recruit and enroll eligible seniors and to establish effective relationships with community-based organizations, health care organizations, advocates, Medicare drug plans, governmental agencies and other partners who can assist in meeting the Program objectives.

The EPIC Program currently has an outreach function that performs activities such as identifying and scheduling relevant venues for enrollment opportunities; promoting the Program through presentations and trainings to audiences composed of seniors, caregivers, health care professionals and other partners consisting of State agencies and advocacy groups; providing personal assistance to seniors; and responding to both telephone and written inquiries about EPIC.

It is the contractorôs responsibility to propose a detailed, comprehensive cost-effective Program that meets the goals and objectives as well as the duties and responsibilities of the EPIC Program outlined below. The contractorôs plan for EPIC outreach must assume a **$200,000 annual budget** inclusive of all costs including but not limited to personnel costs, travel, general supplies, and attendance at events/meetings. This $200,000 annual budget amount, which could be revised based on agreement with the State, must be built into the Offerorôs EPIC annual final paid claim administrative fee. Outreach should be targeted to

the population which can most benefit from the use of the modified EPIC program with Medicare Part D coverage, focused on the message that EPIC (a free program) and Medicare Part D coverage when used together, will result in savings for enrollees. The message should be aimed at eligible socio-economic elder communities.

### C17.1 Duties and Responsibilities

The contractor must perform the following tasks within the budgetary constraints stated above, including but not limited to:

**a.** Providing a dedicated outreach manager to direct, support and assist in outreach activities.

**b.** Developing, implementing and monitoring a detailed comprehensive cost effective outreach plan. Producing (with NYSDOH review and approval) outreach and marketing materials.

**c.** Delivering accurate, clear and concise messages about the benefits of EPIC and NYPS.

**d.** Developing and revising as appropriate comprehensive, flexible and innovative approaches tailored to hard-to-reach, ethnically diverse and minority seniors.

**e.** Implementing and monitoring effective strategies for educating community-based partners and other partners to assist in recruiting and enrolling new members.

**f.** Organizing and holding sessions around the State to train partners to provide assistance and information about EPIC to eligible seniors and caregivers in their areas.

**g.** Implementing evidence based strategies to effectively promote enrollment in EPIC.

**h.** Scheduling and participating in special events, assisting with other State Programs (i.e. NYS Bridge Plan) or other activities as required by the State. This may involve attendance at events without advance scheduling.

**i.** Evaluating the outcome and effectiveness of initiatives.

**j.** Attending periodic meetings with EPIC to review the status of outreach activities and to discuss related issues.

**k.** Distributing materials and promoting the NYPS discount card Program when conducting EPIC outreach events, if appropriate.

**l.** Providing monthly reports and analyses of outreach and enrollment figures, including information such as outreach activities that took place, numbers of people enrolled and cost effectiveness.

**m.** Providing evidence to the State that the contractor has utilized the $200,000 in annual budgeted costs for outreach activities.

## 18. General Operating Requirements

**a. Operating Changes Initiated by the Contractor**

Changes in dedicated key staff, procedures, and Programs used in support of the Programs must receive the approval of the State prior to such changes being made. Approval will not be unreasonably withheld. These changes must not have a

negative impact on users of the Programs nor any adverse effect on the ability of the State to meet any of its responsibilities.

**b. Access**

The contractor must provide State staff and designees access during normal business hours to personnel, procedures, programs, documentation, and facilities used in support of operations.

**c. Space for State Employees**

The contractor must provide reasonable and appropriate workspace in the local capital district office for an on-site State staff of at least two (2) people. The contractor must maintain adequate support (power, heat, lights, telephones, computer access, reasonable photocopier access, etc.) for said staff. At a minimum, computer access must include electronic mail communications, on-line inquiry system, and standard PC computing capabilities.

**d. Operating Reports**

The contractor may be required to submit weekly, biweekly, monthly and quarterly operating statistics reports to the State which provide summary information on all aspects of the contractor EPIC operations. The reports must summarize the significant outcomes of each of the functional areas of responsibility such as claims processing, enrollment, tax match, call center, etc. The contractor must seek state staff input for required data and format these reports in a State approved format. See section III.D.8 of this Statement of Work for operating reports.

**e. Security and Confidentiality**

The contractor must maintain the confidentiality of member, pharmacy provider and NYPS manufacturer information through secure facilities in accordance with the federal Health Insurance Portability and Accountability Act of 1996. The contractor must ensure security and confidentiality including but not limited to: EFT files, storing check stock, unissued checks, identification cards, member information, NYPS manufacturer data, and other data as required or appropriate, consistent with normal business practice and to the satisfaction of the State. All information must only be used exclusively for purposes directly connected with the administration of the Programs.

**f. Contractor Internal Audit Program**

The contractor must provide its own internal audit function to ensure the integrity of the Programs. As part of this function, the contractor will be responsible for conducting a semi-monthly prepayment audit, prior to the release of any reimbursement, for all disbursement accounts: the pharmacy provider EFT and checking accounts, and member excess co-pay refund account. For the prepayment audit, the contractor must audit a sample of checks meeting the criteria specified by the State in the prepayment audit procedures. In addition, detailed reviews of several system generated exception reports are required to confirm the accuracy of payments. Confirmation of claim information directly with the pharmacy or member is expected when needed to ensure the accuracy of payments. The contractor will retain prepay audit work papers and related documentation for future reference and

make these available to the State upon request. The contractor, upon State request, may be required to perform internal audits of selected operations within the contactor.

**g. Special Processing**

With written notice from the State, the contractor will issue manual checks on an as-needed basis for any special payments as directed. The contractor must arrange to have manual checks delivered via expedited (twenty-four hour) delivery upon request by the State.

***NOTE:*** Special processing requests for manual checks are infrequent. An example would be a member request for a refund in an emergency situation.

**h. Disaster Backup Testing**

The contractor must routinely conduct disaster testing for the backup facility requirements defined in Part III.B.4.g of this RFP, as follows:

**i.** The contractor must perform an initial disaster recovery test at the backup facility(s) secured within thirty (30) calendar days of the start of operations. This includes a test of the enrollment system and POS claims processing. A minimum of one disaster recovery test must be performed every twelve (12) months thereafter at the backup facility(s) secured by the contractor.

**ii.** All test results must be made available to the State.

**iii.** The contractor must present written substantiation of its ability and capacity (or the subcontractor, if proposed) to handle full operational volumes.

**iv.** Formal written agreements must be made for all disaster recovery services and must be presented to the State.

**i. State Audit Authority**

State audit staff, or its designated agent, are authorized to perform audits relating to the services rendered by the contractor and any subcontractors, and to access necessary records in that process.

**j. Contractor Compensation**

**1. Basis for Payment**

The contract year is defined as April 1 to March 31, Monthly payment shall be made for full and proper performance by the contractor of the EPIC operations tasks and shall be based according to the payment provisions in Section V.I.1. The Claims Processing Year is defined below:

| | | |
|---|---|---|
| **i.** | Year 1 | July 1, 2012 to June 30, 2013 |
| **ii.** | Year 2 | July 1, 2013 to June 30, 2014 |
| **iii.** | Year 3 | July 1, 2014 to June 30, 2015 |
| **iv.** | Year 4 | July 1, 2015 to June 30, 2016 |
| **v.** | Year 5 | July 1, 2016 to June 30, 2017 |
| **vi.** | Year 6 | July 1, 2017 to June 30, 2018 |
| **vii.** | Year 7 | July 1, 2018 to March 31, 2019 |

In addition to the monthly EPIC operations payment (reimbursed via the calculated monthly claim paid administrative fee), the contractor may receive an additional payment each month for the following:

- **i.** AIH (via the calculated monthly paid claim administrative fee),
- **ii.** NYPS (via the calculated monthly paid claim administrative fee),
- **iii.** Approved systems change hourly charges, if applicable,
- **iv.** Any supplemental staff, if applicable, agreed to by the contractor and the State,
- **v.** Any EPIC-related tasks of an operational nature subject to Section V.I.1.F of the RFP, which although within the general scope of work required by this Agreement, are not required to be performed within the final paid claim administrative fee for Operations.
- **vi.** Reimbursable expenses with proper documentation of appropriate expenses.

**2. Change in Contractor Compensation**

The contractor agrees to enter into renegotiations to adjust the contract requirements and corresponding price for significant or material changes, if and when they occur throughout the contract term.

The determination of what constitutes significant or material changes will be at the sole discretion of the NYSDOH. See Section V.I.1.I of this RFP.

**k. Documentation Requirements**

The contractor must furnish to the State periodically, and when requested by the State, any documentation related to operations. This will include, but not be limited to all purchases made under the reimbursable classification of expenses.

**l. Output Media**

The State reserves the right to require the contractor to provide, at no additional cost to the State, an additional copy of any report generated, either on paper, CD, or electronic file. For example, if the output from a report is currently provided on paper, then the State may require the output also be delivered in electronic format.

**m. Pharmaceutical Expertise**

The contractor must maintain pharmacy clinical staff to provide pharmaceutical expertise throughout operations and to support the Prospective Drug Utilization Review and formulary maintenance functions in coordination with State personnel. The contractor pharmacy staff is also required to be current on the latest industry standards and developments, to proactively analyze the impact on the Programs, and to keep contractor and State management apprised of such in a timely manner.

**n. Performance Standard**s

The contractor must perform according to the performance standards set forth in Attachment 10 of this RFP, and the meeting of each standard must be a contract deliverable to which all pertinent provisions of this RFP and the resulting agreement, including penalty sanctions, apply.

**o. Quality Assurance**

The contractor is required to monitor all of the day-to-day activities through an independent quality assurance program. The contractor is charged with ensuring that all work has been performed according to all policies and standards of performance. The contractor is expected, on an ongoing basis, to analyze, develop, revise and implement work processes within the contractorôs operation to ensure more effective and efficient service for internal and external customers, and to improve organizational effectiveness. The contractor is required to work cooperatively with State personnel to ensure implementation and maintenance of a high quality operation acceptable.

**p. Document Storage/Retention Requirements**

The contractor is responsible for the proper storage and retention of original signed and electronic documents in accordance with applicable New York State and federal statutory and regulatory requirements. Such documents subject to these requirements include, but are not limited to, enrollment and renewal applications and all supporting documentation, pharmacy claims (paper, electronic, etc.), pharmacy enrollment forms, pharmacy ownership disclosure forms, NYPS manufacturer pricing submissions, and all correspondence.

# D. SYSTEMS AND REPORTING

## 1. Overview

The objectives of the System Development function are:

a. Ensuring the planned, controlled management of modifications and enhancements to systems to perform the Program functions required under the RFP;

b. Ensuring efficiency in the operation of the EPIC, AIH and NYPS Programs; and

c. Ensuring support for accurate project scheduling, estimating and priority setting.

## 2. Ownership Rights and Software Licenses

The successor contractor is responsible for the development of the computer programs, files and systems software necessary to perform the Program functions required under this RFP. The successor contractor also will be responsible for the operation, maintenance, and acquisition of computer hardware necessary to perform the Program functions required under this RFP. Pursuant to the current contract, the State owns all procedural manuals, operating plans, documentation, data, records and related items arising out of or related to EPIC, AIH and NYPS.

Certain applications and systems software and related items developed and modified under the current contract are owned, fully and without restriction, by the State (except for the software labeled in Attachment 5 as ñThird Party Proprietaryò and ñProprietaryò). The current contractor will turn over all such material to the new contractor at no cost should the new contractor want to utilize the pre-existing non-proprietary computer programs labeled in Attachment 5 as ñWithout Restrictionò. The new contractor is under no obligation to utilize these programs. A copy of the non-proprietary EPIC software owned by the State is available, upon request as set forth elsewhere in this RFP, to qualified bidders in the procurement library. For purposes limited to this procurement, the Department, as part of the procurement library, will provide the bidder with a limited non-exclusive and royalty free license to the non-proprietary EPIC software owned by the State. The bidder is limited to the use of such software exclusively for purposes of bidding on this RFP. Should the successor contractor want to utilize the pre-existing non-proprietary computer programs labeled ñWithout Restrictionò the State would maintain full ownership rights subject to the following:

The Contractor understands and agrees that all computer programs, manual procedures, operating plans and procedures, documentation, data, records and related items arising out of or related to the Programs except for the Contractor's proprietary software, or third party proprietary software licensed by the Contractor, are owned without qualification by the State, and that such ownership of these elements shall continue in and remain in the Programs unimpaired during the term of, and subsequent to termination of, this Agreement in perpetuity. Any enhancements to, changes in, or augmentation or creation of any such State-owned elements during the term of this Agreement shall be owned by the State without qualification. It shall be a fundamental duty of the Contractor to ensure State ownership, or use as appropriate, of such elements in such manner and at such times as herein provided. Such obligations by the Contractor and the rights of the State are not subject to limitation in any respect, by failure to claim for the cost thereof. In addition, to assure the continued integrity of the Programs and compliance with this provision, the Contractor shall obtain

prior written approval from the State for all Contractor-initiated changes, modifications, and enhancements to the Programs and shall permit and facilitate, without restrictions, any access to any non-Proprietary operating system required by the State. Such access shall not be utilized to disrupt production processing. Should the successor contractor assume responsibility for such material, the new contractor will be required to assume the obligations, costs, and the maintenance and upgrade of any of this software utilized in their operation.

The current contractor also utilizes ñproprietary softwareò for specific functions whereby the State has a nonexclusive, royalty free license in perpetuity. In the event that any Contractor proprietary software is utilized in the operation of EPIC, NYPS, and AIH, the current Contract hereby grants to the State, at the end of the contract, a nonexclusive, royalty free license in perpetuity to use the software required to operate EPIC, NYPS, and AIH subject to the following conditions.

1. The software shall only be used by the State or the State's successor EPIC contractor(s) to operate EPIC, NYPS and AIH.
2. At no time may the software or any of the related documentation be disclosed to third-parties (other than successor contractors and their State-approved sub-contractors), sold, assigned, leased or otherwise disposed of, or commercially exploited or marketed in any way, with or without charge.
3. The State shall keep confidential the software and related documentation and will not permit them to be copied or reproduced, in whole or in part, by any person, firm, or corporation, at any time.
4. The State agrees not to remove or alter proprietary notices of the Contractor in the software or on any of the materials associated with the software.
5. The State agrees to exercise all reasonable precautions to prevent access to all electronic media and physical portions of the software by persons not authorized to have such access; in any event, the State shall use at least the same degree of care in safeguarding such software as the State uses to protect its own proprietary information.
6. The State agrees to notify the Contractor promptly of any circumstances where there is disclosure or unauthorized possession, use or knowledge of any portion of the software.
7. The State will require that any third party entering into a contract with the State to operate EPIC, NYPS and AIH will execute an agreement with the Contractor incorporating the same covenants and conditions as contained in this Section.

Should the new contractor elect to utilize this proprietary software identified in Attachment 5 as ñProprietary Softwareò the contractor would be required to maintain and modify the software at its sole cost to ensure that the functional requirements of the Programs are attained.

In addition, the current contractor utilizes various proprietary software packages available on the market identified in Attachment 5 as ñThird Party Proprietaryò. Should the contractor decide to utilize these proprietary software packages the contractor would be responsible for acquiring these software packages and maintain them, at its sole cost.

Any such costs associated with the software above must be included in the Offerorôs final claim administrative fees, with the exception of the system change hours described below.

### 3. Systems Staff

The contractor must provide systems staff composed of programmer/analysts and computer operations staff led by a project manager who has responsibility for system analysis, data access and reporting. The project manager as part of the key dedicated staff must be based in the Capital District local office.

The Systems staff must consist of the staff necessary to program and support EPIC, AIH and NYPS Program applications, routine system activities file management activities which include routine file generation, data imports and exports, ad-hocs and reporting. The contractor must provide staff that will be responsible for modifications and enhancements to the Contractorôs systems to accomplish the functions required under this RFP, including but not limited to, the design and production of operating system reports and certain member communications as requested by the State. Any changes required to perform the functions required under this RFP must be completed by the contractorôs systems staff in a timely fashion.

The State shall establish and control the priority ranking of all tasks performed by the Contractorôs Systemsô Staff. Either the State or the Contractor may initiate proposed system changes by identifying necessary system modifications. System changes or system modifications are subject to prior review and approval by the State. Monthly reports to be submitted to the State by the Contractorôs Systemsô Staff are contract deliverables under this Agreement. The State will designate an individual to act as a primary liaison between the State and the contractor.

The project manager and systems staff, including but not limited to, computer operators will be required to perform the programming necessary to perform the duties and responsibilities required by the RFP, including system related implementation costs.

### 4. Systems Change Hours

There may be instances when the contractor may be required to provide additional system resources to support State approved projects which are due to State changes/additions to the duties and responsibilities required of the contractor. These resources will be compensated by the State via a separate system change hourly rate. To qualify as a system change hour, which is compensated outside the Offerorôs proposed final paid claim administrative fees, the requested change must make major revisions to the EPIC, AIH and NYPS systems or require new major systems processes or create major new system functions as agreed to by the State. One of the factors that will go into the Stateôs definition of major is an individual system project totaling over 200 hours. The Stateôs decision to classify a system change as ñmajorò shall be at the sole discretion of the State. The Contractorôs Systems change staff will receive all project assignments from the Stateôs designated contact and operate using project estimation, project planning, resource scheduling and project management techniques developed by the contractor with State input. Contractor personnel will participate in all phases of the systems development life cycle (requirements analysis, detailed design, programming, testing, etc.).

There may be limited occasions, with the prior approval of the State, when the contractor

will need to utilize a staff member paid for under the contractorôs final paid claim administrative fee to perform a systems change project or task. In these limited instances the amount charged to the State must result in a corresponding reduction in the amount charged by the contractor via the final paid claim administrative fee.

For additional detail regarding systems change hours see Section V.I.1.D of the RFP.

## 5. Ownership Rights and Software Licenses

See Appendix I Contract Requirements.

## 6. Project Management

The contractor is required to provide a project manager and systems staff that incorporate project management functions including but not limited to: project scheduling, risk assessment, identification of issues, quality assurance reviews, and communication plans.

### D.6.1 Duties and Responsibilities

The contractor must perform the following routine system and systems change tasks including but not limited to:

**a.** Providing a project manager physically located in its Capital District local office readily accessible to State staff.

**b.** Providing day-to-day system and system change resources. However, the State retains the right to approve or reject any manpower scheduling/staff assignments proposed by the contractor.

**c.** Implementing systems project management functions including:

- **i.** Assigning staff to tasks according to a clearly defined State approved methodology. The purpose of this methodology is to allow the State to:
  - Verify the appropriateness of staff assignment in terms of specific job requirements;
  - Assess the impact of staff assignments on other projects; and
  - Identify any need for additional resources to accommodate major enhancements for new projects.
- **ii.** Producing regular routine project status reports.
- **iii.** Tracking the status of projects by major steps in the systems development process.
- **iv.** Supplying an automated and straightforward method of assessing and reporting project status through successful completion to assist the State in management of the project plan.
- **v.** Implementing a project estimation methodology that is comprehensive, verifiable and straightforward, in order to permit detailed State review of the estimation process.
- **vi.** Ensuring all system activities are accomplished in an efficient and timely manner.
- **vii.** Ensuring the timely restoration of a system that becomes inoperable (see Attachment 10 for system availability performance standards).

**d.** Taking primary responsibility for the technical phases of systems development: technical systems analysis, design and specification, programming, testing, implementation, system maintenance and documentation.

**e.** Performing any combination of the non-technical systems development phases, including: problem definition, problem evaluation, general functional requirements and specific functional design, functional documentation.

**f.** Conducting education/training as directed by the State.

**g.** Sharing joint responsibility with the State for post-implementation review of programs and creation of Program evaluation reporting methodology.

**h.** Establishing model development and test environments that simulate actual production for developing and testing all software changes. The development environment must utilize a reliable version control process. The test environment must contain adequate data files to ensure comprehensive testing and allow for system dates to be set into the future in order to simulate actual implementation dates. Additionally, the job control (workload management) software should provide controls for: (1) developing program modifications in the development environment, (2) testing in the test environment and (3) promoting the modifications into production and (4) version control.

**i.** Providing State approved security for files. Frequent changes in program code may be required. The contractor must have procedures in place to assure careful control and accuracy of the production library.

**j.** Providing up-to-date and appropriate technical and functional systems documentation that is easily accessible to contractor and State staff and clearly provides all necessary information and instructions for all system-related functions. Ongoing updates to these documents must be completed.

**k.** Staffing a computer operations unit, the duties and responsibilities to include:

- **i.** Identifying operational needs, confirming the need for a modification or enhancement to the computer operating system communications networks and completing the modification or enhancement.
- **ii.** Recommending alternate solutions to problems by utilizing alternate, more efficient methods to obtain equivalent results.
- **iii.** Communicating with the State on computer operating systems modifications and enhancements and emergency production changes.
- **iv.** Accepting and supporting all newly implemented systems or modifications to existing programs.
- **v.** Maintaining and upgrading the performance of the computer operating systems and POS on-line claims system.
- **vi.** Developing and maintaining internal applications (e.g., data entry applications, laser printers, microcomputers) and provide associated technical support.
- **vii.** Performing routine data files submissions to the State EPIC Local Area Network (LAN) for use in maintaining current, accurate information in

support of State EPIC operations.

**viii.** Administering the contractorôs EPIC Local Area Network (LAN).

**ix.** Providing support to handle production-related failures, including POS on-line claim downtime or response issues and coordinate all recovery procedures.

**x.** Working closely with the other system resources to ensure that applications system development activities are compatible with operations, and

**xi.** Assisting in placing Systems change staff and Systems Development Application products into production.

## 7. Data and Data Access

The contractor is responsible for developing, operating and maintaining several Relational Database Management Systems (RDMSs) to accommodate production, testing and research/development environments for each of the three Programs: EPIC, AIH and NYPS. The three Programs may have separate databases or share one database with separate programmatic access for each Program. Data are to be kept ñliveò for seven years after which it is to be archived in a manner that is quickly accessible.

### D.7.1 Duties and Responsibilities

Data and data access responsibilities include but are not limited to:

**a. On-Line Data Access**

**i.** The EPIC State office currently has a network of 33 workstations supported by Microsoft Windows XP and the MS Office XP Software. The NYSDOH will be upgrading to Microsoft Windows 7 and Microsoft Office 7 before the end of 2011. These workstations are connected to two servers that utilize Windows Server 2003. The network is also connected to the NYSDOH computer system and internet access. Electronic mail operates on the network through a TCP/IP connection to the Department of Health using Lotus Notes Version 8.5. The contractor is responsible for a secure connection to the EPIC network. The contractor must ensure that all e-mail exchanges between the contractor and the State are secure, HIPAA compliant and confidential. The software and hardware solutions must be compatible with and have easy access to the EPIC network. Other than the EPIC network itself, all hardware and software and data files supporting such on-line access are maintained by the contractor. All manner of data access must be compatible with the current State EPIC PC and server hardware and software, the network configurations, the NYSDOH web server and security products. During the course of the contract, the contractor also must accommodate any NYSDOH hardware or software changes or upgrades.

**b. Production Database(s)**

**i.** Real time claims processing and

**ii.** Web-based real time read-only inquiries to solve immediate enrollment, claim, drug issues, etc. for participants. These inquiries must be of limited scope so that their processing will not impact overall function of the database negatively.

**c. Testing Database(s)**

**i.** These are to be used for testing new or revised programs, data structures, applications exclusively by the Contractor.

**ii.** The database may contain actual data and/or dummy data designed to test extreme values.

**iii.** Providing read only access to the participant and claims test databases via the web or NYSDOH /contractor connection.

**d. Research and Development Database(s)**

**i.** Data are to be a one day delayed copy of the production data. Updates are to be performed during late-night/early-morning scheduled processes and be available for use on the next day (including weekends).

**ii.** Direct Data Access

**1.** Read-only data access must be provided to all non-administrative data tables within the database(s) to designated EPIC staff.

**2.** The connection must allow the use of SAS on the contractorôs server.

**3.** The connection must allow for the export and downloading of SAS, text, MS-Excel, Rich Text Format, HTML and MS-Access data and report files.

**4.** File exchanges between the contractor and the State must occur using a State approved secure connection.

## 8. Reporting

Reporting is required to monitor and quantify Program performance. Proper reporting and claim analysis is an invaluable tool in monitoring drug utilization and costs as well as providing insight into areas that may require further study and analysis. Reporting should provide assurances that member, network and account management service levels are being maintained and that claims are being paid and billed according to the terms of the agreements with pharmacies and the terms of the contract resulting from this RFP. The selected Offeror may on occasion be requested to provide ad-hoc reporting and analysis within very tight time frames.

### D.8.1 Duties and Responsibilities

Reporting responsibilities include but are not limited to:

**a. Standard Reporting**

**i.** Maintaining an electronic reporting system whereby, at a minimum, a number of State required management reports (generated by the contractor) are easily accessible by the State through their own PCs or secure web connection.

**ii.** Developing in conjunction with NYSDOH, electronic management, financial, and utilization reports required by the NYSDOH for its use in the review, management, monitoring and on going analysis of the Programs. A master list of required reports are included in Attachment 14 (these reports are included in the procurement library). The final format of these reports is subject to NYSDOH review and approval.

**iii.** Providing reports that are available for viewing and printing as well as for export in the following formats: text, RTF, MS-Excel, HTML and PDF over the web

connection.

**b. Query and Reporting System**

A comprehensive query and report design facility must:

- **i.** Be provided online to the NYSDOH offices to meet state query and reporting requirements, with a user-friendly interface that gives the user both control and flexibility.
- **ii.** Be web-based or windows-based if residing on the contractorôs server.
- **iii.** Make selected fields from production database tables available and handle table relationships invisibly to the user.
- **iv.** Allow users to save queries and reports, as well as copy and modify the same.
- **v.** Assist users in providing data elements and selection criteria in every case practicable.
- **vi.** Have all queries using 6 months or less data proceed immediately such that queries using more than 6 months of records may run overnight.
- **vii.** Allow for data or formatted report export as text, MS-Excel, MS-Access, RTF, HTML, and PDF.
- **viii.** Allow both query or report jobs the ability to be scheduled or launched manually.

## 9. State Responsibilities

The State shall be responsible for setting priorities for systems projects. The contractor will develop work plans to accomplish these priorities. The State will review these work plans and direct adjustments necessary to ensure that Program priorities are met. The State also may chair periodic meetings held to report on the status of systems projects and to discuss systems related issues.

## 10. Contractor Compensation

The project manager and system staff costs including but not limited to any hardware and software costs (excluding ñSystem Change Hoursò ) associated with the required RFP functions must be included in the Offerorôs EPIC proposed final paid claim administrative fee (Attachment 11, pricing schedule A.1) and implementation fee if applicable (do not put cost numbers in technical proposal). All software must be modified to meet Program requirements, fully tested, and proven to the Stateôs satisfaction to provide adequate support to assume completion of all required functions in the RFP.

System change hours are explained above in Section III.D.4 with additional detail provided in Section V.I.1.D of the RFP. Bidders must include these pre-defined system change hours separately in their price proposal. Attachment 11, pricing schedule A.5 contains an exhibit the Bidder must fill out (do not put cost numbers in technical proposal).

Payment for systems staff and systems change hours may be withheld by the State in the event of late or unsatisfactory deliverables.

# E. NEW YORK PRESCRIPTION SAVER CARD

## 1. Overview

The New York State Department of Health (NYSDOH) administers the New York Prescription Saver Card Program (NYPS) for New York State residents who meet the eligibility criteria specified in Section 280 of the NYS Public Health Law. The current enrollment in the Program is approximately 17,000, with a monthly claim processing volume averaging 4,000. Program enrollment and claim processing volumes are included in Attachment 3, Table 1. The Program is administered parallel to the EPIC Program to take advantage of economies of scale in completing key functions. NYPS offices are located in the same location as EPIC in Albany.

The EPIC Project Director will serve as the liaison between the NYPS and the contractor. To optimize cost effectiveness, NYPS processing must mirror current EPIC processing wherever possible, unless specified otherwise.

The contractor is responsible for the implementation, operation and turnover of the NYPS Program. All relevant EPIC contract provisions apply to NYPS, including the applicable NYPS performance standards in Attachment 10.

## 2. Bidder Response Requirements

Bidders must include the implementation, operation and turnover of the NYPS Program **separately** in their price proposals. Attachment 11, pricing schedule A.3 contains an exhibit the Bidder must fill out (do not put cost numbers in technical proposal) for the NYPS program.

### E.2.1 Duties and Responsibilities

Contractor duties and responsibilities of the NYPS Program, in relation to current EPIC processing, include but are not limited to:

**a.** Supporting a paper member eligibility/enrollment application process and the establishment and maintenance of an on-line application process (via a separate NYPS website). One initial NYPS ID card per member (and replacements for any lost or stolen cards) are generated and mailed by the contractor.

**b.** Distributing NYPS materials through the EPIC outreach mechanism and promoting the Program at EPIC events.

**c.** Supporting the NYPS agreements with approximately 4,000 participating pharmacies serving the Program all of which also participate in the EPIC Program. The contractor will be responsible for this additional pharmacy enrollment function, if requested. Provider relations would be required by the contractor to educate participating providers on the NYPS as needed.

**d.** Maintaining a separate toll-free phone number for NYPS, with member helpline staff providing support for NYPS.

**e.** Maintaining a fully separate fiscal accounting system for the NYPS as separate State funding sources are used for each Program. NYPS pharmacy provider reimbursement must be separate from EPIC and AIH. The system must be able to hold pharmacy provider reimbursement for NYPS claims, without holding EPIC or

AIH pharmacy provider reimbursement, should funds be temporarily unavailable for benefits. Remittance advices must document claims separately by Program.

**f.** Processing claims the same as EPIC, however the amount paid by the member at the point of service will differ (see Claims Processing/Manufacturer Discount Pass Through at Point of Service below).

**g.** Providing a claims processing system for NYPS capable of applying pre-loaded rebate amounts per NDC to individual claims at the point of sale.

**h.** Providing a prospective drug utilization review process consistent with EPIC.

**i.** Recognizing that claims processing requirements, loading of the State Maximum Allowable Cost pricing file, pharmacy reimbursement methodology including state defined brand/generic classifications, and claim standards are generally the same as EPIC (see procurement library, Pharmacy Claims Processing ï Plan Administration Manual for what is covered under NYPS). Claims processing is similar except there are no co-payment requirements, the member pays the discounted cost of the drug.

**j.** No processing of paper claims for the NYPS Program.

**k.** Processing NYPS manufacturer rebate pricing data.

**l.** A retrospective therapeutic drug monitoring program is not required.

**m.** Following successful implementation, any subsequent NYPS system development needs identified and agreed to by the State as a major revision will be supported through the Systems Change staff, and separately identified in NYPS invoicing.

**n.** Producing a package of basic management reports (see reporting Attachment 14, formatted reports are included in the procurement library), addressing utilization, enrollment, costs, etc. for NYPS. Ad-hoc reporting requests may be made from time to time.

## 3. Claims Processing/Manufacturer Discount Pass Through at Point of Service

A unique feature of NYPS is the requirement that any drug covered by the NYPS Program that has an NYPS contracted manufacturer discount (rebate), must have the rebate amount subtracted from the member amount due at the point of service. In order to accomplish this, the contractor must develop a process that assures the applicable, updated rebate amount is applied at the point of sale as an added discount for the NYPS member (in addition to the Programôs brand/generic drug discount). All other covered prescription drug claims submitted to NYPS regardless of whether they have a rebate contract are covered subject to Program benefits and limitations (see procurement library, Pharmacy Claims Processing ï Plan Administration Manual for what is covered under NYPS). The member is responsible to the pharmacy after all applicable discounts. The overview and duties and responsibilities required of the NYPS manufacturing invoicing and support function are provided below as well as in Attachment 17.

## 4. NYPS Manufacturer Rebate Invoicing and Support

### Overview

The New York Prescription Saver Program (NYPS) includes voluntary rebates, with limited discounts provided by manufacturers passed through in their entirety to NYPS cardholders at

the point of sale. Approximately 80 manufacturers currently participate in the NYPS Program providing rebate discounts to NYPS members through a contract with NYSDOH. The data submitted by manufacturers is used to calculate NYPS rebates, and apply them as discounts at the point of sale.

Due to confidentiality, the Centers for Medicare and Medicaid (CMS) does not share manufacturersô quarterly pricing submission with the NYPS Program. Consequently, participating manufacturers must directly submit pricing data to the NYPS Program. The contractor is required to take this pricing data and calculate unit rebate amounts. Within sixty (60) days following the end of each quarter, NYPS sends a rebate invoice to the manufacturer. Payment is due within thirty (30) days of receipt of the invoice. NYPS uses data formats identical to those being used by Medicaid for manufacturer pricing data submissions and State invoicing.

A copy of the standard agreement between the NYPS Program and each manufacturer is provided in Attachment 12.

In addition, further details regarding the specific requirements for contractor operations related to the administration of the NYPS rebate program is included in Attachment 17. Performance standards for the rebate function are contained in Attachment 10.

### E.4.1 Duties and Responsibilities

The contractor must perform the following tasks for the NYPS Program, including but not limited to the following:

**a. Processing pricing data – NYPS Program**

The contractor is responsible for the receipt and timely processing of quarterly drug pricing/product data submitted by manufacturers. The contractor must perform the following tasks including but not limited to:

**i.** Receipting and processing of quarterly drug pricing/product data submitted by manufacturers on paper, diskette, CD, email attachment, and via secure file transfer protocol (SFTP) after a calendar quarter has ended. Manufacturers also may submit previous quarter pricing revisions along with the current quarter data submission which the contractor must also enter into the rebate system. The contractor is required to create, maintain and accept the quarterly pricing/product file layout in accordance with the CMS required layouts specified in Attachment 22 tables 1 and 2.

**ii.** Implementing a paper pricing data-entry verification process or alternate process acceptable to the State, to ensure accuracy.

**iii.** Notifying manufacturers (subject to State review) via letter that required quarterly pricing data submission is overdue. These letters must be mailed by the contractor after state review (38 days after the end of a calendar quarter). All notices shall include manufacturers who have not submitted any pricing data for the relevant quarter as well as those who have submitted partial data for the relevant quarter; all notices shall identify the specific NDCôs and the corresponding data (i.e. AMP, BP) that must be submitted. Following up a second time each quarter with a detailed notice to manufacturers who have not submitted some or all of the necessary data. This must occur 2 days after the final

invoice has been produced.

**iv.** Updating the contractorôs rebate processing system with the most recent published CMS product data information prior to quarterly trial invoicing and for rebate calculation. The manufacturersôdrug product data is a public record accessible through the Centers for Medicare & Medicaid Services (CMS) website at cms.gov/MedicaidDrugRebateProgram/09_DrugProdData.asp).

**v.** Working with the technical staff of manufacturers to encourage and assist with conversion to an electronic form of submission.

**vi.** Notifying manufacturers and completing follow-up when the submitted data format is not in compliance with CMS record specifications.

**vii.** Transmitting daily the submitted product (NDC11) termination date to the contractorôs claims processing system (point of sale) for processing and denying claims from the CMS Product File and/or Manufacturer Product File. A list of historical terminated NDCs will be provided for the initial implementation.

**viii.** Providing daily overnight processing of submitted pricing and product data for NYPS. See attachment 10 for the required performance standard timeliness.

**ix.** Maintaining full confidentiality protections for all data submitted by manufacturers, consistent with State guidelines.

NOTE: All supporting reports for NYPS pricing are identified in Attachment 24.

**b. Payment Receipt, Account Management, and Outstanding Accounts Receivable**

The contractor is responsible for the receipt and timely processing of rebate payments including the management of accounts receivable and the collection process. The contractor must perform the following tasks including but not limited to:

**i.** Monitoring, managing and reporting on accounts receivable activity. Such plan shall include adequate safeguards to assure full accountability and protection of state resources;

**ii.** Managing, overseeing and reconciling rebate invoice payments received by check and EFT;

**iii.** Verifying and accurately applying payments to outstanding rebate invoices;

**iv.** Processing accounts payable transactions to resolve outstanding credit balances as required by NYSDOH; and

**v.** Reconciling receipts and disbursement to the NYPS bank account.

**c. Rebate Amount (URA) Calculation**

The contractor is responsible for the calculation of the NYPS Program unit rebate amounts due from each manufacturer for each covered product. The contractor must process these price submissions based on the formula below:

**i.** **NYPS:** For all rebate periods and Covered Outpatient Drugs, NYPS utilizes the identical formula to determine the **basic rebate** amount as used to determine the basic rebate pursuant to subdivision (c) of Section 1927 of the Federal Social Security Act, including any amendments thereto and any future amendments in federal or State law or regulations that may be made from time to time affecting such basic rebate calculation.

For the details surrounding the calculation of the Program unit rebate amount see the pricing matrix illustrated in Attachment 23.

**d. Rebate Invoice Processing**

The contractor is responsible for the quarterly production and mailing or electronic billing of rebate invoices to participating drug manufacturers whose products were dispensed to NYPS members during the previous calendar quarter. Invoices must be mailed or electronically billed within sixty (60) days after the quarter has ended, following State approval. NYPS invoices include only claims dispensed for an NDC with the approved POS manufacturerôs rebate discount rate. Required supporting reports for invoicing are identified under the Report section, Attachment 24.

The contractor must perform the following tasks including but not limited to:

**i.** Producing trial quarterly invoices for NYPS on an agreed upon State schedule approximately forty (40) days after the end of a calendar quarter. Trial invoices must be consistent with the State approved format, web-based, and readily accessible. (See Attachment 21 for the format of the required invoices and statements). The State will review and approve trial quarterly invoices prior to production of final invoices.

**ii.** Reviewing and recommending automated conversions to resolve inconsistencies in measurement units between the CMS product file and NYPS drug reference data.

**iii.** Excluding specified drugs and supplies from rebate information processing based on Program benefit rules criteria.

**iv.** Producing and electronically billing or mailing final quarterly invoices within sixty (60) days after the end of a calendar quarter, with the Stateôs approval.

**v.** Generating prior period reports of any rebate rate changes and/or utilization adjustments. The reports must be produced for each quarter associated with the changes.

**vi.** Producing monthly statements on the 15th of each month for all labelers with outstanding rebates due.

**vii.** Maintaining a weekly web-based Manufacturers Rebate Invoice report accessible to the State with the most updated information on current pricing and unit updates made after printing of final invoices.

**viii.** Reconciling claims processing data with rebate data (on a quarterly basis) to ensure that the appropriate claim data has been invoiced to the participating manufacturers.

Additional detail regarding quarterly invoicing, prior period rebate rate changes and utilization adjustments, monthly statements of account, and a weekly rebate invoice report is provided in Attachment 17.

**e. Rebate Information Management**

The contractor is responsible for providing a rebate informational management system with sufficient flexibility to fully support the Stateôs rebate functions. Detailed information is included in Attachment 17.

**f. Rebate Processing at the Point of Service**

The contractor is responsible for operating an electronic point of service (POS) rebate system that accurately incorporates the discount process for NYPS pricing together with the data management and rebate invoicing responsibilities. More detailed information is provided in Attachment 17.

## 5. Establishment of an NYPS Website

The contractor must provide a fully functioning customized NYPS website which includes an online application process. The contractor must maintain the secure online customized website, 24 hours a day, 7 days a week, except for regularly scheduled maintenance, including but not limited to;

**a.** Providing a website that will provide, but is not limited to, access to information regarding Program benefits; ability to locate a participating pharmacy by zip code and city; drug pricing information indicating the amount to be paid under the Program for all drugs; frequently asked questions; and links to State partners in the Program operations including key pharmacy chains and manufacturers: links to related sites for pharmaceutical and health benefits (with State approval) with all applicable privacy and HIPAA requirements.

**b.** Establishing within the website both the ability to print a paper application form (English or Spanish), and an on-line application process where a potential member may apply directly in either English or Spanish.

**c.** Assuring this on-line application process follows the Office for Technology and NYSDOH guidelines for accessibility standards, electronic signatures and website operation.

**d.** Notifying EPIC of all regularly scheduled maintenance at least one business day prior to such maintenance being performed.

**e.** Establishing a dedicated link to the customized website for the Program from the NYSDOH website with content subject to the approval of NYSDOH. Information from the link must be limited to information that pertains to the Program. Any links must bring a viewer back to the NYSDOH website. No other links are permitted without the written approval of NYSDOH.

**f.** Assuring any costs associated with creating and customizing the website, establishing the online application process or establishing dedicated links for the Program are included in the contractorôs per final paid claim administrative fee submitted in Attachment 11 pricing schedule A.3 (do not put cost numbers in technical proposal).

## 6. Contractor Compensation

Monthly payment shall be made for the contractorôs full and proper performance of the NYPS function. Such payment shall be based on the contractorôs final paid claim administrative fee submitted in Attachment 11 (made up of a final paid claim processing fee with and without a rebate), pricing schedule A.3. For information on price proposal requirements see Sections IV.C and V.I of this RFP. An offerorôs final paid claim administrative fee for NYPS should reflect the lower level of effort associated with the reduced number of functions as well as the resources that would be shared with EPIC.

# F. AMERICAN INDIAN HEALTH

## 1. Overview

The New York State Department of Health (NYSDOH) administers the American Indian Health Program (AIH), and is responsible for providing access to medical care, dental care, pharmacy and preventive health education for Native Americans living on reservations within the State. Health care services are provided to nine recognized American Indian Nations in New York State. For efficiency and cost-effectiveness, the Elderly Pharmaceutical Insurance Coverage Program (EPIC) administers the pharmacy component of this Program for six (6) recognized American Indian Nations in New York State. In SFY 2010-11 the AIH program paid approximately 11.2 million in drug claims (approximately 158,000 OTC and prescription drug claims) for the Native Americans of all ages participating in the EPIC administered AIH pharmacy Program. Effective October 1, 2010, an additional American Indian Nation in New York State was added to the Program raising the total to seven (7) nations; approximately 8,400 members are now enrolled in the Program. AIH Program administrative offices are located in the Corning Tower at the Empire State Plaza in Albany. Enrollment and utilization data for AIH can be found in Attachment 3, Table 1.

The EPIC Project Director will serve as the liaison between the AIH Program and the contractor. To optimize cost effectiveness, AIH processing must mirror current EPIC processing wherever possible, unless specified otherwise.

The contractor is responsible for the implementation, operation and turnover of AIH claims processing. All relevant EPIC contract provisions apply to AIH claims processing, including the applicable AIH performance standards in Attachment 10.

## 2. Bidder Response Requirements

Bidders must include the implementation, operation and turnover of AIH **separately** in their price proposals. Attachment 11, pricing schedule A.2 contains an exhibit the Bidder must fill out (do not put cost numbers in technical proposal) for the AIH program.

### F.2.1 Duties and Responsibilities

Contractor duties and responsibilities of the AIH component, in relation to current EPIC processing and operations, include but are not limited to;

- **a.** Maintaining a member computer enrollment system that is updated directly by the State AIH through an on-line application supported by the contractor. One initial AIH ID card per member (and replacements for any lost or stolen cards) will be generated and mailed by the contractor to clinics on the reservations.
- **b.** Outreach is not applicable.
- **c.** Member relations and member helpline services will be needed on a limited basis; leadership on the reservations provides most Program information.
- **d.** Supporting limited provider relations to respond to inquiries from AIH pharmacies that require technical support for billing and operations.
- **e.** Recognizing that all EPIC participating pharmacies are eligible to serve AIH members and submit claims for reimbursement. Provider relations would be required by the contractor to educate participating pharmacy providers on AIH as

needed. Also, the provider helpline must be able to answer pharmacy providersô questions serving this population.

**f.** Maintaining a fully separate fiscal accounting system for AIH, as separate State funding sources are used for each Program. AIH pharmacy provider reimbursement must be separate from EPIC and NYPS reimbursement. The system must be able to hold pharmacy provider reimbursement for AIH claims, without holding EPIC and NYPS pharmacy provider reimbursement, should funds be temporarily unavailable for benefits. Remittance advices must document claims separately by each Program.

**g.** Recognizing that claims processing requirements, loading of the State Maximum Allowable Cost pricing file, pharmacy reimbursement methodology including state defined brand/generic classifications, and claim standards are generally the same as EPIC (see procurement library, Pharmacy Claims Processing ï Plan Administration Manual for what is covered under AIH). Claims processing is similar except there are no co-payment requirements and there are no dispensing fees paid by AIH. AIH covers all federal legend drugs and over-the-counter (OTC) medications (OTC drugs are not covered by EPIC) as well as other products that contain an NDC code (as long as the member has a written script).

**h.** Providing a prospective drug utilization review process consistent with EPIC with minor modifications defined by the State.

**i.** Manufacturer rebate processing does not currently apply to the AIH Program. However, the contractor must include AIH if the State makes the decision to include AIH in the rebate program.

**j.** A retrospective therapeutic drug monitoring program is not required.

**k.** Following successful implementation, any subsequent AIH system development needs identified and agreed to by the State as a major revision will be supported through the Systems Change staff, and separately identified in AIH invoicing.

**l.** Producing a package of basic management reports (see reporting Attachment 14, formatted reports are included in the procurement library), addressing utilization, enrollment, costs, etc. for AIH. Ad-hoc reporting requests may be made from time to time.

### 3. Contractor Compensation

Monthly payment shall be made for the contractorôs full and proper performance of the AIH function. Such payment shall be based on the contractorôs final paid claim administrative fee submitted in Attachment 11, pricing schedule A.2. For information on price proposal requirements see Sections IV.C and V.I of this RFP. An offerorôs final paid claim administrative fee for AIH should reflect the lower level of effort associated with the reduced number of functions as well as the resources that would be shared with EPIC.

# G. EPIC TURNOVER AT END OF CONTRACT

## 1. Objectives

**a.** Provide for an orderly and controlled transition to either the State or a successor contractor.

**b.** Minimize any disruption of processing and services provided to applicants, members, and pharmacy providers.

**c.** Maintain/improve systems, procedures and operating practices developed under the contract resulting from this RFP.

## 2. Summary Statement of Work

**a.** After the expiration of the contract term, the contractor must provide continuing support to the successor contractor for a period of one month, if deemed necessary by the State.

**b.** If the contractor is utilizing any non-proprietary State owned software the contractor must turn over this software to the State or, at the State's option, a successor contractor.

**c.** The contractor must turn over all EPIC operating documents including but not limited to: audits, member and pharmacy provider data, print materials, systems documentation, all Helpline Questions and Answers, and training materials.

**d.** The contractor must turn over data files to the successor contractor in an electronic state approved format. All data related files are required to be turned over, including but not limited to: web pages, claims data including historical files, NYPS rebate data including historical files, systems interface files, database tables and objects pertaining to: comprehensive historical data on all EPIC bank accounts established and maintained by the contractor, claims history files from 1987 to present, archived member files, Request for Additional Information (RFAI) forms, Middleware submissions, tax matches, Medicare Coordination of Benefits (COB), Medicare Part D premium payments, participating pharmacy providers, prescriber e-mail database, and participating NYPS rebate manufacturers including outstanding NYPS rebate totals by manufacturer and NDC.

**e.** The contractor must turn over specific enrollment data files to the successor contractor, in an electronic State approved format. Specific data files include but are not limited to: active and non-active enrollment effective dates and coverage plan type indicators, Medicare Part D enrollment data and Low Income Subsidy (LIS) data, Medicare Part D coverage dates and plan identifiers, year to date accumulated copayments for enrollees in Suffolk county, EPIC member coverage periods, and year to date member drug expenditures including accumulated copayments.

**f.** The contractor must furnish a monthly reconciliation for all bank accounts established and maintained by the contractor for six months following termination of the contract.

**g.** Experienced personnel are vital to a smooth turnover; the contractor must encourage all employees, including management, to remain throughout the turnover. Over the final six months of the contract term, the contractor must not transfer or otherwise

reassign any of its EPIC dedicated staff without prior State approval.

### G.2.1 Contractor Responsibilities

**a. Turnover Planning**

Two turnover plans, in progressively greater detail, may be required. First, as part of the planning process for reprocurement, a detailed plan must be delivered to the State approximately fifteen (15) months prior to the end of the contract. This plan must include the following, notwithstanding the fact that some of the data will be available through interpretation of existing reports:

**i.** Revisions necessary to reflect new turnover requirements.

**ii.** Revisions necessary to reflect changes to the respective responsibilities of the contractor and State.

**iii.** Revisions as a result of systems development projects expected to be in operation by contract end.

**iv.** Detailed breakdown of all relevant processing steps performed by each organization unit. Information must include staffing, supply consumption, workloads and standard procedures (referenced by manual).

**v.** Lists of all job titles/levels and the number of individuals (in full time equivalents) in each title/level. Provide an organization chart detailing the reporting relationships and number of personnel by level (e.g., manager, professional, clerical) in each organizational unit.

**vi.** Reimbursable expenses for the last two years of the Program.

**vii.** Supply (including forms) list and consumption history for most recent twenty four (24) month period.

**viii.** Monthly detailed statistics on operational volumes for the most recent twenty four (24) month period, furnished in a paper report as well as an electronic medium acceptable to the State to include at a minimum:

**a.** Claim processing statistics - Number of paid, denied, and adjusted claims reported by medium (i.e., POS, paper).

**b.** Reimbursement processing statistics - Number and dollar value for each of the following reimbursement types: pharmacy provider electronic funds transfer (EFT), pharmacy provider (manual) checks, and member copayment refund checks.

**c.** Prepay audit statistics - Number of claims reviewed and the number of claims adjusted or voided, for each of the following: pharmacy provider reimbursement, and member co-payment refund.

**d.** Mailroom processing statistics - Number of documents mailed by type (i.e. application requests, renewal forms, ID cards, benefit guides, mass pharmacy provider mailings); and the number of documents received and optically scanned, (or other method) by type (i.e., paper claims, applications, renewal forms, Request for

Additional Information (RFAI) forms, and correspondence).

**e.** Data Entry Statistics - Number of forms keyed by type (i.e., claims, claim adjustments, applications, renewal forms, RFAI forms, other).

**f.** Correspondence statistics - Number of inquiries by type (i.e., written requests for applications, member written inquiries including e-mail other than request for application, pharmacy provider written inquiries, member phone inquiries and pharmacy provider phone inquiries).

**ix.** Monthly Helpline inquiry activity statistics by Program for the most recent twenty four (24) month period.

**x.** Listing of all proprietary or third party software used in operating the Programs. The list must include vendor name and product name.

**xi.** Training course outlines and materials including the library of FAQs and program operation manuals.

**xii.** A computer processing overview of all production processes, including, at a minimum:

**a.** Description of all EPIC subsystems;

**b.** Flowchart of each subsystem, illustrating input, main processing, main files, output, processing frequency, etc.; and

**c.** Chart of all master files including file name, file size, file structure (e.g., VSAM), database, and database tables.

It is required that all non-proprietary system documentation be readily available, including at a minimum: data dictionaries for all master files and data bases, file documentation of all files, documentation for all Programs including end user programs and job run documentation for all jobs, etc. to the State or, at the State's option, a successor contractor.

Moreover, the turnover plan must include all other information requested by the State, which, in its sole discretion, believes is necessary to effectuate an efficient turnover to the successor contractor, including information for State preparation of an RFP for the subsequent contract.

An update to the turnover plan may be required prior to issuance of the RFP for selection of a successor contractor. If required, this would constitute the final detailed plan and it would be required approximately twelve (12) months prior to the end of the contract. This final updated turnover plan would be produced, within thirty (30) calendar days, upon request by the State.

**b. The Training Successor Organization and Personnel**

The contractor is required to provide turnover training for the successor contractor's management in the operation and maintenance of the Programs. The turnover assistance furnished by the contractor must include the development of a training plan. In addition, the contractor must make the following available to the State or successor contractor during the turnover phase, in addition to any other proposed resources:

- **i.** Access to facilities;
- **ii.** Detailed turnover plan;
- **iii.** Availability of computer resources during turnover for training and testing; and
- **iv.** Space, desks, reasonable office support (copiers, etc.) provided for turnover staff of the successor contractor and the State.

**c. Non-Proprietary Software and Application Programs**

The contractor must transfer to the State or the successor contractor all nonproprietary system software and application programs including, but not limited to: source code and object code, query/reporting facilities, web pages, web interfaces with data bases, databases, and data base tables and documentation to the State or, at the State's option, a successor contractor.

**d. Proprietary Software**

The contractor must exercise the options to assign or deliver proprietary software rights to the State or a successor contractor for each package or system to the State or, at the State's option, a successor contractor.

**e. Personnel**

The contractor's responsibilities during the turnover task will include maintaining constant staffing throughout the turnover period by encouraging all employees, including management, to remain. Over the final six-months of the contract term, the contractor must not transfer or otherwise reassign any of its EPIC dedicated staff without prior State approval.

**f. Pre-Printed Forms and Supplies Inventory**

During turnover, a minimum of three (3) month inventory of pre-printed forms and supplies will be required of the contractor to avoid critical shortages in the immediate post-contract period.

## 3. Contractor Compensation

The bidder must include the turnover tasks in its final paid claim administrative fee in Attachment 11, pricing schedules A.1, A.2, and A.3 (do not put cost numbers in technical proposal). The State may withhold a portion of the contractorôs final paid claim administrative fee if all milestones and deliverables relating to the turnover task have not been properly achieved or furnished.

## 4. State Responsibilities

### a. Project Management

The EPIC Program will assume responsibility for turnover project management. A project manager responsible for coordinating turnover activities, maintaining the turnover task schedule and approving turnover deliverables will be appointed. Periodic project review meetings will be held with representatives of the State, the contractor and the successor contractor.

### b. Pre-printed Supplies and Forms Inventory

The EPIC Program will oversee transfer of all pre-printed supplies and forms from the contractor to the State or a successor contractor. Preprinted supplies and forms paid for under the current contract become the property of New York State.

# H. NEW YORK STATE DEPARTMENT OF HEALTH (NYSDOH)

The Commissioner of the NYSDOH and his/her staff provide ongoing direction and guidance for operation of the EPIC program. Working together with EPIC staff, these responsibilities include the promulgation of Program regulations, contracting for the operation of the Program, recommending implementation of Program improvements, contracting for a therapeutic drug monitoring program, developing an outreach program in cooperation with the Area Agencies on Aging.

## 1. EPIC Program Staff

Under the leadership of the Program Director, EPIC staff is responsible for implementing the Program policies identified by the Commissioner and NYSDOH executive staff, establishing operational procedures, and supervising the delivery of EPIC Program services including oversight of the contractor, participating pharmacies and EPIC members.

### H.1.1 State Responsibilities

The State, acting through the NYSDOH Office of Health Insurance Program (OHIP) staff, will perform the following:

**a. Management of Contracts**

The State will negotiate a contract and any subsequent contract amendments with the successful contractor. The State will review and reserve the right to approve or disapprove all contract products and deliverables.

**b. Program Policies and Regulations**

The State may develop and promulgate Program policies and regulations. The Contractor will be notified of changes. The selected contractor must implement management and systems changes required to support these initiatives within defined time frames as established by NYSDOH.

**c. Fraud and Abuse Activities**

The State may conduct audits, in addition to those performed by the contractor, of pharmacies and member records and undertake civil and criminal actions, as it deems necessary to prevent or curtail fraud, abuse and unacceptable practices within the EPIC Program. These efforts will be coordinated with the resources of the contractor.

**d. Payment Levels**

The State has overall responsibility for identifying factors which influence Program costs and making appropriate adjustments. Specifically the State shall determine cost-sharing of members including point-of-sale co-payment amounts.

**e. Member/Provider Fair Hearings**

The State is responsible for administering the fair hearing process for EPIC Program members and pharmacies. These fair hearings are provided to allow pharmacy providers and members to appeal determinations or actions taken by the contractor in the eligibility determination, reimbursement, audit and enrollment process.

**f. Outreach**

The State must approve all application and promotional material for the EPIC and NYPS Programs. State staff will review the outreach plans developed by the contractor and monitor all contractor outreach.

**g. Provider Enrollment**

The State is responsible for providing the contractor with the identification of pharmacy providers to exclude from participation in the EPIC Program based on Medicaid enforcement criteria.

**h. Pharmacy Licensure**

The State provides information to the contractor on pharmacies subject to disciplinary action. The contractor must use this information as a basis for denying enrollment or discontinuing enrollment of Program pharmacy providers as directed by the EPIC Program staff.

**i. EPIC Program Formulary**

The State will be responsible for informing the contractor on special restrictions or denials on coverage of specific drugs or classes of drugs. The contractor must use this information to establish and update the EPIC Program formulary and approve or deny pharmacy provider claims accordingly.

**j. Therapeutic Drug Monitoring**

The State will retain oversight of the Programs therapeutic drug monitoring system operated by the contractor. The contractor will be responsible for communication with pharmacy providers regarding potentially dangerous drug regimens identified through the therapeutic drug monitoring system.

**k. NYPS Manufacturer Rebate Program**

The State is responsible for contracting with manufacturers for rebates on drugs purchased by NYPS Program members. The State shall notify the contractor of any changes in drug coverage resulting from changes in manufacturer participation. The State and the Contractor will be responsible for quarterly invoicing of manufacturers. The State also is responsible for auditing rebate payments received and processed by the contractor and resolution of rebate disputes as part of its oversight of State contracts with the manufacturers. Should a dispute arise over the rebate amount which was billed, the Contractor must provide the technical support to resolve the dispute.

**l. Premium Payments/Reconciliation With Medicare Part D Plans**

The State will retain oversight of the Program premium payment/reconciliation system which will be operated by the contractor. The State is responsible for obtaining the Medicare Part D Plan rate file each year and will provide this file to the contractor in order to calculate monthly premium payments. The State is responsible for notifying the contractor of any CMS changes in Medicare Part D plans or payment rate policies. The State also is responsible for receiving premium payment reconciliation files from Medicare Part D plans and forwarding them to the contractor for review and adjustment. Once contractor review is complete, the State is responsible for the approval of the final reconciliation amount due to/due from the Part D plan.

# I. BID RESPONSE REQUIREMENTS

## Overview

The purpose of this section of the RFP is to present questions concerning the duties and responsibilities required in sections III.B through III.G of the Statement of Work. The bidderôs proposal should contain responses to all questions in the format specified in Section four (IV) entitled Proposal Requirements. The Bidderôs response to each question in the RFP will be considered during the evaluation process. No conditions and/or contingencies will be allowed in the bidderôs proposal.

## A. Implementation:

1. Provide a detailed description of your approach to the implementation phase of the contract and how you will establish milestones, monitor progress and address any lagging activities.
2. What are the professional credentials for the implementation management team? How will management continuity be assured from the implementation phase to operations?
3. Describe how staffing, scheduling and parallel testing will be handled for the implementation phase.
4. Describe your approach for assuring that staff, for all required functions, is fully trained prior to implementation.
5. Describe the processes you will use to assure that any replacement/acquisition software systems are fully functional and capable of supporting all required functions.
6. Describe your disaster recovery capacity and process.
7. Describe your proposed back-up facility and its capability to perform the key components of the Programs.
8. Describe your proposed approach to establishing a local office, including the specific staff to be based at that location. Describe all other locations proposed for staff to support these operations, and how communications will be maintained with the local office.

## B. Member Enrollment

1. Describe the capabilities of your enrollment system to keep Medicare Part D enrollment information on file and explain the interaction with your claims processing system.
2. Describe the software module(s) that you will utilize to meet the member enrollment requirements of the Programs.
3. Describe the process you would utilize to enroll seniors who have Medicare Part D and who are in immediate need of medication (expedited enrollment) in the Program.
4. Describe the process and procedures you would utilize for the Program applications

or renewals that may be incomplete or lacking information.

5. Describe your security and privacy standards as they relate to member confidentiality and HIPAA.
6. Describe your experience in matching a Centers for Medicare and Medicaid coordination of benefit file to the enrollment files you maintain. Describe the problems that can occur in this process and the procedures you would use to resolve them. How will you handle data mismatches to clean up files?
7. Describe how you will track and report applications generated from specific enrollment initiatives.
8. Describe the enrollment audits you would perform to verify the accuracy of application data and eligibility determinations.
9. Describe the process you will put in place for producing the identification cards required by the Program.
10. Describe how you will receive and image applications as well as supporting documentation. Describe the document control system you have to track enrollment/reenrollment applications, including how you measure the timeliness of your enrollment process.
11. Describe your experience in creating and customizing websites for clients.
12. Describe your experience in receiving enrollment applications, applying client specific enrollment criteria (such as income, age and residency requirements) and either accepting, suspending, or declining these applications.
13. Describe the ability of your enrollment system to keep a historical audit trail of an individual member including identifying when the last updates occurred and what changed on the memberôs file.

## C. Part D Plan Reassignments

1. Describe the quality control measures and benchmarks you would review to ensure that the Part D plan reassignment processes are performed correctly.
2. Describe the process you would implement to match the various files to make a determination to reassign a member into a specific Medicare Part D plan.
3. Describe how you will track members who decide to select a different plan option.
4. Describe the resources that would be available to your member service line representatives when a member calls to ask questions regarding the reassignment process.
5. Describe the reporting process you would put in place to provide the Program with the results of the Plan reassignment process.

## D. Premium Payments/Reconciliation With Medicare Part D Plans

1. Describe your proposed approach for assuring accuracy (quality control) of premium payments for EPIC members.

2. Describe the software module(s) that you will utilize to meet the premium payment/reconciliation requirements of the EPIC Program.
3. Describe any experience you have in systematically receiving a COB data file from CMS or from another outside source, performing quality checks of the data, and integrating this data into a process that generates payments to various entities.
4. Describe the process you would follow to research the premium discrepancy files submitted by the various Part D plans.
5. Describe the resources that would be available to helpline representatives for questions regarding premium payment issues and for researching plan/member generated payment issues.
6. Describe the ability of your system to take multiple fields populated from different files to calculate premiums (including retroactive calculations) for specific EPIC members.

## E. Tax Match

1. Describe how you would establish, maintain and process the tax match requirements of the Program with the NYS Department of Taxation and Finance; including the process you would utilize to notify applicants of an eligibility denial.
2. Describe your system capabilities to report various statistics from the match with the tax department.
3. Describe the capabilities of your system to take the matches from the tax department, perform various State approved edits on the data, and send out and track various letters to members based on data edits and perform necessary changes as per the letters.

## F. Request for Additional Information (RFAI) Process

1. Describe the process you intend to use in identifying EPIC members that are income eligible for a federal Low Income Subsidy (LIS).
2. Describe the computer-based tracking system you intend to use to assure that members receive follow-up letters, phone calls and potential cancellation letters.
3. Describe the process you will utilize to confirm that EPIC members have been approved for LIS.
4. Describe the steps you will use to establish and maintain a process for transmitting files to and from the Social Security Administration (SSA) approved vendor.

## G. Member Relations and Written Communications

1. Provide an overview of your proposed call center, including the capacity to handle the Program telephone volume. Include the ratio of management and supervisory staff to customer service representatives. Describe the staffing proposed for the member call center operation including the logic used to arrive at proposed staffing levels. Describe how you will accommodate normal high volume periods such as Monday mornings or following large mailings.

2. Describe the software module(s), and phone system(s) that you will utilize to meet the member relations requirements of the Programs.
3. Describe the training you will provide staff (including the initial time period for new call center representatives) to take phone calls from the public, ongoing training and the internal reviews that are performed to ensure overall quality service.
4. Describe the capabilities of the telephone system that you propose to use for the Programs including any Interactive Voice Response (IVR) system and scripts that will be utilized. Describe customizable options available to the Program.
5. Describe the capabilities of your phone system to track and report calls by issues and provide updates on actions completed. Include a description of the management reports and information available from the system including the key statistics you report to your clients.
6. Describe the information, resources and system capabilities that are available for your customer service representatives to address member inquiries.
7. Describe the confidentiality and HIPAA privacy training that is provided to your call center representatives.
8. Describe the review process you have in place to ensure that written and electronic correspondence is comprehensive, well constructed, accurate, and easily understood.
9. Describe how you:
    - **a.** receive, acknowledge, image, index and route correspondence for processing via the work flow management system including how you track and measure the timeliness through the work flow process;
    - **b.** produce and distribute correspondence responding to inquiries from members and other stakeholders; and
    - **c.** review correspondence for quality improvement initiatives.
10. Provide the hours of the call center that you are proposing for Program members to make inquiries to the Program and the location of the call center.
11. Describe the resources you will have in place to ensure that translation resources meet the requirements outlined, along with the resources required for members with hearing and speech disabilities.
12. Describe the real time monitoring system that allows your supervisory personnel and State personnel to monitor member inquiries via the helpline.

## H. Pharmacy Enrollment

1. Describe how you data enter, verify, and track participating provider enrollment applications, disenrollment requests, and participating provider information requests.
2. Describe the resources you have available to send pharmacy bulletins and other correspondence to pharmacies and prescribers. Include the process you follow to ensure that the participating provider database is up to date including e-mail addresses.

3. Describe the process you utilize to ensure that participating pharmacies meet the applicable State licensing requirements and are in compliance with all other federal and State laws, rules and regulations. What are the resources, data bases, or other information used by your organization to verify this information?
4. Describe your ability to perform geographic mapping analysis to identify distribution of enrolled pharmacies and accessibility to pharmacy services by members.

## I. Provider Relations

1. Describe the resources (both systematic and personnel) that are available to your provider representatives in resolving pharmacy provider issues and providing overrides at the POS, including the hours past 5:00 PM.
2. Describe the pharmacist resources that are available 24/7 to respond to pharmacist inquiries or questions.
3. Describe the environment that is available to existing or new pharmacy providers or software vendors where they can readily test their claim submittal process.
4. Describe how you stay informed of changes in pharmacy practices. What are some of the key relationships you have that help you stay informed of changes in the marketplace?

## J. Claims Processing

1. Provide a flow chart and step-by-step description of your proposed methodology for receiving, logging, imaging and processing member-submitted claims for the Programs.
2. Describe the software and hardware that you will utilize to meet the claims processing requirements of the Programs.
3. Describe the capabilities of your claim processing system to perform, at the POS, each of the following required Program components:
   - **a.** A concurrent PRO-DUR Program identifying patient drug therapy safety edits and Program benefit edits;
   - **b.** Messaging capabilities in the most recent NCPDP format to the participating pharmacy;
   - **c.** Eligibility verification;
   - **d.** Customized edits for individual members; and
   - **e.** Recognition of pharmacy submitted cost and ensuring the Program receives the ñlesser ofò pricing logic for all prescriptions filled at a participating pharmacy.
4. Describe how your claim adjudication system feeds your Program reporting tool.
5. Describe your claims processing system platform including any back-up system utilized.
6. Describe how any changes to the claims processing system are monitored, verified and tested for the Program, and the quality assurance process to ensure that changes to other Programs or benefits such as AIH and NYPS do not impact the EPIC Program.

**7.** Confirm that your claims processing system has the capability to: deny claims at the POS for members who do not have Medicare Part D, or members with Part D who are not within the coverage gap; sending the appropriate messaging to the pharmacy.

**8.** Describe the capabilities of your claims processing system to collect overpayments from your pharmacy network.

**9.** Describe the loading of a provider representative override and how it ultimately makes it into your claims processing system.

**10.** Describe how your claim processing system identifies claim payments, denials, reversals, and rebills.

**11.** Describe how you identify compound claims. Describe the process you will put in place to ensure that compound claims are priced according to Program logic.

**12.** Describe the read only access you will provide to select NYSDOH staff at state locations for the inquiry of claims.

**13.** Describe the process you will follow to retrieve and load old claim histories for NYSDOH.

**14.** Describe the ability of your claims processing system to batch load multiple claims for adjustment or voiding.

**15.** Describe the ability of your claims processing system to identify claims in the donut hole and assure that the State is getting the proper discount on brand and generic drugs in the donut hole.

**16.** Describe the ability of your claims processing system to simultaneously update member files with POS processing information, including the accumulation of year to date accumulators.

**17.** Describe the maintenance window that you would utilize for the program during non-peak hours for maintenance and updates to system software and hardware.

**18.** Describe how your system assigns unique internal control numbers to claims and how a customer service representative or state approved individual would be able to track the status of a claim through on-line inquiry.

**19.** Describe your system flexibility as it relates to paying additional claim cycles, delaying claim cycles, or merging claim cycle payments.

**20.** Describe your ability to take a State Maximum Allowable Cost file and load this file once a week or more frequently based on State approval, into your claims processing system.

## K. Formulary File Maintenance and State Maximum Allowable Cost List

1. Describe the pricing source you will use for the Program. Describe the updating process you utilize to ensure that timely updates are applied to your pricing source.
2. Describe the read only access you will provide to select NYSDOH staff for the inquiry of eligible drugs and the EPIC formulary file.
3. Describe how you will implement the Programs required brand/generic classification illustrated in Attachments 7a and 7b including how it is displayed in your system for inquiry purposes.
4. Describe the processes you use to create, load, update, and maintain the SMAC list you will be providing to the Programs. Describe the methods and data analysis you perform to ensure that your clients benefit from your SMAC list.

## L. Drug Utilization Review (DUR)

### ProDUR:

1. Detail the full scope of the ProDUR program that you are proposing to utilize.
2. Describe the qualifications of the staff responsible for oversight of your ProDUR program.
3. Describe the software you will utilize to administer the Pro DUR program that you plan to implement.
4. Within your ProDUR program describe all safety edits currently enforced through your claims processing system including, but not limited to the safety edits below:
   - **a.** drug-drug interaction;
   - **b.** overutilization;
   - **c.** exceeding maximum dosage; and
   - **d.** therapeutic duplication.
5. Describe the methods you utilize to measure ProDur effectiveness (Do not include any reference to specific monetary savings).
6. Describe how you will present new clinical alerts for your ProDur system to the State for consideration.

## M. Pharmacy Audit

1. Describe the size and scope of the pharmacy audit program you would conduct for the Program. List and describe all types of audits that would be offered to the Program by your organization including the criteria that will be evaluated for selection of pharmacies for these audits.
2. Describe the corrective action and the monitoring that would take place when you find that a pharmacy is billing incorrectly or otherwise acting against the interests of the State including recoupment of monies due the State.
3. Describe your audit personnel and their audit experience as well as the system

resources that will be allocated to comply with the Programôs audit requirements.

4. Describe the audit reports you will provide to the State.

## N. Banking Services

1. Describe the process you utilize to ensure that your financial management system disburses, tracks and accounts for EPIC, AIH and NYPS payments accurately.
2. Describe how you will perform the prepayment audit of the payment processing cycles, perform balancing tasks and provide payment information to the Department for processing checks and EFT payments.
3. Describe how you will ensure that returned or refunded checks received by you are logged and properly accounted for.
4. Describe the unclaimed fund process you would put in place for the Program.
5. Describe the internal controls you have in place to account for the checks you will receive from various sources.

## O. Mailroom Services

1. Describe the processes for ensuring that mailings go to correct individuals, HIPAA compliance system checks, and document quality control.
2. Describe the process you will put in place to perform the Program courier services including delivery to EPIC and pick-up at EPIC, as well as the delivery and pick-up of items to/from other NYSDOH offices.
3. Describe how you will monitor, sort, prioritize and route for resolution all returned undeliverable mail sent to pharmacy providers, members, and other entities.
4. Describe the process you will put in place for the Program to purchase printing materials for the large scale mailings for the Programs.
5. Describe your methods for ensuring mail documentation and correspondence gets imaged, triaged, tracked and routed to the correct function within your organization.
6. Describe the ability of your system to track correspondence (including e-mail) as it relates to the timeliness of the performance standards contained within this RFP.

## P. Organizational Structure and Staffing

1. Provide a detailed staffing and organization plan identifying where the staff is located. The staffing and organization plan should:
   - **a.** Identify dedicated key and non-key staff by filling out the staffing and organization plan in Attachment 18. Within this attachment, the bidder should identify each position by title, classification of the position as key or non-key, minimum qualifications for that title and number of positions for each title being proposed.
   - **b.** Describe the reporting relationships and responsibilities of each organizational unit illustrated in the staffing and organization plan.
2. Provide a description of your approach to determining staffing levels for the

Programs, including the criteria and process used to develop the staffing estimates.

3. Project expected turnover rates based on your experience with similar programs and describe the efforts that will be taken to minimize staff turnover.
4. Provide resumes and other supporting documentation (utilize Attachment 19) for dedicated key staff positions identified in Attachment 18, showing the staffôs demonstrated experience and/or justification that they possess the relevant knowledge, skills or ability. A resume is not required for dedicated non-key staff, however, these individuals should be shown in the Staffing Plan and Organization (title, number of positions for each title being proposed, and minimum qualifications) Attachment 18. For those dedicated key staff positions that are not filled provide the skill sets you would be seeking to fill the position with a qualified candidate.
5. Describe how the dedicated local account team will interface with senior management and ultimate decision makers within your organization.
6. Describe how your dedicated local account team will have access to larger corporate resources.

## Q. Outreach

1. Describe your approach to communicating with hard-to-reach seniors, including how you will identify and work with ethnically diverse and minority communities.
2. Describe your strategy for working with Part D plans and community-based partners to have them assist in recruiting and enrolling new EPIC members.
3. Describe the various strategies you will employ to encourage attendance at outreach events/educational sessions that may be required.
4. Describe how you would train partners to provide assistance and information about EPIC to eligible seniors in their areas.
5. Describe specifically how you would measure the effectiveness of your outreach activities.
6. Describe the reporting process you would undertake for outreach.
7. Describe any experience you have in conducting similar outreach responsibilities for other clients.
8. Describe how you will approach the issue of multi-language capacity needed for the outreach function. Explain what resources will be provided, and how they would be used.
9. Describe how you will ensure that you can attend outreach events or important meetings that may occur throughout the State.

## R. General Operating Requirements

1. Describe the internal audit process you will put in place for the Program. Include how your internal audit function will review the various functions of your Program including the process followed to inform the State as well as senior management of an auditôs findings. Describe how your organization follows up in those areas where

they have found quality assurance lapses.

2. Describe the document storage retention and retrieval policies that you would put in place for the Programs.

## S. Systems and Reporting

1. Describe the process you would use to estimate and bill the State for a job classified by the State as ña new major system process or functionò or a ñmajor revision to established processes ò (to be performed by the Systems Change Staff).
2. Describe the tools you use to track, manage and report project status through successful completion.
3. Describe your testing environment and the process you utilize to test system changes before they are put into production.
4. EPIC often has to implement systems changes in response to new initiatives without much lead time. Describe the systematic process you utilize to ensure your organization meets these new initiatives with little lead time.
5. Describe the security that you would put in place to ensure that data integrity is maintained and confidentiality protocols are followed.
6. Describe the process that you use to document system projects from requirements, system design, coding, testing, and implementation.
7. Describe your ability to provide the master list of reports in Attachment 14.
8. Describe your ability to provide the view only on-line data access required by the RFP.

## T. New York Prescription Saver Card Program

1. Describe your capacity for maintaining a separate payment system for NYPS to assure accurate accountability.
2. Describe how you will set up your rebate system to ensure that the manufacturer discount provided by participating manufacturers will accurately transmit a State approved rebate discount rate for each NDC to the claims processing system.
3. Describe your ability to replicate the current NYPS website and provide the web based online NYPS eligibility/enrollment application process and the establishment and maintenance of an NYPS website.
4. Describe how your rebate management system will:
   - **a.** Support and monitor the receipt and processing of the pricing data from the manufacturers;
   - **b.** Utilize the CMS and other rebate files to update data;
   - **c.** Exclude specified drugs and supplies from rebate information processing based on State criteria; and
   - **d.** Perform and manage the pre-release trial invoice generation and correction of errors identified by the State prior to final invoice generation

5. Describe how your system addresses differences in dispensing unit forms at the POS that are different from the CMS rebate unit type.
6. Describe the electronic billing capabilities of your rebate system. Describe the processes you will follow in receiving and applying manufacturer check and EFT payments as well as the reconciliation of these payments with the amount invoiced.
7. Describe your rebate Accounts Receivable Plan, to be approved by the Department, including the management of delinquent accounts.
8. Describe your ability to provide the NYPS rebate reports provided in Attachment 24.
9. Describe how your rebate system will generate the initial NYPS rebate amounts, provide these amounts to the State for approval, and allow pricing adjustments before these rates are loaded into the claims processing system.
10. Describe the software module(s) that you will utilize to meet the NYPS rebate requirements.
11. Describe the system you would put in place to pay providers within the required two business day turnaround time.

## U. American Indian Health

1. Describe your capacity for maintaining a separate payment system for AIH to assure accurate accountability.
2. Describe your approach to the implementation of the AIH program to get the AIH Program successfully up and operational.
3. Describe how you would set-up your claims processing system to ensure that the AIH benefits are being properly processed at the POS.

## V. Turnover

1. Describe your proposed approach to managing the turnover phase and how you will ensure that no disruption occurs to current operations during this period.
2. Describe how you ensure all system documentation, system files (including data dictionaries), file documentation and job run documentation is continually updated during the contract term in preparation for turnover.
3. Describe how you intend to provide turnover training for any successor contractor in order to ensure continuity of operations.
4. Describe the management resources that will be provided during this phase to provide oversight and ensure a successful turnover.

# SECTION IV - PROPOSAL REQUIREMENTS

## A. INTRODUCTION

These instructions prescribe the format and content of the offerorôs proposal and are designed to facilitate the submission of a proposal that is easy to understand and evaluate. Failure to adhere to these instructions may result in the disqualification of the Proposal.

For the purposes of this section, the terms bidder, offeror and vendor may be used interchangeably and the terms bid, offer or proposal may be used interchangeably.

## B. PROPOSAL REQUIREMENTS OVERVIEW

The following sections include requirements to be met by offerors in the submission of their Request for Proposal (RFP) responses. Other proposal requirements that are specific to business or other functional areas are identified independently.

In submitting a response to this RFP, interested offerors should be aware that it is their sole responsibility to obtain any third party financing which may be necessary for the offeror to submit a proposal and, if an award is made, to provide the services being sought by the Department under the RFP. The State of New York or the Department will in no manner underwrite, guarantee, act as a signatory or co-signatory or in any manner participate in the securing of third party financing.

### B.1 General Requirements

1. By signing the "Bid Form" in Attachment C, each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:
    - **a.** The RFP and all associated specifications, general and specific appendices, including Appendix A - Standard Clauses for NYS Contracts and all schedules and forms included with such documents, as well as subsequently issued and agreed-upon work specifications issued pursuant to this Contract, will become part of any contract entered into, resulting from the RFP. Anything which is not expressly set forth in the above-referenced documents, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.
    - **b.** 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, products and services to be performed and the conditions under which the contract is to be executed.
2. The Department of Health will make no allowances or concession to an offeror for any alleged misunderstanding or deception related to quantity, quality, character, location or other conditions.
3. The proposal price must 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. Work to be provided by subcontractors must be documented in the RFP response.

**4.** If the use of subcontractors is proposed, the Proposal should explain how the work of subcontractors will be managed and controlled.

## B.2 Experience, Qualifications And Financial Obligations

**1.** The offeror and its subcontractors must possess the necessary experience and qualifications to perform the services required including, at a minimum, the following:

- **a.** three years experience processing at least five million pharmacy claims annually;
- **b.** experience processing at least 50,000 applicants/enrollees for eligibility, enrollment and/or renewal coverage; and
- **c.** at least three years experience operating a drug rebate system.

**2.** The Offeror must provide the following:

- **a.** an executed letter of credit commitment letter in the form set forth in Attachment E of this RFP (to be inserted in Tab 2 of the bidderôs technical proposal) from a financial institution which is licensed to transact business in the State of New York, on the financial institutionôs letterhead, and
- **b.** an attestation that they will provide to the Department proof of a five million ($5,000,000) dollar fidelity bond within ten (10) business days of notice from the Department of contract approval (see section 21 of Appendix I of this RFP).

## B.3 References

**1.** The offeror should provide three (3) references (insert in technical proposal) for the prime contractor of which none of these can be from a subcontractor organization. The purpose is to provide the Department the ability to verify the claims made in the proposal by the offeror.

**2.** The reference criteria are as follows:

- **a.** Every reference should be with regard to a client implemented within the past ten (10) years;
- **b.** The offeror should have been the prime contractor for at least two (2) of the contract(s) associated with any two of the three references;
- **c.** The services provided for two of the references should have included processing applicants/enrollees for eligibility, enrollment and/or renewal coverage; and
- **d.** All of the references should include processing prescription drug claims.

**3.** The Department reserves the right to contact additional references (i.e., those known to the Department as clients of the offeror but not listed by the offeror as a reference).

## B.4 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 its/his/her/their knowledge and belief:

1. 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;
2. Unless otherwise required by law, the prices that 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; and
3. 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 (1), (2) and (3) 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 (1), (2) and (3) 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 or other legal entity involved in the bid.

## B.5 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.

For purposes of this procurement and resulting Contract, the Department has established a goal of 10% for minority business enterprises (MBE) participation and 10% for women-owned business enterprises (WBE) participation, based on the total dollar value of the contract. As part of its proposal, and utilizing the forms as applicable in Attachment F the Bidder is expected to document in detail and certify the good-faith efforts it will undertake to solicit the participation of such enterprises to meet these goals, and must provide an explanation acceptable to the Department in the event it cannot meet those goals.

After an award of this contract, the contractor agrees to submit to the Department within 10 days of such notice, 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. An updated version of such report shall be provided annually on the anniversary date of this contract. The contractor also agrees to submit, as part of its proposal, an updated form throughout the life of the contract, any additional forms provided at the time of contracting.

Contractor must attempt to utilize, in good faith, any MWBE identified within its work force utilization report, during the performance of the contract. Requests for a partial or total waiver of established goal requirements may be made at any time during the term of the Contract to the Department, so long as such request is made as soon as possible and prior to the submission of a request for final payment on the contract.

## B.6 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 VO LUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS
2. 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 an 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 whom 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 ñCertification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,ò without modification, in all lower tier covered transactions;

**g.** A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non procurement Programs;

**h.** Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings; and

**i.** Except for transactions authorized under paragraph e 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.

**3.** Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion ï 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 excluded from participation in this transaction by any Federal department agency; and

**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.

## B.7 Conflict Of Interest

As part of its bid submission, the offeror (and/or any subcontractor(s)) should comply with the following:

**1.** Disclose any potential or actual conflict of interest, including but not limited to, any relationship or interest, financial, business, beneficial or otherwise, which is in conflict with the proper discharge of their responsibilities under this RFP for the implementation, operation, and turnover of the programs. If there is no conflict(s) of interest, so indicate. In cases where such relationship (s) and/or interests exist, offeror should describe how a potential or actual conflict of interest and/or disclosure of confidential information relating to this contract will be avoided;

2. Guarantee knowledge and full compliance with the New York State Public Officersô Law (POL), as amended, including but not limited to Sections 73 and 74, as amended, with regard to ethical standards applicable to State employees;
3. Further, offeror acknowledges that State employees must not benefit from the awarding of the contract, subject to POL, Sections 73 and 74, which are referenced as the Code of Ethics and found at http://www.nyintegrity.org/law/ethc/POL74.html, and in particular, Section 74(2) entitled "Rule with respect to conflicts of interest", no officer or employee or a state agency should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest; and,
4. The Department reserves the right to reject bids, at its sole discretion, based on any potential or actual Conflict of Interest. Failure to comply with these provisions may result in disqualification from the procurement process, withdrawal of a proposed contract award, and criminal proceedings as may be required by law.

## C. PROPOSAL SUBMISSION INSTRUCTIONS

A Proposal consists of two distinct parts: (1) the Technical Proposal, and (2) the Price Proposal. The graphic below outlines the format and volume for submission of each part:

| | DVD | Original | Copies |
|---|---|---|---|
| Technical Proposal | 1 copy in Adobe PDF;<br>1 copy in MS Word 2003 or later/XP | 2 Original Hard Copies | 12 Hard Copies |
| Price Proposal ï excluding Company Financials | 1 copy in Adobe PDF (complete);<br>1 MS Office copy consisting of:<br>• Narrative in MS Word 2003 or later/XP as needed; and<br>• Attachment 11 Worksheets in MS Excel 2003 or later/XP | 2 Original Hard Copies | 12 Hard Copies |
| Price Proposal ï Company Financials | N/A | 2 Original Hard Copies | N/A |

1. The proposal must be received by the Department in Albany, New York, no later than the time on the day specified on page i of this RFP and at the address specified in Section V.E.1 Administrative Requirements Two-part Proposals of this RFP.
2. It is the bidders' responsibility to see that bids are delivered to the address specified in Section V.E.1 Administrative Requirements Two-part Proposals of this RFP prior to the date and time of the bid due date. Late bids, for whatever reason, including delay by the carrier or not being received in the Department's mail room in time for transmission to the address specified

in Section V.E.1 Administrative Requirements Two-part Proposals of this RFP, will not be considered.

3. All proposal materials should be printed on 8.5ò x 11ò white paper (two-sided), be clearly page numbered on the bottom of each page with appropriate header and footer information. A type size of eleven (11) points or larger should be used. The Technical Proposal materials should be presented in D-ring binder(s) separate from the sealed Price Proposal and audited Company Financial Statements. The sealed Price Proposal, audited Company Financial Statements and Comprehensive Dunn & Bradstreet Reports should also be presented in separate D-ring binder(s);
4. Two (2) separate DVD(s) should accompany the hard copy proposals; one for the technical proposal and a separate DVD(s) for the Price Proposal. All files on the DVDs should be individually identified by Component Name, Offeror, proposal part, and version.
5. The proposal should be as specific as possible in its responses to provide the Department with an adequate understanding of the intent of the proposal; and,
6. The Department discourages overly lengthy proposals. Proposals should be self-contained. No models, videotapes, illustrations, brochures or Web site postings will be accepted.
7. In the event of any discrepancies between the original hard copies of the Technical Proposal and Price Proposal and the copies supplied on DVD, the hardcopy will prevail.

Any questions concerning this RFP contract procurement must be directed to the parties listed in page ii of this document.

## D. TECHNICAL PROPOSAL CONTENTS

The Technical Proposal consists of the following sections separated by tabs. Documents and responses should be presented in this order:

| Tab | Proposal Contents |
|---|---|
| 1 | Table of Contents |
| 2 | Compliance Requirements |
| 3 | Executive Summary and Introduction |
| 4 | Statement of Work |
| 5 | Corporate Organization and Experience |

### D.1 Table of Contents (Tab 1)

A Table of Contents of the Technical Proposal should be inserted in Tab 1. The Table of Contents should identify all sections (identified here as Tabs), all subsections contained therein, and the corresponding page numbers. The Table of Contents should include all sections and subsections present under Tabs 1 through 5. The Table of Contents found at the beginning of this RFP provides a representative example of what is expected for the Technical Proposal Table of Contents.

### D.2 Compliance Requirements (Tab 2)

Tab 2 should include the following:

- Transmittal Letter (see below and Attachment G for template)
- Letter of Credit Commitment Letter (see Attachment E for template)
- Conflict of Interest Response(s), if applicable (see Transmittal Letter #12 below and RFP Section IV.B.7)
- Subcontractor Summary(ies), if applicable (see Transmittal Letter #13 below)

Bidders should submit a Transmittal Letter(s), template provided in Attachment G, signed by an individual authorized to legally bind the offeror to the provisions of the RFP. The signature should be hand written and the Transmittal Letter included in Tab 2. A photocopy of the Transmittal Letter should be included in each copy of the Technical Proposal. The Transmittal Letter(s) will be evaluated as part of the screening and should include:

- The complete name and address of the company, and
- the name, mailing address, email address, fax number and telephone number for both the authorized signer and the person the Department should contact regarding the proposal;

and the following statements/attestations:

**1.** A statement that the offerorôs bid includes the administration of all functions included in the RFP and for the operation of all three programs (EPIC, AIH and NYPS);

**2.** A statement that the offeror and its subcontractors have the necessary qualifications and experience delineated in Section IV.B.2.1 of the RFP;

**3.** A statement attesting that the offeror will provide to the Department satisfactory proof of a five million dollar ($5,000,000) fidelity bond within ten (10) business days of notice from the Department of contract approval (see Section 21 of Appendix I of the RFP);

**4.** A statement that the local account staff location must be located within ten (10) miles of the State Capitol in Albany, New York and all other facilities will be located within the continental United States and a statement that, at a minimum, the contractor will include within the local Capital District office the following key dedicated staff: account manager, outreach manager, quality assurance manager, and a project manager with responsibility for system analysis, data access and reporting;

**5.** A statement indicating the legal structure of the entity submitting the offer;

**6.** A statement that the offeror accepts the contract terms and conditions contained in this RFP including exhibits and attachments;

**7.** A statement confirming that the offeror has received and acknowledged all Department amendments to the RFP, as may be amended;

**8.** A statement that the offeror is prepared, if requested by the DOH, to present evidence of legal authority to do business in New York State. This submission is subject to the sole satisfaction of the DOH;

**9.** A statement that the Offeror (i) does not qualify its proposal, or include any exceptions from the RFP and (ii) acknowledges that should any alternate proposals or extraneous terms be submitted with the proposal, such alternate proposals and extraneous terms will not be evaluated by the Department;

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

**11.** A statement that the offeror agrees that it has the sole responsibility for obtaining any third party financing which may be necessary for the offeror to submit a proposal, and further that the offeror understands and agrees that should an award be made, the State of New York and the Department of Health will in no manner underwrite, act as a signatory or co-signatory, or in any manner guarantee participation in the securing of the offerorôs financing;

**12.** A statement which complies with the conflict of interest requirements set forth in RFP Section IV.B.7, Conflict of Interest. Where any potential or actual conflict is disclosed, a description should also be included in Tab 2 as to how a potential or actual conflict and/or disclosure of confidential information relating to the contract will be avoided. If there is no conflict of interest a statement so indicating should be included;

**13.** If a proposal is submitted which proposes to utilize the services of a subcontractor(s), the offeror should provide, in an appendix to the Transmittal Letter in Tab 2, one subcontractor summary for each listed subcontractor. An individual authorized to legally bind the subcontractor should sign that subcontractorôs summary document and certify that the information provided is complete and accurate. The summary document should contain the following information:

- **a.** Complete name of the subcontractor;
- **b.** Complete address of the subcontractor;
- **c.** A general description of the scope of work to be performed by the subcontractor;
- **d.** Percentage of work the subcontractor will be providing;
- **e.** A statement that the bidder is prepared, if requested by the DOH, to present evidence of legal authority to do business in New York State. This submission is subject to the sole satisfaction of the DOH; and
- **f.** The subcontractorôs 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.

## D.3 Executive Summary and Introduction (Tab 3)

Tab 3 should be labeled Executive Summary and Introduction which contains a narrative prepared by the offeror that provides the Department with a collective understanding of the contents of the entire Proposal. The Executive Summary/Introduction should briefly provide an overview of each individual section, summarize the strengths of the offeror and the key features of its proposed approach to meet the requirements of the RFP.

## D.4 Statement of Work (Tab 4)

Tab 4 should be labeled Statement of Work, with separate sections for Implementation, Operations, and Turnover. In this section, the offeror should document its approach to the required duties and responsibilities as well as answer the questions provided in Section III Statement of Work.

Proposals should be fully responsive to the questions; however offerors are given wide latitude in the degree of detail they offer or the extent to which they reveal plans, designs, examples, processes, and procedures. Merely repeating a required duty and responsibility does not demonstrate that the contractor understands the requirement and will result in a lower score in the technical evaluation.

### D.4.1 Implementation

In this section the offeror should provide a description of the methodologies and tasks being proposed for program initiation, requirements validation, system design, system development, testing, data conversion, and operational readiness. The proposal duties and responsibilities outlined in Section III.B of the RFP should be acknowledged as well as responses to the implementation questions in Section III.I of the RFP. The Bidderôs response to each question will be considered during the evaluation process.

### D.4.2 Operations

In this section the offeror should provide a description of the methodologies and tasks being proposed for program operational functions that should be performed throughout the life of the contract to operate the prescription drug programs in accordance with State and Federal mandates. The proposal duties and responsibilities outlined in Section III.C through Section III.F of the RFP should be acknowledged as well as responses to the operations questions in Section III.I of the RFP. The Bidderôs response to each question will be considered during the evaluation process.

### D.4.3 Turnover

In this section the offeror should provide a detailed description of the proposed methodologies and tasks for Turnover of the Program to a successor contractor or to the Department. The proposal duties and responsibilities outlined in Section III.G of the RFP should be acknowledged as well as responses to the turnover questions in Section III.I of the RFP. The Bidderôs response to each question will be considered during the evaluation process.

## D.5 Corporate Organization and Experience (Tab 5)

Tab 5 should be labeled Corporate Organization and Experience.

### D.5.1 Corporate Organization

In this section the offeror should provide a corporate organization chart of its company that is submitted with the proposal. If the company is a subsidiary of a parent company, the organization chart should be that of the subsidiary company. The chart should display the companyôs structure and the organizational placement of the oversight for the programs. The offeror should identify the level of the person who will be responsible for

signing the contract and indicate the signing personôs relationship with the company. The Proposal should document the legal structure of the company, including the date established and the state in which the company is registered, licensed, and incorporated, as applicable:

1. Describe the history of the company;
2. Provide a corporate organizational chart;
3. Describe the executive and management staff assigned to this project. Include the number of staff, their roles on this project, their expertise and experience in providing the services described in this RFP, and their tenure with the company;
4. Identify any contractual terminations for cause within the past five (5) years; and,
5. Describe resource availability for this project, given other projects currently undertaken by the offeror.

### D.5.2 Letters of Reference

The offeror should provide references from three (3) previous customers and include the organization name, a contact person and title, email address, and telephone number for each reference (Fill out Attachment 20 for each reference). Letters of reference should meet the criteria outlined in Section IV.B.3.

## E. PRICE PROPOSAL CONTENTS

The Price Proposal is to be separately bound and sealed and contain the following tabs:

- **a.** Table of Contents (see E.1, below);
- **b.** Pricing Schedules (see E.2, below);
- **c.** Minority and Women Owned Business Enterprise (M/WBE) Utilization Plan (see E.3, below);
- **d.** Certifications and Guarantees by the Offeror (see E.4, below); and
- **e.** Company Financials Content (see E.5, below).

### E.1 Table of Contents (Tab 1)

A Table of Contents of the Price Proposal should be inserted in Tab 1. The Table of Contents should identify all sections (identified herein as Tabs), all subsections contained therein, and the corresponding page numbers. The Table of Contents should include all sections and subsections present under Tabs 1 through 5. The Table of Contents found at the beginning of this RFP provides a representative example of what is expected for the Price Proposal Table of Contents.

### E.2 Pricing Schedules (Tab 2)

Tab 2 shall contain a hardcopy of the pricing schedules as described in Attachment 11 Pricing Schedules. Offerors should use the Microsoft Excel spreadsheets numbered 11A.1 through 11A.8 in the form and content provided with this RFP. **Deviations to this format should not be made. Failure to submit in this required format may result in disqualification**.

## E.3 Minority and Women Owned Business Enterprise (M/WBE) Utilization Plan (Tab 3)

As part of its proposal, utilizing the form in Attachment F in accordance with guidelines set forth in Section V.P Administrative Requirements M/WBE Utilization Plan for Subcontracting and Purchasing, the offeror is expected to document in detail and certify the good-faith efforts it will undertake to solicit the participation of such enterprises.

## E.4 Certifications and Guarantees by the Offeror (Tab 4)

1. **New York State Department of Health Bid Form**

   The offeror should complete the Bid Form included as Attachment C - Bid Form. The Bid Form should be filled out in its entirety. The responsible corporate officer for contract negotiation, consistent with the terms and conditions of the RFP, should be listed. This document should be signed by the responsible corporate officer.

2. **Vendor Responsibility Attestation**

   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. Offerors should also complete and submit Attachment H Vendor Responsibility Attestation and if the Vendor Responsibility Questionnaire has not been filed on-line include it with the proposal.

## E.5 Company Financials Content (Tab 5)

The offeror should submit the following documents to be used in the evaluation of financial viability:

1. Audited financial statements (annual reports) for the last three (3) years;
2. Comprehensive Dunn & Bradstreet report; and
3. Certificate of Incorporation, together with any and all amendments thereto; Partnership Agreement; or equivalent business organizational documents, as applicable.

The Company Financial Information should be submitted in a separate sealed envelope in Tab 5 labeled ñCompany Financial Informationò. The financial statements will be opened only for the Proposal that is selected as the apparent successful Proposal.

# F. EVALUATION PROCESS

The State of New York will perform a fair and comprehensive evaluation of the proposals received in response to this RFP in accordance with the New York State procurement law, guidelines and procedures, as well as policies and procedures approved by the Department. This section of the RFP describes the evaluation process that will be used to determine which Proposal provides the best value to the Department.

The evaluation process will ensure the selection of the best overall solution for the programs on a ñbest valueò basis. Scoring will be split 70% for the Technical Evaluation and 30% for the Cost Evaluation.

## F.1 Scoring of Offeror Technical Proposals (70%)

1. **Evaluation Criteria and Assigned Point Totals**

   The evaluation of the offerorôs technical approach will be based on the responses provided in the proposal. The highest scoring proposal will receive the full percentage. Information from the Price Proposal or the evaluation of the Price Proposal will not be available to the Technical Evaluation Committee during its evaluation.

   The Technical Evaluation will be based on the Offerorôs ability to perform the scope of work and responses to the questions contained in Section III (3) the Statement of Work and Section IV (4) Proposal requirements, Section D.5.1 titled Corporate Organization, responses to any clarifying questions and, as deemed necessary, oral presentations.

2. **Detailed evaluation criteria will not be disclosed to bidders.**

   The technical raw scores will be normalized as follows:

   N = (AõB) * 70% where:

   A is the score being evaluated;

   B is the highest technical score; and

   N is the technical score.

## F.2 Scoring of Offeror Price Proposals (30%)

A separate committee will review and score the Price Proposals from all offerors meeting the Compliance Assessment mandatory requirements.

1. **Calculation of Scores**

   The Price Proposal Evaluation Committee will award the full percentage available to the bidder with the lowest overall cost.

   The financial raw scores will be normalized as follows:

   C = (AõB) *30%

   A is Total Price of lowest Price Proposal;

   B is Total Price of Price Proposal being scored; and,

C is the Price score.

## F.3 Technical and Price Proposals Combined

Technical and Price Proposal scores will be combined to establish a score for each proposal. The proposals will then be ranked based on each offeror's combined score. The ranking will be in descending order. In the event of a tie, the determining factor(s) for award, in descending order of importance, will be:

**a.** Lowest cost

**b.** Past experience

**c.** References

**d.** Minority/Women-owned Business Enterprise (MWBE) utilization

## F.4 Notification of Status of Proposals

At the end of the selection process, each offeror will be notified of the status of its proposal. Any award will be contingent upon execution of a written contract, approval of the New York State Attorney General and the New York State Office of the State Comptroller.

# SECTION V - NEW YORK STATE ADMINISTRATIVE REQUIREMENTS

## A. ISSUING AGENCY

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

## B. LEGAL BASIS

The procurement process for this RFP will be conducted in accordance with the applicable procurement policies and procedures established by the State of New York, including relevant provisions of the New York State Finance Law.

## C. INQUIRIES

All inquiries regarding this proposal must be submitted to the designated contacts listed on page ii of this document. Questions and answers, as well as any RFP updates and/or modifications, will be posted on the Department of Healthôs website at http://www.health.ny.gov/funding/. Offerors wishing to receive these documents via mail must send a request, in writing, to the designated contacts listed on page ii of this document.

## D. RFP ISSUANCE AND AMENDMENTS

Prior to its release, this RFP was reviewed by the Department of Health. Its contents represent the best available statement of the requirements and needs of involved stakeholders.

The Department reserves the right, prior to the proposal due date, to amend the RFP specifications to correct errors or oversights or to supply additional information as it becomes available. All written addenda to the RFP, along with the RFP itself, will become part of the contract.

Both the RFP and any subsequent amendments will be posted on the Departmentôs Web site. Offerors are responsible for checking for updates to information on the Web. Offerors should also visit http://www.health.ny.gov/funding/ regularly to see if there are any changes.

### D.1 Questions and Answers

Prospective offerors may submit questions concerning this RFP, in writing, to the permissible subject matter contact identified on page ii.

Questions received by the Department after the final due date specified on page i may not be answered.

All questions pertaining to this RFP must be submitted in writing and should cite the RFP section and page number. The Department will accept written questions received by electronic mail or delivered by the U.S. Postal Service, a commercial service, and/or in person by the date specified on page i. Requests for materials and information not in the Procurement Library should be sent as written questions to the contact specified on page ii.

Following receipt of the submitted questions, Department staff will prepare written responses to all questions received. These responses will be made available on the Departmentôs Web site at http://www.health.ny.gov/funding/. To the extent practicable, questions will remain as

written. However, the Department may consolidate and paraphrase questions received.

Offerors should clearly understand that the only official answers or positions of the Department are those stated in writing and posted on the Departmentôs website. Verbal responses do not represent the official answer or position of the Department and the Department shall not be bound in any way by any such verbal answer. There will be no Bidders Conference held for this procurement.

## D.2 Procurement Library

The Department will provide a Procurement Library. These materials will be made available upon offeror request to the subject matter contact designated for distribution on page ii of this RFP. Library documents are intended only as a resource and are not a guarantee of performance levels. They provide a window into program functionality and Department operational needs.

If any materials, documentation, information, or data are discovered to be inaccurate or incomplete, such inaccuracy or incompleteness shall not constitute a basis for challenging the contract award, contract rejection, or renegotiation of any payment amount or rate either prior to or after contract award. All information contained in the Procurement Library represents the best information available to the Department with regard to the functioning at the time of RFP preparation.

Requirements specified in this RFP shall take precedence over any documentation in the Procurement Library if a conflict exists.

## D.3 Use of Fax Machines And Electronic Mail

The Department will use the procurement website as the primary means of communication with offerors. However, where appropriate, the Department may use facsimile (fax) machines and electronic mail (e-mail) to transmit information (e.g., questions, RFP addenda) to prospective offerors. However, the Department may also use the U.S. Postal Service to send originals.

Prospective offerors assume sole responsibility for ensuring that the Department actually receives (complete and in a timely manner) written questions, proposals and other inquiries (whether transmitted by e-mail, the U.S. Postal Service, a commercial delivery service, or delivered in person) from the prospective offeror. The Department will not accept faxed or e-mailed proposals.

## D.4 Agreement to Accept And Abide By The Request For Proposal And Request For Proposal Process

By submitting a proposal in response to this RFP, each offeror (including the offeror's parent organization and proposed subcontractors, agents, and employees of the Offeror) agrees and consents, without reservation, substitution, or limitation, to the terms of the RFP, including the requirements and procedures established accordingly. Alternate proposals or extraneous terms will not be evaluated.

# E. SUBMISSION OF PROPOSALS

The detailed requirements for submission of proposals are described in the following sections. Deviations from these requirements may render a proposal non-responsive.

## E.1 Two-Part Proposals

Proposals should be submitted in two (2) separate packages: a Technical Proposal and a Price Proposal, prepared in accordance with the requirements stated in this RFP.

Sealed proposals shall be delivered to the following address:

Joseph Zeccolo
New York State Department of Health
Corning Tower, Room 2019
The Governor Nelson A. Rockefeller Empire State Plaza
Albany, New York 12237

Proposals must be physically received at this location on or before the time and date specified on Page i of this document. Late proposals will not be evaluated.

Submitted proposals should conform to the proposal requirements specified in section IV Proposal Requirements.

The outside cover of the separate, sealed package containing the Technical Proposal should be clearly marked:

New York State Department of Health
RFP No.: 1111091053
*NYS EPIC, American Indian Health, New York Prescription Saver Card Program*
Technical Proposal
(Offeror Name)

The outside cover of the separate, sealed package containing the Price Proposal should be clearly marked:

New York State Department of Health
RFP No.: 1111091053
*NYS EPIC, American Indian Health, New York Prescription Saver Card Program*
Price Proposal
(Offeror Name)

All proposals should clearly indicate the name, title, mailing address, daytime telephone number, and fax number of the offeror's authorized agent with the authority to bind the offeror to the provisions of the proposal and to answer official questions concerning the proposal.

## E.2 Proposal Life

All proposals should be fully responsive to this RFP in order to be considered for contract award. The proposal must remain valid for 365 calendar days from the proposal due date.

## E.3 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 agencyôs sole discretion;
3. Make an award under the RFP in whole or in part;
4. Disqualify any offeror 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 stateôs investigation of a bidderôs qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agencyôs request for clarifying information in the course of evaluation and/or selection under the RFP;
7. Prior to the proposal due date, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
8. Prior to the proposal due date, direct offerors 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 offerors;
11. Waive any requirements that are not material;
12. Negotiate with the successful offeror within the scope of the RFP in the best interests of the State;
13. Conduct contract negotiations with the next responsible offeror, should the agency be unsuccessful in negotiating with the selected offeror;
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 calendar days from the proposal due date; and,
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerorôs proposal and/or to determine an offerorôs compliance with the requirements of the solicitation.

## E.4 Debriefing and Vendor Protests

Once an award has been made, offerors 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 offerors wish to protest the award resulting from this RFP, offerors 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. DEPARTMENT RESPONSIBILITIES

The following sections detail Department responsibilities, including:

1. Review and approval of all work products; and,
2. Providing direction and setting policy for all work accomplished.

### F.1 Review and Approval of All Work Products

1. The Department reserves the right to review and approve all aspects of the Contractorôs work as it relates to this RFP;
2. The Department reserves the right, at its sole discretion, to determine if the Contractor has successfully met or completed all requirements; and the Department reserves the right, at its sole discretion, to withhold payments based on a deliverable, milestone or project completion when the Contractor has failed to meet all of the requirements;
3. The Department has sole responsibility of approving the addition of new System major revision projects and setting the priority for system and operational projects; and,
4. The Department will conduct a timely review of all materials submitted to the Department by the Contractor, returning comments within twenty (20) business days unless otherwise agreed upon by the Department and the Contractor.

### F.2 Providing Direction and Setting Policy For All Work Accomplished

1. The Department will provide policy and contract clarification as requested by the Contractor;
2. The Department will notify the Contractor regarding changes in Federal, State and Department requirements that affect the Contractorôs performance with regard to the requirements in this RFP;
3. The Department will establish policies and make administrative decisions concerning the requirements in this RFP; and,
4. The Department will identify all State mandated reports for the Contractorôs production and distribution including format, content, frequency of production, media, and distribution.

## G. GENERAL CONTRACTOR REQUIREMENTS

1. All deliverables, materials or other submissions provided by the Contractor must meet the form and the duties and responsibilities specified by the Department. Such deliverables or other materials shall be subject to Department approval; and

2. The Contractor shall be responsible for full, current and detailed knowledge of, and compliance with, the requirements of New York State and Federal law and the pertinent regulations and guidelines promulgated thereunder. The Contractor also shall be responsible for ascertaining all relevant requirements for operations and bring same to the attention of the Department.

## H. VENDOR-TO-VENDOR RELATIONSHIPS

1. The Contractor must participate in scheduled contract coordination meetings between the Department and any other applicable Contractors throughout the life of the contract;
2. The Contractor must cooperate with the successor Contractor while providing all required turnover services. This will include meeting with the successor and devising work schedules that are agreeable for both the Department and the successor Contractor; and
3. The Contractor must participate with the Department during development tasks and activities to establish specific areas that require coordination efforts to be established.

## I. PAYMENT

If awarded a contract, the Contractor shall submit invoices and vouchers to:

New York State Department of Health (NYSDOH)
Office of Health Insurance Programs (OHIP)
EPIC Program
Attn: Director of Operations
One Corporate Plaza, Ste. 101
260 Washington Avenue Ext.
Albany, NY 12203-5401

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 518-474-4032. The 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 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 and in accordance with the schedules and methods defined in this section and Attachment 11 Pricing Schedules. No payment will be made until the Contract has received all required approvals. The Department is not responsible for and will not pay local, State, or Federal taxes. All costs associated with the contract must be stated in U.S. currency.

## I.1 Contractorôs Performance and Basis Of Payment

### I.1.A. General information - Payment

1. The State shall pay the Contractor for full and satisfactory performance of the duties and tasks defined in this RFP. Contract Year One (1) shall begin April 1, 2012 and shall end March 31, 2013; thereafter each contract-operating year shall begin on April 1 and end on March 31. The Claims Processing Year shall begin on July 1 and shall end June 30, except for Claims Processing Year Seven (7) which shall begin July 1, 2018 and end March 31, 2019.
2. The Contractor shall submit monthly standard vouchers for EPIC, AIH and NYPS to EPIC, NYS Department of Health, the Stateôs designed payment office, located at One Corporate Plaza, 260 Washington Avenue Extension, Albany, New York 12203 or other location designated by the State. Payment shall be made after receipt of such vouchers and necessary supporting documentation satisfactory to the Department and the Office of the State Comptroller.
3. Contractor payments will be reduced by the amount of any actual or liquidated damages including performance penalties as determined by the Department in accordance with the provisions of the RFP.

### I.1.B. Implementation Fee – EPIC Program

1. One payment of the implementation fee, if applicable, shall be made after all implementation tasks have been completed, reviewed and approved by the State. The Contractor shall be paid the fixed implementation price provided in the resulting contract. The amount for implementation of the EPIC Program may not exceed $500,000. The Contractor shall submit one voucher for the implementation fee, payment to the Contractor shall be made after receipt of such voucher that is satisfactory to the Department and the Office of the State Comptroller.
2. In the event that the Contractor fails to achieve all milestones or furnish all deliverables required, the portion of payment attributable, in the judgment of the State, to the milestones or deliverables for which the Contractor is deficient shall be withheld by the State, in its sole discretion, until such time as the milestones or deliverables are determined by the State to have been properly achieved or furnished.

**3.** If the Contractor fails to perform successful parallel testing of all computer processing functions for the participant eligibility, premium payments and claims processing subsystems prior to implementation, on a state approved schedule, a non-refundable penalty will be assessed and deducted from payments due to the Contractor at a rate of $3,000 per day for the first seven days of delay, and $5,000 per day thereafter. Penalties will not be applied for any delays that are in the opinion of the State, attributable to the State. In addition, the Contractor will be required to reimburse the State for any expenses, including operational payments made to the predecessor or other Contractor, as required to continue operations during the delay in implementation by the Contractor.

**4.** If the Contractor fails to achieve major implementation milestones or furnish major implementation deliverables as required by the State, the contract may be terminated for default as provided in Section 12.1.2 Appendix I, Contract Requirements.

## I.1.C. Operational Payments

### 1. EPIC Final Paid Claim Administrative Fee

**a.** The Contractor is required to process all EPIC claims received. The Contractor shall be paid on a per Final Paid Claim basis as set forth in the Contractorôs proposal Attachment 11 Pricing Schedule A.1, for the first Claims Processing Year of operations for EPIC. The number of total paid claims count for the month, is determined as of the last day (11:59 PM ET) of each month.

| Total EPIC Annual Final Paid Claim Level | Approved Final Paid Claim Administrative Fee |
|---|---|
| Level 1<br><800,000 Total Final Paid Claims | $X.XX |
| Level 2<br>800,000 to 1,600,000 Total Final Paid Claims | $X.XX |
| Level 3<br>>1,600,000 Total Final Paid Claims | $X.XX |

**b.** For Claims Processing Year One (1) the Contractor shall be <u>initially</u> reimbursed each month based on the Approved Final Paid Claim Administrative Fee at the EPIC Annual Final Paid Claim Level 2, times the number of paid claim count for each month. Ninety (90) days from the end of Claims Processing Year One (1), the number of total final paid claims for the Claims Processing Year shall be determined by the Contractor and submitted to EPIC. A year end settlement for Claims Processing Year One (1) shall be made if the total final paid annual claim volume exceeds the upper threshold of Level 2 annual final paid claims volume or goes below the lower threshold of Level 2 annual final paid claims volume. Any resulting adjustment to the total claim administrative fees paid to the Contractor for Claims Processing Year One (1), utilizing the adjusted final paid claim count, shall be included on the next monthly voucher as an adjustment. In addition, if, as a result of the final paid claims paid settlement process it is determined that an EPIC Annual Final Paid Claim Level adjustment is required,

then the initial amount reimbursed for the Approved Final Paid Claim Administrative Fee for Claims Processing Year Two shall be changed accordingly, and a separate additional adjustment shall be made to account for the change in initial reimbursement for claims retroactive to the start of the Claims Processing Year Two.

**c.** For Claims Processing Year Two (2) through Claims Processing Year Seven (7) the Contractorôs Approved Final Paid Claim Administrative Fee for the previous year will be subject to an annual claim administrative fee increase of the lesser of three percent (3%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C. for the twelve (12) month period ending ninety (90) days prior to the end of the applicable Claims Processing Year.

**d.** For Claims Processing Year Two (2) through Six (6) the <u>initial</u> monthly payment to the Contractor shall be based on the approved final paid claim administrative fee at the EPIC annual final paid claim level of the previous Claims Processing Year. A year end settlement consistent with the process described in (**b.**) above will be made if the total final paid annual claim count results in a claim level that differs from the final paid annual claim level utilized to reimburse the Contractor for the Claims Processing Year. In addition, if, as a result of the final paid claims paid settlement process it is determined that an EPIC Annual Final Paid Claim Level adjustment is required, then the initial amount reimbursed for the Approved Final Paid Claim Administrative Fee for the then current Claims Processing Year shall be changed accordingly, and a separate additional adjustment shall be made to account for the change in initial reimbursement for claims retroactive to the start of the then current Claims Processing Year.

**e.** For Claims Processing Year Seven (7) the <u>initial</u> monthly payment to the Contractor, shall be based on the annual final paid claim level of Claims Processing Year Six (6) times the number of paid claim count for each month. The last monthly claim administrative fee payment for Claims Processing Year Seven (7) shall be withheld by the Department.

**f.** Ninety (90) days after the end of Claims Processing Year Seven (7), the number of total final paid claims shall be determined by the Contractor and submitted to the Department. Once the total number of final paid claims is verified by the Department, the last monthly claim administrative fee payment shall be made to the contractor, subject to the Turnover and Performance provisions in Sections V.I.H and V.I.J of this RFP.

**g.** The Contractor shall maintain all records and documentation sufficient for the State to complete a full audit of the calculations regarding the final number of paid claims for each claim processing year.

**2. AIH and NYPS Final Paid Claim Administrative Fee**

**a** The Contractor is required to process all AIH and NYPS claims received. The Contractor shall be paid on a Final per Paid Claim basis as set forth in the

Contractorôs proposal Attachment 11 Pricing Schedule A.2 and A.3, for the first Claims Processing Year of operations for AIH and NYPS. The initial monthly amount payable to the Contractor for operations shall be calculated as the Approved Final Paid Claim Administrative Fee times the number of paid claims for the month. The number of total paid claims count for the month, is determined as of the last day (11:59 PM ET) of each month.

| Program | Approved Final Paid Claim Administrative Fee |
|---|---|
| AIH | $X.XX |
| NYPS ï with rebate | $X.XX |
| NYPS ï without rebate | $X.XX |

**b** For Claims Processing Year Two (2) through Claims Processing Year Seven (7) the Contractorôs Approved Final Paid Claim Administrative Fee for the previous year will be subject to an annual claim administrative fee increase of the lesser of three percent (3%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C. for the twelve (12) month period ending ninety (90) days prior to the end of the applicable Claims Processing Year.

**c** For Claims Processing Year One (1) through Six (6), ninety (90) days from the end of each Claims Processing Year, the number of total Approved Final Paid Claims for the applicable Claims Processing Year shall be determined by the Contractor and submitted for approval. Any resulting adjustment to the total claim administrative fees paid to the Contractor for the applicable Claims Processing Year, utilizing the adjusted claim count, shall be billed on the next monthly voucher as an adjustment.

**d** For Claims Processing Year Seven (7) the <u>initial</u> monthly payment to the Contractor, shall be based on the total Approved Final Paid Claims for Claims Processing Year Seven (7) times the number of paid claim count for each month. The last monthly claim administrative fee payment for Claims Processing Year Seven (7) shall be withheld by the Department.

**e** Ninety (90) days after the end of Claims Processing Year Seven (7), the number of total final paid claims shall be determined by the Contractor and submitted to the Department. Once the total number of final paid claims is verified by the Department, the last monthly claim administrative fee payment shall be made to the contractor, subject to the Turnover and Performance provisions in Sections V.I.H and V.I.J of this RFP.

**f** The Contractor shall maintain all records and documentation sufficient for the state to complete a full audit of the calculations regarding the approved final number of paid claims for each Claims Processing Year.

### I.1.D. Systems Change Hours– EPIC/AIH/NYPS

1. For Claims Processing Year One (1) the Contractor shall be paid for systems change hours as defined in Section III.D of the RFP. These monthly payments made by the Department will be variable based on completing Department-approved projects at the hourly rates provided in the resulting contract.
2. For Claims Processing Year Two (2) through Claims Processing Year Seven (7) the Contractorôs Approved System Change Hourly rate for the previous year will be subject to an increase of the lesser of three percent (3%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C. for the twelve (12) month period ending ninety (90) days prior to the end of the applicable Claims Processing Year.
3. The Contractor shall support state approved projects to make major revisions to the Contractorôs systems or to add new major system processes through the annual provision up to 6,240 System Change Hours. There is no guarantee of the full utilization of these annual hours, if the annual allotment is not utilized there will be no change to the hourly rates. Any annual System Change Hours not utilized in any Claims Processing Year will be available in subsequent years, pending the availability of funding.
4. The allotment of 6,240 annual hours is to be used only for time spent directly on Department approved projects. No other System Change Staff time (e.g., vacation, sick leave, training, etc.) may be billed to the Department.
5. System hours that are spent to perform the duties and responsibilities required in the RFP must be included in the final paid claim administrative fee. These hours should not be included in the monthly System Change Hours provided in Attachment 11, Pricing Schedule, A.5. For a definition of what qualifies as a System Change Hour see Section III.D.4 of this RFP.
6. Time to be spent on Department approved projects for the System Change Hours must be included in each projectôs estimated and expended hours. Time charged to System Change Hours will be paid upon Department-approved completion of that project based on the applicable claims processing year hourly rate.
7. Some activities performed by Contractor staff that are required to maintain and update the system are considered maintenance (e.g., update version control management) and as such those activities are to be included in the claim administrative fees.
8. Upon the successful completion of a project or as approved by the Department, the State will pay the Contractor for the billed System Change Hours according to the amount approved in the resulting contract. Upon request, the Contractor shall furnish to the Department all documentation, in a level of detail satisfactory to the Department, fully justifying the Contractorôs explanation of its billed System Change Hours.
9. System Change Hours only apply to post implementation prior approved System Change Hours.

## I.1.E. Payment for Additional Staffing –EPIC/AIH/NYPS

1. Should the Department need to add additional Contractor staff as a result of adding programs or functions to the program, the Department shall reimburse the Contractor monthly (for the time period that the position is filled) at the billed daily rate for each position as set forth in Attachment 11, pricing schedule A.7 for the applicable claims processing year.
2. For Claims Processing Year Two (2) through Claims Processing Year Seven (7) the Contractorôs daily rate per full time equivalent for the previous year will be subject to an increase of the lesser of three percent (3%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C. for the twelve (12) month period ending ninety (90) days prior to the end of the applicable Claims Processing Year.

## I.1.F. Miscellaneous Tasks –EPIC/AIH/NYPS

From time to time, the Department may require the Contractor to perform EPIC, AIH, NYPS related tasks of an operational nature which, although within the general scope of work required by this RFP, are not required to be performed within the final paid claim administrative fee for EPIC, AIH, and NYPS operations. Costs for such miscellaneous tasks will be negotiated in advance and agreed to in writing with the Contractor on an individual task basis and shall be subject to payment by the Program in addition to the monthly paid claim administrative fee for EPIC, AIH and NYPS operations. Prior written approval from the EPIC Program shall be required for all such tasks. The total cost, as approved by the State, of all such tasks performed in any calendar month shall not exceed seven thousand five hundred dollars ($7,500).

## I.1.G. Reimbursable Costs –EPIC/AIH/NYPS

The State shall pay the Contractor for the following monthly reimbursable costs directly and reasonably incurred by the Contractor in carrying out certain tasks required by the contract. It is the responsibility of the Contractor to perform and contract for services and products in the most cost efficient manner. Reimbursable costs shall be reported separately in a level of detail satisfactory to the Department.

**i.** Postage expenses include postage expenses incurred by operations on behalf of the Department. The Contractor is expected to meet the necessary postal requirements throughout the contract term to obtain the up-to-date lowest rates available for the services needed.

**ii.** Printing costs including the cost of program pre-printed forms, outside printing costs for jobs including but not limited to: applications, brochures, and member mailings.

**iii.** Suffolk County postage expenses include postage expenses incurred by EPIC to send a letter to each EPIC member residing in Suffolk County at the end of their annual coverage period with a summary of their co-payments for the period, which are currently subject to reimbursement by the County.

1. For reimbursable costs the State requires reasonable evidence that the best available vendor has been obtained, price and all other factors considered.

Prices between $200 and $1,500 should be confirmed in writing by the vendor and approved by the State before purchase. For purchases exceeding $1,500, at least three bids are required to be solicited. State approval is required prior to vendor selection.

**2.** The Contractor shall submit a monthly voucher certifying the amount of reimbursable costs. The Contractor shall maintain, subject to State examination and audit, accounting records, substantiating invoices, receipts and other evidence of expense incurred. These reimbursable costs must be separately identified and properly allocated to the Program that incurred the cost. Each monthly voucher shall have the items stated below attached:

**i.** copies of invoices which include expenses for vendor services, such as printing expenses, and

**ii.** receipts and other evidence of expenses incurred.

**3.** Reimbursable costs shall not be incremented by corporate allocation or markup (profit margin).

**4.** There are ordinary expenses that occur in the regular course of business that the Offeror is responsible for. These expenses must be included as part of the Offerorôs final paid claim administrative. These expenses include but are not limited to: internal mailings, office supplies, equipment, insurances, rent, licenses, printer ink, paper for reporting, mailing and shipping costs to and from corporate, human resource costs and payroll charges.

### I.1.H. Turnover –EPIC/AIH/NYPS

**1.** There is no separate fee allowed for the Contractorôs turnover costs.

**2.** The Department will pay the Contractor its last monthly payment upon completion, to the Departmentôs satisfaction, of all tasks and deliverables required in the Contractorôs Department approved turnover plan, subject to the reconciliation process outlined in V.I.1.C.1.f and V.I.1.C.2.e.

**3.** Should the Contractor initially fail to provide the services and tasks required of the approved turnover plan, the Department, in its sole discretion, may withhold the claim administrative fees for the final month of the contract. This amount, minus any amounts owed the Department pursuant to Attachment 10 Performance Standards will be paid upon State review and determination that all milestones and deliverables relating to the Turnover tasks have been, in the judgment of the State, properly achieved or furnished.

### I.1.I. Negotiations

**1.** In the event that the State in its reasonable judgment determines that there are major or significant changes in the scope of this contract, as a result of changes in Federal or State law or regulations or workload required by the State and such changes will result in the elimination of a program function or a significant reduction of the duties and responsibilities within a function, the State will immediately adjust downward the per final paid claim administrative fee. This downward adjustment will be based

on the value of the function provided in Attachment 11, Pricing Schedule A.4. The parties agree to enter into negotiations to adjust future payments to reflect the cost changes associated with the elimination or reduction of the duties and responsibilities within the affected function(s). Both parties will use their best efforts to complete these negotiations within sixty (60) calendar days of the Stateôs notification to adjust the Contractorôs per final paid claim administrative fee, subject to execution of a written amendment, and approval of the New York State Attorney General and the New York State Office of the State Comptroller.

**2.** In the event the Contractor believes an increase in the per final paid claim administrative fee is warranted due to major or significant changes in the scope of this contract as a result of changes in Federal or State law or regulations or workload required by the State, the Contractor is required to submit detailed documentation of additional costs, over and above existing management costs. The Department reserves the right to request and the Contractor must agree to provide any additional information and documentation the Department deems necessary to verify that the request for an additional amount in the per final paid claim administrative fee is warranted. The Departmentôs decision to modify the per final paid claim administrative fee to the extent necessary to compensate the Contractor for documented additional costs incurred shall be at the sole discretion of the State. The Department will use its best efforts to render its decision within sixty (60) calendar days of the documented additional cost information provided by the Contractor, subject to execution of a written amendment, and approval of the New York State Attorney General and the New York State Office of the State Comptroller.

**3.** The Contractor shall implement all changes to the program as required by the Department with or without final resolution of any request for an increase in the per final paid claim administrative fee or the Departmentôs decision to decrease the per final paid claim administrative fee. Refusal to implement changes will constitute a material breach of the Agreement and the Department will seek compensation for all damages resulting.

### I.1.J. Performance

**1.** Full payment shall be made on each invoice upon State review and determination that the Contractor has performed in accordance with the performance standards and other duties and responsibilities as set forth in this RFP.

**2.** In the event that the Contractor fails, in the reasonable judgment of the State, to properly perform in accordance with the duties and responsibilities required of the Contractor, full or partial payment for that function for which the Contractor is deficient may be withheld by the State until such time as the State reasonably determines that the duties and responsibilities are met, or the State may assess liquidated damages. Should the State withhold monies or assess liquidated damages, the State shall notify the Contractor in writing and in accordance with the provisions as specified in Section 31 of Appendix I, Contract Requirements.

**3.** The determination of the amount withheld shall represent the reasonable value, in the judgment of the State, of the duties and responsibilities not met. Notwithstanding the

above provisions, the State shall not withhold, within any given month, more than thirty (30) percent of the total monthly payment due under I.1.C through I.1.F of this section.

4. The State may assess as liquidated damages a reasonable amount, not to exceed a ten percent (10%) nonrefundable reduction in the total monthly payment due under I.1.C through I.1.F of this section in which the duties and responsibilities required of the Contractor were not met, which the parties hereby agree represents a reasonable measure of the damages incurred by the State for such nonperformance.
5. The Contractor may provide to the State information regarding the circumstances surrounding the deficiency and the measure of damages. The State may consider such information when determining the reasonable measure of damages and when determining whether such assessment will be a nonrefundable deduction and/or a withholding. The State shall notify the Contractor in writing and in accordance with the provisions as specified in Section 31 of Appendix I, Contract Requirements.
6. The liquidated damages procedure, as set forth herein, may be repeated each month and further liquidated damages assessed until the performance requirement is determined by the State to have been properly achieved or furnished by the Contractor. Assessment of liquidated damages pursuant to the foregoing provisions does not constitute an exclusive remedy, and the State may elect to pursue any other remedies available under the law and the terms of this Agreement.
7. If the performance in question is subsequently achieved or furnished as determined by the State, the applicable payment withheld (less any liquidated damages assessed) shall be released to the Contractor.
8. In the event the Contractor fails to comply with the performance standards provided in Attachment 10 of this RFP the State may assess liquidated damages. The State shall notify the Contractor in writing and in accordance with the provisions as specified in Section 31 of Appendix I, Contract Requirements.

## J. 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:

1. 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;
2. 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;
3. 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;

4. 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;
5. Directs the Office of General Services to disclose and maintain a list of non-responsible offerors pursuant to this new law and those who have been debarred and publish such list on its website;
6. Requires the timely disclosure of accurate and complete information from offerors with respect to determinations of non-responsibility and debarment;
7. Expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribalï State Agreements, and procurement contracts;
8. Modifies the governance of the New York State Commission on Public Integrity
9. Provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
10. Increases the monetary threshold which triggers a lobbyists obligations under the Lobbying Act from $2,000 to $5,000; and,
11. 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 Ä1-t (e) and State Finance Law Ä139-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 Ä139-k, Disclosure of Contacts and Responsibility of Offerors. Sections 139-j and 139-k are collectively referred to as ñnew State Finance Law.ò

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 Ä1-t (c) and Ä1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Commission on Public Integrity.

## K. ACCESSIBILITY OF STATE AGENCY WEB-BASED INTRANET AND INTERNET INFORMATION AND APPLICATIONS

Any Web-based Intranet and Internet information and applications development, or programming delivered pursuant to the contract or procurement will comply with NYS Office for Technology Policy P04-002, ñAccessibility of New York State Web-based Intranet and Internet Information and Applicationsò, and NYS Mandatory Technology Standard S04-001, as

such policy or standard may be amended, modified or superseded, which requires that state agency Web-based Intranet and Internet information and applications are accessible to persons with disabilities. Web content must conform to NYS Mandatory Technology Standard S04-00, as determined by quality assurance testing. Such quality assurance testing will be conducted by the Department, the Contractor or other third party acceptable to the Department. The results of such testing must be satisfactory to the Department before Web content will be considered a qualified deliverable.

## L. 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 individualôs unencrypted personal information plus one or more of the following: social security number, driverôs 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 individualôs 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.

## M. 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 State.

## N. 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" (Attachment I) in order to be eligible for a contract.

The winning bidder must also agree to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" (Attachment J) 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 I and J to this document.

## O. 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 Contractorsô sales delivered into New York State are in excess of $300,000 for the four (4) 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 (4) 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 Offeror meeting the registration requirements but who is not so registered in accordance with the law.

The winning Offeror must complete and submit directly to the New York State Tax and Finance (DTF), Contractor Certification Form ST-220-TD (see Attachment D of this RFP for website link) 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 Offeror must also complete and submit to the Department the form Contractor Certification to Covered Agency Form ST-220-CA (see Attachment D of this RFP for website link) attached hereto, certifying that the Contractor filed the ST-220-TD with DTF. Offerors shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

## P. M/WBE UTILIZATION PLAN FOR SUBCONTRACTING AND PURCHASING

The Department encourages the use of Minority and/or Women Owned Business Enterprises (M/WBE's) for any subcontracting or purchasing related to this contract. Offerors 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 ï 10%; Women-owned ï 10%). In order to assure a good-faith effort to attain this goal, the Department suggests that offerors complete the M/WBE Utilization Plan, found in Attachment F M/WBE Forms, and submit this Plan with their price proposal.

Offerors that are New York State certified MBE's or WBE's are not required to complete this form. Instead, such offerors 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.

## Q. PIGGYBACKING

New York State Finance Law section 163(10)(e) (see also
<u>http</u>rx//www.ogs.state.ny.us/procurecounc/pab~uidelines.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 Contractorôs consent.

## R. APPENDICES

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

1. APPENDIX A - Standard Clauses for All New York State Contracts
2. APPENDIX B - Request for Proposal
3. APPENDIX C - Proposal

The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.

4. APPENDIX I ï Contract Requirements
5. 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:

**a.** CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workersô Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

**b.** C-105.2 ï Certificate of Workersô Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR

**c.** SI-12 ï Certificate of Workersô Compensation Self-Insurance, OR GSI-105.2 ï Certificate of Participation in Workersô Compensation Group Self-Insurance.

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

**d.** CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workersô Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

**e.** DB-120.1 ï Certificate of Disability Benefits Insurance

**f.** DB-155 ï Certificate of Disability Benefits Self-Insurance

**6.** APPENDIX H- Health Insurance Portability and Accountability Act (HIPAA)

**7.** APPENDIX X ï Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

# APPENDIX I

# CONTRACT REQUIREMENTS

## *TABLE OF CONTENTS*


***CONTRACTOR RESPONSIBILITIES***

*1 General Contractor Duties I-3*
*2 Accounting Requirements I-3*
*3 Ownership Rights I-4*
*4 Software Licenses I-6*
*5 General Warranties I-6*
*6 Hardware & Software Warranties I-8*
*7 Year 2000 Warranty I-9*
*8 Equipment I-10*
*9 Reconsiderations/Fair Hearings I-11*

***CONTRACTOR PROCEDURES***

*10 Subcontracting I-11*
*11 Modification I-12*
*12 Termination I-12*
*13 Agreement Duration and Contract Amendments I-16*
*14 Disputes I-17*
*15 Conflicts I-17*
*16 Litigation/Claims I-17*
*17 Contractor Responsibilities/Conflict I-18*
*18 Sufficiency of Personnel & Equipment I-19*
*19 Contract Insurance Requirements I-19*
*20 Access Requirements I-20*

***FISCAL SAFEGUARDS***

*21 Letter of Credit & Bonding I-22*
*22 Indemnification of the State I-23*
*23 Availability of Key Personnel I-24*

***GENERAL PROVISIONS***

*24 Independent Capacity of Contractor I-25*
*25 No Third Party Beneficiaries I-25*
*26 Assignment of Contract I-25*
*27 Employment Practices I-25*
*28 Confidentiality of Client & Provider Information I-26*
*29 Legal Assurance of Authority to Perform I-26*
*30 Force Majeure I-27*
*31 Notification I-27*

*32 Patent or Copyright Infringement* *I-27*
*33 No Waiver* *I-27*
*34 Choice of Law* *I-28*
*35 Severability* *I-28*
*36 Assignment of Contractor Claims* *I-28*
*37 Provisions Related to NYS Procurement Lobbying Law* *I-28*
*38 Provisions Related to Consultant Disclosure Legislation* *I-28*
*39 Provisions Related to NYS Information Security Breach & Notification Act* *I-29*
*40 Technology Purchases Notification* *I-29*
*41 Remedies* *I-29*
*42 Superintendence by Contractor* *I-30*
*43 Lead Guidelines* *I-30*
*44 Disqualifications* *I-30*
*45 Award* *I-30*
*46 Captions* *I-30*
*47 Entire Agreement* *I-31*

# CONTRACTOR RESPONSIBILITIES

## 1. General Contractor Duties

The Contractor shall:

**1.1** Assume complete responsibility for performing all of the duties for which the Contractor is responsible under this CONTRACT in a competent and timely manner.

**1.2** Maintain the level of liaison and cooperation with the New York State Department of Health (Department) necessary for proper performance of all contractual responsibilities. The parties will remain in contact on at least a daily basis or more frequently when needed. The State may readily access the Contractor's implementation and operation teams by contacting the Contract manager(s).

**1.3** Agree that no aspect of Contractorôs performance under this Agreement will be contingent upon the availability of State personnel or other State resources, with the exception of those activities that are specifically identified in this Agreement as requiring State approval, those activities that are clearly dependent on policy decisions and those activities that require the normal cooperation that can be expected in such a contractual relationship.

**1.4** Implement changes within the scope of work of this Agreement, in accordance with a State approved schedule

**1.5** Recognize and agree that any and all work performed outside the scope of this Agreement or without the consent of the Department shall be deemed by the Department to be gratuitous and not subject to charge by the Contractor.

**1.6** Perform its responsibilities in accordance with the performance standards set forth in the Request For Proposal (RFP) and the terms of the contract itself. In the event of any conflict between the terms of the RFP and the terms of the Contract, the Contract terms shall prevail.

**1.7** 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.

## 2. Accounting Requirements

The Contractor shall establish accounting policies and procedures acceptable to the Department, maintain records and supply reports to the Department in accordance with Department approved schedules and as requested by the State. The Contractor shall be responsible for establishing and maintaining additional accounting policies, procedures, and records on a timely basis as required to control and document its fiscal activities.

### 2.1 Internal Controls

The Contractor must develop and maintain policies and procedures for an internal control system to adequately safeguard the State's assets and the revenue received on behalf of the State. The policies and procedures must (1) explicitly describe the audit trail and detail the checks and balances in the system to prevent diversion and/or misappropriation of funds (2) identify and describe the means to be employed to detect

diversion if it occurs, and (3) list the actions to be taken if diversion is detected. The actions to be taken must include immediately notifying the Department, providing details about the incident and recommending additional specific actions to be taken.

### 2.2 Accounting Procedure Inclusions

The Contractor shall use generally accepted accounting procedures and policies necessary to ensure control of Agreement expenses. The accounting procedures, policies and records related to this Contract shall be completely open to State audit.

### 2.3 Accounting Records Supplied to the State

The Contractor shall maintain accounting books, accounting records, documents, and other evidence pertaining to the administrative costs and expenses of this Contract to the extent and in such detail as shall properly reflect all revenues; all net costs, direct and apportioned; and other costs and expenses, of whatever nature, that relate to the performance of contractual duties under the provisions of this Contract. The Contractor's accounting procedures and practices shall conform to generally accepted accounting principles, and the costs properly applicable to this Contract shall be readily ascertainable upon review. The Contractor shall provide to the State specified fiscal records and an accounting of reimbursable expenses and revenue. These records shall include, but not be limited to, the following:

#### 2. 3.1 Billings to the State

The Contractor shall submit monthly billings to the State in the form and calculated in the manner set forth in Section V.I of Appendix B.

#### 2. 3.2 Annual Audit Report

For each contract year or portion thereof during the term of this agreement, the Contractor shall deliver a copy of an annual audit report of its firm conducted by an independent certified public accounting firm to the Department. The Contractor must have an independent auditor perform an audit of its internal controls and accounting practices and render an independent opinion on the operating effectiveness of the controls and procedures. An exact copy of the final report of the audit shall be supplied to the Department within fifteen (15) calendar days from the date on which it receives the report.

## 3. Ownership Rights

**3.1** Title and ownership to Existing Software Product(s) delivered by the Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner (ñExisting Licensed Productò), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with the Contractor or the proprietary owner or other independent software vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to the Department in accordance with the Contractorôs or ISV ownerôs standard license agreement; provided, however, that such standard license, must, at a minimum: (a) grant the Department a royalty-free, non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt and distribute the Existing Licensed Product to the Department with all license rights necessary to fully effect the purpose(s)

stated in the RFP and (b) recognize the Department as the Licensee. If these rights are not otherwise covered by the ISV ownerôs standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense.

**3.2** Effective upon creation of Custom Products, the Contractor hereby conveys, assigns and transfers to the Department the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through the Contractor, its agents, employees, or subcontractors. Nothing herein shall preclude the Contractor from otherwise using related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under this project in the course of the Contractorôs business.

**3.3** Any publishable or otherwise reproducible material developed under or in the course of performing this Contract, dealing with any aspect of performance under this Contract, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the Department, and shall not be published or otherwise disseminated by the Contractor to any other party unless prior written approval is secured from the Department. The Department 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.

**3.4** No report, document or other data produced in whole or in part with the funds provided under this Contract 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 Contract.

**3.5** All press releases, regarding this Contract, must be approved by the Department before being put on the Contractorôs or the subcontractorôs website or disseminated to the news media and the public.

**3.6** The Department may provide applications and systems software and related items owned in full by the Department which have been developed and modified under a previous contract. These applications and systems shall remain fully and without restriction owned by the Department as further set forth in the Contract, even following use or modification by the current Contractor.

**3.7** Any materials, articles, papers, etc., developed by the Contractor under or in the course of performing this Agreement shall contain the following, or similar acknowledgement: ñFunded by the New York State Department of Healthò. 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.

## 4. Software Licenses

When software and/or documentation are acquired on a licensed basis, the following shall constitute the license grant:

**4.1** The Contractor must pay all associated license, maintenance, and support fees throughout the Contract term for software (also referred to below as ñproductò or included in ñMaterialsò) proposed by the Contractor. The obligation to pay maintenance and support fees, as applicable, applies even when software or documentation is not acquired on a licensed basis.

**4.2** The Existing Licensed Product of the Contractor and all subcontractors and suppliers proposed for installation must be available to the Department for its use for the entire Contract period, for any extensions the Department may choose to exercise and for any extended license terms the Department may choose to exercise after termination of the Contract.

**4.3** The Department shall have a royalty free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use: software, modifications to software, and documentation that is designed, developed, installed or enhanced as a part of this Contract.

**4.4** Because the Departmentôs business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between Agencies (ñpermitted license transfersò).

**4.5** Software media must be in a format specified by the Department, without requiring any type of conversion.

**4.6** The Department shall have a perpetual license right to make, reproduce (including downloading electronic copies of the documentation) and distribute, either electronically or otherwise, copies of the documentation as necessary to enjoy future use of the software in accordance with the terms of license.

## 5. General Warranties

**5.1** The Services rendered by the Contractor shall be performed in accordance with all the terms, conditions, covenants, statements, and representations contained in the Contract, including all appendices and attachments.

**5.2** All warranties contained in the Contract shall survive the termination of the Contract unless otherwise provided herein**.**

**5.3** The Contractor warrants, covenants and represents that it will comply fully with all security procedures of the State, as well as those of the Department, in the performance of the Contract, including, but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

**5.4** The Contractor warrants that all components or deliverables, products or services specified and furnished by or through the Contractor under the Contract, including all work specifications under the RFP as well as any subsequent statement(s) of work, will be provided in a workmanlike manner in accordance with industry standards.

**5.5** The Contractor represents and warrants that it shall comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to being awarded the Contract and during the Contract term and any renewals thereof, the Contractor must establish to the satisfaction of the Department that it meets or exceeds all requirements of the RFP, the Contract, and any related specifications associated with those documents and with any applicable laws and licensing requirements

**5.6** All warranties set forth in this Contract and any subsequent amendments shall apply to all services performed by the Contractor and any Subcontractor unless otherwise expressly disclaimed by the parties or the warranty is clearly inapplicable, given the type of product or service provided.

**5.7** The warranties set forth in this contract are in lieu of all other warranties, express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. Misuse, accident, unsuitable physical or operating environment, modification, or operation inconsistent with standard industry practice, or failure caused by a product for which the Contractor is not responsible, may void the warranties.

**5.8** The Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any products provided to the Department under this Contract. The Contractor shall be solely liable for any costs of acquisition associated therewith. The Contractor fully indemnifies the Department for any loss, damages or actions arising from a breach of said warranty without limitation.

**5.9** When the Contractor, the independent software vendor (ISV), or other third party manufacturer provides any project deliverable delivered by or through the Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, the Contractorôs warranty obligations during the project warranty and extended warranty period(s). When such standard commercial warranty covers all or some of the project warranty or extended warranty period(s), the Contractor shall be responsible for the coordination during the project warranty or extended warranty period(s) with the ISV or other third party manufacturer(s), for warranty repair or replacement of the ISVôs or other third party manufacturerôs product.

**5.10** The Contractor must notify the Department in writing immediately upon the discovery of any breach of any of the warranties provided under the Contract.

**5.11** Notwithstanding prior acceptance of deliverables by the Department, the Contractor will expressly warrant all delivered programs and documentation as properly functioning and compliant with the terms of the Contract. The Contractor must correct, at no additional cost or expense to the Department, errors and design deficiencies in the system and replace incorrect or defective programs and documentation within one (1) week of notification from the Department of such deficiencies, or within the period required to make correction(s), using due diligence and dispatch as agreed upon between the Department and the Contractor.

**5.12** If the Contractor fails to repair an identified error, deficiency or defect within such period, the Department may, at its sole discretion, act to have such repairs made, and the

Contractor expressly agrees to reimburse the Department for incurred costs. This warranty will be in effect throughout the term of the Contract and for one (1) year thereafter. Deficiencies properly noted before the expiration of the warranty will be covered regardless of such expiration. System modifications and other changes made during the Contract period also will be covered by this warranty. This provision shall not be construed as limiting rights or remedies provided for elsewhere in this Contract.

## 6. Hardware and Software Warranties

**6.1** The Contractor hereby warrants and represents that the software and all upgrades do not and will not contain any computer code that would disable the software or upgrades or impair it in any way as a result of the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as ñtime bombs,ò ñtime locks,ò or ñdrop deadò devices) or that would permit the Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a ñtrap doorò device).

**6.2** The Contractor warrants and represents that hardware and software components or deliverables specified and furnished by or through the Contractor shall individually, and when furnished as a system, be substantially uninterrupted or error-free in operation and guaranteed against faulty material and workmanship for the warranty period, the remaining term of the Contract, or for a minimum of one (1) year from the date of acceptance, whichever is longer (ñproject warranty periodò). During the project warranty period, defects in the materials or workmanship of components or deliverables specified and furnished by or through the Contractor shall be repaired or replaced by the Contractor at no cost or expense to the Department. The Contractor shall extend the project warranty period for individual component(s), or for the system as a whole, as applicable, by the cumulative period(s) of time, after notification, during which an individual component or the system requires servicing or replacement (down time) or is in the possession of the Contractor, its agents, officers, subcontractors, distributors, resellers or employees (ñextended warrantyò).

**6.3** Hardware and other equipment offered shall be standard new equipment, current model or most recent release of a regular stock product, with all parts being regularly used with the type of equipment offered; and no attachment or part has been substituted or applied contrary to the manufacturerôs recommendations and standard practice.

**6.4** Repaired, replaced or substituted products shall be subject to all terms and conditions for new parts and components set forth in the Contract. A replaced or repaired product or parts and components of such product shall be new and shall, if available, be replaced by the original manufacturerôs component or part. Remanufactured parts or components meeting new product standards may be permitted by the Department. Before installation, however, all proposed substitutes for the original manufacturer-installed parts or components must be approved by the Department. The part or component shall be equal to or of better quality than the original part or component being replaced.

**6.5** If, during the regular or extended warranty periods, faults develop, the Contractor shall promptly repair or, upon demand, replace the defective unit or component part affected so as to cause the equipment to perform as required. All costs for labor and material and

transportation incurred to repair or replace the defective product during the warranty period shall be borne solely by the Contractor, and the State or the Department shall in no event be liable or responsible.

**6.6** The Contractor represents and warrants that no anti-use devices have been or will be installed in the software supplied pursuant to this Contract.

**6.7** The Contractor warrants that the software will, at the time of its delivery under this Contract, be free of viruses, worms or other devices (collectively ñDevicesò) capable of halting or inappropriately altering operations or erasing or altering data or programs. Further, the Contractor shall employ industry standard measures to prevent incorporation of such Devices. If it is discovered that such a Deliverable does contain such a Device, then the Contractor shall take appropriate measures to remove such Device, assist the Department with restoration of data and replace such program with a Device-free version of the same program. The Contractor is not responsible for Devices introduced at the Departmentôs site by the Department or its employees, agents or contractors not associated with the Contractor, or the Departmentôs failure to employ industry standard measures to prevent incorporation of known Devices.

**6.8** The Contractor warrants that all media on which the software is delivered to the Department will be free from defects.

**6.9** During the warranty period, as well as any optional maintenance periods that the Department exercises, the Contractor must correct any material programming or other errors that are attributable to the Contractor within a reasonable period of time. However, when the Department becomes aware of a defect, the Department must notify the Contractor, either orally or in writing, of such defect and provide sufficient information for the Contractor to identify the problem.

## 7. Year 2000 Warranty

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

**7.1.1** Product shall include, without limitation: any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein that performs any date/time data recognition function, calculation, comparing or sequencing When services are being furnished, e.g. consulting, systems integration, code or data conversion or data entry, the term Product shall include resulting deliverables.

**7.1.2** Vendorôs Product shall include all Products delivered under this Agreement by Vendor other than Third Party Product.

**7.1.3** Third Party Product shall include products manufactured or developed by a corporate entity independent from Vendor and provided by Vendor through a non-exclusive licensing or other distribution Agreement with the third party manufacturer. Third Party Product does not include products for which the Vendor is: a) corporate subsidiary or affiliate of the third party manufacturer/developer; and/or b) the exclusive re-seller or distributor of a product manufactured or developed by said corporate entity.

### 7.2 Warranty Disclosure

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

**7.2.1** For Vendor Products and for Products (including, but not limited to, Vendor and/or Third Party Products and/or Authorized Userôs 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

**7.2.2** For Third Party Products Not Specified as Part of a System: Third Party Manufacturerôs statement of compliance or non-compliance of any Third Party Product being delivered with Third Party Manufacturer/Developerôs Year 2000 warranty. If such Third Party Product is represented by Third Party Manufacturer/Developer as compliant with Third Party Manufacturer/Developerôs 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 Partyôs compliance statement.

**7.2.3** 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.

### 7.3 Warranty Statement

**7.3.1** The Contractor warrants that Product(s) furnished pursuant to this Contract 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. When a purchase requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

**7.3.2** In the event of any breach of this warranty, the Contractor 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 the Departmentôs ongoing business processes, at the Contractorôs sole cost and expense, time being of the essence. This warranty does not extend to correction of the Departmentôs errors in data entry or data conversion.

**7.3.3** This warranty shall survive beyond termination or expiration of the Contract.

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

## 8. Equipment

The contractor must acquire the necessary equipment to accomplish the contractor duties and responsibilities described throughout this agreement, including but not limited to, state of the

art technology in systems, communications, claims processing, imaging, and call center operations.

### 9. Reconsiderations/Fair Hearings

**9.1** The Contractor acknowledges its responsibility to utilize diligent measures to resolve disputes with applicants and participants at the earliest opportunity. The Contractor's efforts shall conform to the reconsideration/fair hearing regulatory provisions of the EPIC Program. Reconsiderations shall be made at such a time and in such a manner as to afford a meaningful opportunity to resolve the dispute.

**9.2** The Contractor shall participate in all fair hearings involving participants or providers in which the issues involve the Contractor, as determined by the State. If requested by the State, the Contractor shall provide personnel familiar with the facts of the particular case and the applicability of EPIC to such case. Said hearings shall be conducted in accordance with guidelines and the applicable rules and regulations promulgated by the State. In conjunction with the State, the Contractor shall provide assistance in establishing liaison and coordination with eligible providers and with other interested groups, committees, and similar bodies and such procedures as the State may approve for resolution of disputes between eligible providers and the Contractor and between the Contractor and participants.

## Contract Procedures

### 10. Subcontracting

**10.1** Prior written approval by the State shall be required for all subcontracts. This requirement does not apply to individual employer-employee contracts, or management incentives for same, or subcontracts executed prior to the date of release of the RFP. Any subcontract related to performance of this Contract shall be subject to the provisions of law set forth in Sections 220, 220-d and 220-e of the Labor Law of the State of New York, Article 15 of the Executive Law of the State of New York and the provisions set forth herein.

**10.2** All subcontracts shall be in writing and shall contain provisions which are functionally identical to, and consistent with, the provisions of this Agreement. All subcontracts shall contain provisions specifying that (1) the work performed by the subcontractor will be in accordance with the terms of this agreement, and (2) the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the Contract between the State and the Contractor.

**10.3** In addition to furnishing the State with a copy of any proposed subcontract for prior approval, the Contractor shall also furnish to the State the following:

**10.3.1** A description of the supplies or services to be provided under the proposed subcontract;

**10.3.2** Identification of the proposed subcontractor;

**10.3.3** The proposed subcontract price; and

**10.3.4** Any other pertinent information or documentation requested by the State.

**10.4** A copy of any subcontract, once approved by the State and executed by the Contractor and the subcontractor, shall be furnished to the State within thirty (30) days of execution.

**10.5** The Contractor shall give the State immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made, against the Contractor by any subcontractor or vendor which may result in litigation related in any way to this Contract or that may affect the performance of duties under this Contract.

**10.6** The requirement of prior approval of any subcontract by the State under this Contract shall not make the State of New York a party to any subcontract or create any right, claim or interest in the subcontractor or proposed subcontractor against the State.

**10.7** The Contractor shall not be relieved in any way of any responsibility, duty or obligation of this Contract by a subcontract.

**10.8** In the event of termination of a subcontract, the Department reserves the right to have the subcontract assigned to it on the same terms as between the Contractor and the subcontractor, to the extent consistent with New York law. The Department shall not be directly liable for payment to a subcontractor for products provided or services rendered under this Contract unless the subcontract has been assigned as provided above.

## 11. Modification

**11.1** The State may request, or the Contractor may propose to the State, enhancements and modifications to support functions not now required to be performed by this Contract. The Contractor shall prepare and submit a proposal to the State in the level of detail requested by the State for each such enhancement or modification, specifying the scope of work and the resulting initial and/or operating charges, if any. The Contractor will perform the work only upon the mutual consent of the parties reduced to writing and approved, as necessary, by the Office of the State Comptroller and all other required State reviewers.

**11.2** This Contract is subject to modification and amendment only upon mutual consent of the parties reduced to writing and approved by the Office of the State Comptroller and all other required State reviewers.

## 12. Termination

### 12.1 Basis for Termination

This Contract may be terminated:

**12.1.1** By mutual written agreement of the contracting parties.

**12.1.2** By the State, in whole, or, from time to time, in part, if the Contractor materially defaults in performing in accordance with the terms of the Contract and fails to cure such default within a period of thirty (30) calendar days (or such longer period as the State may allow) after receipt from the State of a written notice specifying the default. If it is subsequently determined for any reason that the Contractor was not in material default or that the Contractor's failure to perform or make progress in performances was

the result of causes beyond the control and without the fault or negligence of the Contractor, the State shall have the option either to deem the Notice of Termination to have been issued under **Section** 12.1.3 herein as a termination for convenience of the State, and the rights and obligations of the parties shall be governed accordingly, or allow the Contractor to resume performance under this Contract. In the event of a termination for default, the Contractor shall be paid the following:

**12.1.2.a** For final paid claims and any applicable reimbursable expenses (the calculated monthly payment minus any liquidated damages assessed for failure to comply);

**12.1.2.b** For Systems change hours minus any adjustments for unavailability of personnel assigned to the function or failure to achieve milestones or produce deliverables pursuant to this Contract;

**12.1.2.c** Costs incurred in providing continuity of service to the extent deemed allowable in the reasonable judgment of the State; and

**12.1.2.d** Costs for settling and paying subcontractor and supplier claims arising out of the termination of work when costs were incurred prior to termination and such claims are properly chargeable to the terminated portion of this Contract to the extent deemed allowable in the reasonable judgment of the State.

**12.1.3** By the State, in whole or from time to time in part, whenever, for any reason, the State shall determine that such termination is in the best interest of the State. Such termination shall be referred to herein as "termination for convenience." Upon receipt of ninety (90) calendar days' notice of termination for convenience, the Contractor shall be paid the following:

**12.1.3a** For final paid claims and any applicable reimbursable expenses;

**12.1.3.b** For Systems change hours minus any adjustments for failure to achieve milestones or produce deliverables pursuant to this Contract;

**12.1.3.c** Costs incurred in providing continuity of services, to the extent deemed allowable in the reasonable judgment of the State;

**12.1.3.d** All other ongoing expenses incurred by the Contractor in performing under this Contract, to the extent deemed allowable in the reasonable judgment of the State;

**12.1.3.e** Costs of settling and paying subcontractor and supplier claims arising out of the termination of work when such costs were incurred prior to termination and such claims are properly chargeable to the terminated portion of this Contract, to the extent deemed reasonable by the State; and

**12.1.4** Upon filing of a petition in bankruptcy or insolvency by or against the Contractor, if such petition is not vacated within thirty (30) calendar days of

its filing, the State may deem this Agreement terminated without termination services or costs, but payments for services rendered, subject to the status of the State as a creditor in possession, shall be made as provided in **Section** 12.1.3 herein. The State shall not be precluded during this thirty (30) day period from terminating this Contract under other bases provided for in **Section** 12.1 herein.

**12.1.5** If State funds for this Contract are not appropriated in the approved State budget, the State may deem this Contract terminated.

**12.1.6** If this Contract terminates under **Section** 12.1.5, no special termination arrangements or special remuneration are necessary.

**12.1.7** The Department reserves the right to terminate the Contract in the event that the certification filed by the Contractor in accordance with Section 5-a of the Tax Law is found not to have been timely filed during the term of the Contract or the certification furnished is found to have been intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its termination right by providing written notification to the Contractor.

## 12.2 Procedures on Termination

Upon receipt of a written Notice of Termination pursuant to **Section** 12.1 herein, and unless otherwise directed by the Department in writing, the Contractor shall:

**12.2.1** Provide all information necessary for the reimbursement of any outstanding EPIC, AIH or NYPS claims The Contractor shall also make provision for turning over any remaining records to the State in its possession after the completion of the final accounting as provided for in **Section** 12.2 herein. Additionally, the Contractor shall assist the State or a successor contractor in completing any activities undertaken before the termination of the Contract, including, without limitation, any judicial and administrative proceedings involving activities performed by the Contractor pursuant to Contract.

**12.2.2** Stop work under this Contract on the date and to the extent specified in the Notice of Termination.

**12.2.3** Place no further orders or subcontracts for materials, services or facilities, except for those necessary for the completion of that portion of the work under this Contract that is not being terminated.

**12.2.4** Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.

**12.2.5** Assign to the State, in the manner and to the extent as may be directed by the State, all of the rights, title and interests of the Contractor under the orders of subcontracts so terminated, in which case the State shall have the right to settle or pay any or all claims arising out of termination of such orders and subcontracts.

**12.2.6** With the approval or ratification of the State, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims rising out of such termination of orders or subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Contract. Such approval or ratification shall be final and conclusive for purposes of this paragraph.

**12.2.7** Transfer any interest in all assets owned by the State and utilized exclusively by the Contractor for performing work under this Contract that has been terminated by the Notice of Termination.

**12.2.8** Complete the performance of such part of the work that has not been terminated by the Notice of Termination.

**12.2.9** Take such action as may be necessary, or as the State may direct, for the protection and preservation of the property related to this Contract that is in the possession or control of the Contractor and in which the State has or may acquire an interest.

**12.2.10** After receipt of a Notice of Termination, the Contractor shall submit to the State its termination claim in the form and with the certification prescribed by the State. Such claim shall be submitted promptly but in no event later than six (6) months from the effective date of termination, unless one or more extensions in writing are granted by the State upon written request of the Contractor within such six (6) month period or authorized extension thereof. However, if the State determines that the facts justify such action, it may receive and act upon any such termination claim within any reasonable time after such six (6) month period or any extension thereof. Upon failure of the Contractor to submit its termination claims within the time allowed, the State may, subject to any review required by the State's procedures in effect as of the date of execution of this Contract, determine, on the basis of information available to it, the amount, if any, due to the Contractor by reason of the termination and shall thereupon arrange for the Contractor to be paid the amount so determined.

**12.2.11** Subject to the provisions of **Section** 12.2.10 herein and any review required by the State procedures in effect as of the date of execution of this Agreement, the Contractor and the State may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to Section 12 herein. If such an agreement is reached, this Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

**12.2.12** If the Contractor and the State fail to agree in whole or in part on the amounts to be paid to the Contractor in connection with the termination of work pursuant to **Section** 12 herein, the State shall determine, on the basis of information available to it the amount owed to the Contractor, if any, by reason of termination and shall pay to the Contractor the amount so determined.

**12.2.13** The Contractor shall have the right to appeal under **Section** 14 of this Contract, entitled "Disputes," from any such determination made by the State, except that, if the Contractor has failed to submit its claim within the time provided in **Section** 12.2.10 above, and has failed to request an extension of time, it shall have no such right of appeal.

**12.2.14** In any case in which the State has made such determination of the amount due, the State shall pay to the Contractor the following:

**12.2.14.a** If no timely appeal has been taken, the amount so determined by the State; or

**12.2.14.b** If an appeal has been timely taken, the amount finally determined on such appeal.

**12.2.15** In arriving at the amount due the Contractor under **Section**s 12.2.10 through 12.2.12 herein, the State shall deduct:

**12.2.15.a** All liquidated payments theretofore made to the Contractor, applicable to the terminated portion of this Contract;

**12.2.15.b** Any documented claim which the State may have against the Contractor in connection with this Contract; and

**12.2.15.c** The agreed price for, or the proceeds of sale of, any materials supplied to or other things acquired by the Contractor or sold pursuant to the provisions of **Section** 12 herein and not otherwise recovered by or credited to the Department.

**12.2.16** The State may, from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred in connection with the termination portion of this Contract whenever, in the opinion of the State, the aggregate of such payments will not exceed the amount to which the Contractor will be entitled hereunder. If the total of payments does exceed the amount finally determined to be due under **Section** 12.2 herein, such excess shall be payable by the Contractor to the State upon demand.

## 13. Agreement Duration and Contract Amendments

**13.1** The term of this Agreement shall begin April 1, 2012 and shall end on March 30, 2019. This Contract 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 Contract may not be amended orally.

**13.2** 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.

**13.3** 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.

**13.4** 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. Any and all additional work performed beyond the scope of this Contract and without consent of the State Department shall be deemed by the Department to be gratuitous and not subject to charge by the Contractor.

## 14. Disputes

This Disputes provision shall apply to any dispute of the parties relating to performance under this Contract except for liquidated damages. Any dispute concerning any question of fact or law arising under this Contract not resolved by mutual agreement of the parties shall be initially decided by a designee of the Commissioner of Health. A copy of the written decision of the designee shall be furnished to the Contractor. 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 and continue to so comply pending further resolution of such dispute as provided herein. The decision of the designee of the Commissioner of Health shall be final and conclusive unless, within ten (10) calendar days from the receipt of such decision, the Contractor furnishes a written appeal to the Commissioner of Health. In the event of an appeal, the Commissioner of Health shall promptly review the initial decision, and confirm, annul or modify it. The decision of the Commissioner of Health shall be final and conclusive unless it is determined by a court of competent jurisdiction to concern one of the questions addressed in Section 7803 of the Civil Practice Law and Rules. In connection with any appeal as provided herein, the Contractor shall be afforded an opportunity to be heard de novo and to offer evidence in support of its appeal. Pending final decision of any Article 78 preceeding hereunder, both parties shall proceed diligently with the performance of this Contract in accordance with the Commissioner of Health's decision.

## 15. 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 materials or equipment that shall be used.

## 16. Litigation/Claims

The Contractor shall promptly notify the Department of any actual litigation in which it is a party defendant that 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.

## 17. Contractor Responsibilities/Conflicts

**17.1** The Contractor is responsible for the successful performance of this Contract, including the design, development, testing, implementation, and operation of all systems proposed or otherwise required under the Contract. Such work must be completed to the satisfaction of the Department in strict accordance with the specifications. The Contractor is also responsible for the successful performance of all subcontractors.

**17.2** Consistent with the NYS Vendor Responsibility Questionnaire, the Contractor may be required to update information at the request of the Department or Office of the State Comptroller prior to the award and/or approval of the Contract, or during the term of the contract.

**17.3** The Contractor, its officers, agents and employees and subcontractors shall treat all information that is obtained by it through its performance under this Contract, as confidential information to the extent required by State and Federal law.

**17.4** The Contractor, and any of its subcontractors, shall use reasonable efforts to cooperate with all persons engaged in performing services for the Department, whether or not related to this Contract, including, without limitation, Department officers and employees and third party vendors engaged by the Department.

**17.5** The Contractor shall ensure that its officers, employees, agents, consultants and/or subcontractors comply with the requirements of the New York State Public Officers Law (ñPOLò), as amended, including but not limited to sections 73 and 74, as amended, with regard to ethical standards applicable to State employees.

**17.6** Further, Contractor acknowledges that, pursuant to the Public Officersô Law, section 74 (2) ñRule with respect to conflicts of interestò, ñNo officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or other wise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

**17.7** If, during the term of the Contract, the Contractor becomes aware of a relationship or interest, actual or potential, which may be considered a violation of the POL, or which may otherwise be considered a conflict of interest, the Contractor shall notify the Department in writing immediately. Failure to comply with these provisions may result in termination or cancellation of the resulting contract and criminal charges.

**17.8** If the Contractor uses third party financing to finance any or all of the RFP services to be provided under the terms of the RFP, the Contractor understands and agrees that it has the sole responsibility for obtaining such financing and remains responsible for providing all of the services set forth in the RFP. Further, the

Contractor understands and agrees that the State of New York and the Department of Health will in no manner underwrite, act as signatory, co-sign, guarantee or in any way secure the Contractorôs financing. Failure of the Contractor to secure the financing needed in order to provide the required services within fifteen (15) business days of OSC approval of the Contract may result in disqualification of the proposal or termination of the resulting contract.

## 18. Sufficiency of Personnel and Equipment

**18.1** The 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, and licenses and permits required within such jurisdiction.

**18.2** The Department also reserves the right to require the Contractor to replace specified employees in the performance of any or all duties associated with the performance of this Contract. The Department will not exercise this right unreasonably. The Contractor agrees to promptly replace any employees so removed with an employee of equal or better qualifications and acceptable to the Department. The Department's exercise of this right shall be upon written notice to the Contractor setting forth the reasons for the requested action.

**18.3** 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.

## 19. Contract Insurance Requirements

**19.1** The Contractor must, without expense to the State, procure and maintain, until final acceptance by the Department of the work covered by this proposal and this Contract, insurance of the kinds and in the amounts hereinafter provided, covering all operations under the Contract, whether performed by it or by subcontractors, from insurance companies authorized to do such business in the State of New York. Such insurance must be primary and non-contributing to any insurance or self-insurance maintained by the Department or the State.

**19.2** Before commencing the work, the Contractor shall furnish to the Department 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 (30) calendar daysô written notice has been given to the Department. The kinds and amounts of required insurance are:

**19.2.1** A policy covering the obligations of the Contractor 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 Contractor procures such policy and maintains it until acceptance of the

work. Certificates of such coverage, with regards to Workersô Compensation and Disability Insurance coverage must be provided and attached to the Contract as Appendices E-1 and E-2, respectively.

**19.2.2** 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 (2) 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.

**19.2.2.a** Contractor's Liability Insurance issued to and covering the liability of the Contractor with respect to all work performed by it under this proposal and the Contract.

**19.2.2.b** 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 Contract, by the Contractor or by its subcontractors, including omissions and supervisory acts of the State.

**19.2.2.c** 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 Contract, by the Contractor or by its subcontractors, including omissions and supervisory acts of the State.

## 20. Access Requirements

### 20.1 Access to Premises

**20.1.1** The contractor shall provide, at no cost, access to the premises and/or records associated with this contract when requested by the Department.

**20.1.2** To assure compliance with this Agreement and for any other reason the State deems appropriate for the effective and continuing operation of the EPIC Program, the Commissioner of Health, the EPIC program staff, the Office of the State Comptroller, the Department, and their authorized representatives and designees, shall, at all times during normal business hours, have the right to enter into the Contractor's premises, including the EPIC, AIH, and NYPS operations site, or such other place where duties under this Agreement are performed, to inspect, monitor or otherwise evaluate the work performed or being performed therein, or to elicit information concerning the operation of the EPIC, AIH, and NYPS Programs. No additional access requirements will be imposed on State personnel that are not required of the Contractor's employees. The State shall have final authority in determining the extent of

access to the Contractor's facilities for all on-site personnel, State personnel, key personnel and any other individuals whom the State deems appropriate.

**20.1.3** For any instance of access by authorized representatives or designees of any State agency or successor Contractor for the EPIC, AIH, and NYPS Programs, the Contractor shall provide, and shall require any subcontractor to provide, all reasonable facilities, cooperation and assistance to such representatives or designees in the performance of their duties. All such instances of access shall be undertaken in a manner that will not unduly disrupt the Contractor's operations or performance under this Agreement. The right of access provided for herein shall include on-site visits, as directed and limited by the State.

**20.1.4** The Contractor shall be responsible for assuring that the provisions of this Section shall apply to any subcontract related to performance under this Agreement.

## 20.2 Access to and Audit of Agreement Records

**20.2.1** At all times during the period that this Contract is in force and for a period of six (6) years thereafter, the Contractor shall provide all authorized representatives of State government with full access to all its financial records that pertain to services performed and determinations of amounts payable under this Agreement, including access to appropriate individuals with knowledge of financial records (including the Contractor's independent certified public accountant(s) and full access to all additional records that pertain to services performed and determination of amounts payable under this Contract, permitting such representatives to examine, audit and copy such records at the site at which they are located.

**20.2.2** All records and information obtained by the State pursuant to the provisions of this Agreement, whether by audit or otherwise, shall be usable by the State in any manner, in its sole discretion, it deems appropriate.

## 20.3 Records Retention

**20.3.1** The Contractor agrees to preserve all Contract-related records for the term this Contract is in effect and at contract end, for six (6) years thereafter, with disposal by the Contractor of any records during said period permitted only upon prior written approval by the State. Records involving matters in litigation shall be kept for a period of not less than three (3) years following the termination of the litigation. Copies or other approved electronic file archives of any Contract-related documents may be substituted for the originals with the prior written approval of the State, provided that the procedures are accepted by the State as reliable and are supported by an adequate retrieval system.

**20.3.2** The Contractor shall be responsible during the term of this Contract for storage of, access to and retrieval of all participant enrollment and provider agreements and claim forms, or electronic archives thereof processed by the EPIC, AIH and NYPS Programs seven (7) years old or less.

**20.3.3** The Contractor shall be responsible during the term of this Contract for storage of, access to and retrieval of all canceled checks, both manual and system generated, produced for payment of EPIC, AIH, and NYPS Program claims to providers, or refunds to participants.

**20.3.4** The Contractor shall be responsible for assuring that the provisions of this Section shall apply to any subcontract related to performance under this Contract.

# Fiscal Safeguards

## 21. Letter of Credit and Bonding

**21.1** Without additional cost to the Department, and as a material condition of the Contract, the Contractor must furnish 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. The SLOC must be furnished 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. 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 five (5) business days of notice from the Department of contract approval. Failure to provide the draft SLOC to the Department within five (5) business days of such notice will constitute grounds for termination for cause. The executed SLOC must be provided to the Department within five (5) business days of the Departmentôs 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 no later than the date set will constitute grounds for termination for cause. The SLOC must contain provisions that satisfy the following requirements:

**21.1.1** No Contingent Obligations: The obligations of Issuer under the SLOC shall in no way be contingent upon reimbursement by the Contractor.

**21.1.2** 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 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.

**21.1.3** The SLOC must provide funds to the Department for any liability, loss, damage, or expense as a result of the Contractorôs failure to perform fully and

completely all requirements of the Contract. Such requirements include, but are not limited to, the Contractorôs obligation to pay liquidated damages, indemnify the Department under circumstances described in the Contract and the Contractorôs obligation to perform the services required by the Contract throughout the entire term of the Contract.

**21.1.4** The SLOC shall also provide that the bank where the drafts are drawn must be located within New York State.

**21.2** A fidelity bond or other such similar security shall be maintained by the Contractor in a form satisfactory to the Department and in the amount of five million ($5,000,000.00) dollars throughout the term of this Contract and for a period of one (1) year thereafter. The Contractor shall provide to the Department proof of the fidelity bond within ten (10) business days of notice from the Department of contract approval.

## 22. Indemnification of the State

**22.1** Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under the Contract.

**22.2** 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.

**22.3** The Contractor shall indemnify, defend and hold the Department harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneysô 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 Contractorôs sole expense, and (iii) assistance in the defense of any such action at the expense of the Contractor. When a dispute of claim arises relative to a real or anticipated infringement, the State may require the Contractor, at Contractorôs sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner shall require.

**22.4** The Contractor shall not be obligated to indemnify that portion of damages, expenses (including reasonable attorneysô fees), claims, judgment, liabilities, cost or other dispute based upon: (i) Departmentôs unauthorized modification or alteration of a

Product;(ii) Departmentôs unauthorized use of the Product in combination with the products not furnished by the Contractor; (iii) Departmentôs unauthorized use in other than the specified operating conditions and environment.

**22.5** 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 as the Stateôs 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; (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, to provide monetary compensation to the Department up to the dollar amount of the Contract Award. Time is of the essence in matters in which the uses of any item(s) or part(s) thereof are enjoined.

**22.6** For all other claims against the Contractor in which liability is not otherwise set forth in the Contract as being ñwithout limitationò, and regardless of the basis on which the claim is made, the Contractorôs 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.

**22.7** 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.

**22.8** The Department may, in addition to other remedies available to it 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, 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 it.

**22.9** The Department does not agree to any indemnification provisions that require the Department to indemnify or hold harmless the Contractor or third parties.

## 23. Availability of Key Personnel

The Contractor is required to commit key personnel solely to the operation of the Programs as noted in the contractorôs proposal contained in Appendix C. Any changes in key personnel must be approved in advance by the State. In the event that any of the key personnel will be or are unavailable for extended periods for the regular performance of their duties, the Contractor will designate and propose to the State, subject to the Stateôs

prior approval, an equally qualified alternative with full authority to act for the key person for the duration of the absences.

# GENERAL PROVISIONS

## 24. Independent Capacity of Contractor

The parties hereto agree that the Contractor is an independent contractor, and the Contractor, its agents, officers and employees, in the performance of this Contract, shall act in an independent capacity and not as officers or employees of the State or the EPIC, AIH, or NYPS Program.

## 25. No Third Party Beneficiaries

Nothing contained in this Contract, expressed or implied, is intended to confer upon any person, corporation or other entity, other than the parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of this Contract.

## 26. Assignment of Contract

**26.1** The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the Contract or its right, title or interest therein, or its power to execute such Contract to any other person, company, firm or corporation in performance of the Contract without the prior written consent of the Department and OSC. Failure to obtain consent to assignment from the Department shall be grounds for the Department to revoke and annul such Contract. Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, (a) the Contractor shall submit the request for assignment to the Department and seek written agreement from the Department, and (b) the Department shall file such agreement with the OSC. The Department reserves the right to reject any proposed assignee as its discretion. Prior to a consent to assignment of monies becoming effective, the Contractor shall also file a written notice of such monies assignment with OSC. The assignment shall not be final until approved by the Department and the OSC.

**26.2** Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the functions are transferred to a successor Agency; or to another Agency that assumes the Departmentôs responsibilities for the Contract.

## 27. Employment Practices

**27.1** The Contractor shall comply with the nondiscrimination clause contained in Federal Executive Order 11246, as amended by Federal Executive Order 11375, Americans with Disabilities Act of 1990 and 42 USC Sec. 12101 it seq. relating to Equal Employment Opportunity for all persons without regard to race, color, religion, disability, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor and with 41 Code of Federal Regulations,

Chapter 60. The Contractor and any of its subcontractors shall comply with the Executive Law of the State of New York, Sections 290-299 thereof, and any rules or regulations promulgated in accordance therewith.

**27.2** The Contractor shall comply with regulations issued by the Secretary of Labor of the United States in 41 Code of Federal Regulations, Chapter 60, pursuant to the provisions of Executive Order 11758 and the Federal Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990. The Contractor shall likewise be responsible for compliance with the above-mentioned regulations by subcontractors with whom the Contractor enters into a contractual relationship in furtherance of this Contract.

**27.3** Employment practices of the Contractor shall be consistent with corporate personnel policy and shall be uniformly applied to all EPIC contract staff.

**27.4** The Contractor agrees to cooperate in implementing EPIC, NYPS and AIH Program policies intended to achieve equal opportunity employment and, accordingly, warrants that it will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status. The Contractor will state, in all solicitations, or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

## 28. Confidentiality of Client and Provider Information

**28.1** The Contractor, its officers, agents and employees and subcontractors, shall treat all information, with particular emphasis on information relating to participants and providers and information determined by the State to be drug manufacturersô trade secret information, which is obtained through performance under this Contract, as confidential information to the extent required by the laws of the State of New York and the United States and any regulations promulgated thereunder, including but not limited to HIPAA as amended.

**28.2** The use of information obtained by the Contractor in the performance of its duties under this Contract shall be limited to purposes directly connected with such duties.

**28.3** The Contractor shall promptly advise the State of all requests made to Contractor for information described in Section 27.1 herein.

**28.4** The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its officers, agents and employees or subcontractors contains a provision that strictly conforms to the provisions of this section.

## 29. Legal Assurance of Authority to Perform

**29.1** In consideration of the within premises, the Contractor represents to the State that:

**29.1.1** the Contractor has corporate authority to perform all duties required of it by this Contract; and

**29.1.2** the Contractor is qualified to do business in the State of New York.

**29.2** The Contractor shall give immediate notice to the Department of any event or circumstances which may affect the validity of the representations herein contained and shall take any and all actions required to preserve its legal authority to perform this Contract.

## 30. Force Majeure

**30.1** 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 Contractorôs 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 as a result of 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.

**30.2** 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.

## 31. Notification

Any notice required by this Contract to be given between the Contractor and the State shall be sent to the Director of EPIC for the Department and the Contractor's designated EPIC Project Director for the Contract by registered or certified mail at the address designated by each party to the contract, return receipt requested, or a formal transmittal delivered via e-mail return receipt required, or shall be delivered in hand and a receipt granted.

## 32. Patent or Copyright Infringement

If, in the Contractor's opinion, any equipment, materials or information likely to or does become the subject of a claim of infringement of a United States patent or copyright, then, without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the State's prior written approval, substitute other equally suitable equipment, materials and information, or at the Contractor's option and expense, obtain the right for the State to continue the use of such equipment, materials and information.

## 33. 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 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.

## 34. 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.

## 35. 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.

## 36. Assignment of Contractor Claims

The Contractor hereby assigns to the State any and all of its claims for overcharges associated with this Contract that may arise under the antitrust laws of the United States, including 15 USC Section 1et. seq. and the antitrust laws of the State of New York, including General Business Law Section 340 et. seq.

## 37. Provisions Related to New York State Procurement Lobbying Law

The State and the Department reserve the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law section 139-k was intentionally false or intentionally incomplete. Upon such finding, the State or the Department may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Contract.

## 38. Provisions Related to Consultant Disclosure Legislation

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 ñState Consulting Services Form B, Contractorôs Annual Employment Reportò 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 Stateôs 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) 474-8020 or (518) 473-8808; and

c. The NYS Department of Civil Service, Alfred E. Smith Office Building, Albany, NY 12239, ATTN: Consultant Reporting.

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

The 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). The Contractor shall be liable for the costs associated with such breach if caused by the Contractorôs negligent or willful acts or omissions or the negligent or willful acts or omissions of the Contractorôs agents, officers, employees or subcontractors.

## 40. Technology Purchases Notification

The following provisions apply if this Request for Proposals (RFP) seeks proposals for ñTechnologyò

**40.1** For the purposes of this policy, ñtechnologyò 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.

**40.2** 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.

**40.3** 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.

**40.4** 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.

## 41. Remedies

**41.1** It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law.

**41.2** In the event of the Contractor's material breach, the Department may, with or without formally bidding: (i) purchase from other sources; or (ii) when the Department is unsuccessful after making reasonable attempts, under the circumstances then existing, to obtain acceptable service or acquire a replacement product of equal or comparable quality on a timely basis, the Department may acquire an acceptable replacement product of lesser or greater quality. Such purchases may, at the

discretion of the Department, be deducted from the Contract quantity and payments due the Contractor.

**41.3** In any case in which a question of non-performance by the Contractor arises, payment may be withheld in whole or in part at the discretion of the Department.

**41.4** In the event that the Contractor files a petition under the U.S. Bankruptcy Code during the term of this Contract, the Department may, at its discretion, make application to exercise its right to set-off against monies due the Debtor or, under the Doctrine of Recoupment, credit the Department the amounts owed by the Contractor arising out of the same transactions.

**41.5** Sums due as a result of these remedies may be deducted or offset by the Department from payments due, or to become due, to the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion, the Contractor shall pay to the Department the amount of such claim or portion of the claim still outstanding, on demand. The Department reserves the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, letter of credit or bonds or similar remedies that arise from the administration of the Contract.

## 42. 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.

## 43. 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 Stateôs acceptance of this contract.

## 44. Disqualifications

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 employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.

## 45. Award

The Department reserves the right to make awards within ninety (90) says 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.

## 46. Captions

Captions and headings used in this Contract are for convenience of reference only and shall not affect the construction of any provision of this Contract. The singular includes the plural

and vice versa. Any reference to gender shall be deemed to include the masculine or feminine. Font size, italics, underlining, bolding, and similar stylistic devices shall not be construed to increase the importance of that particular text beyond that of any other text.

## 47. Entire Agreement

This Contract, including the appendices listed on the cover page and the Request For Proposals, which are incorporated by reference herein, constitutes the entire Contract 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.

# Attachments

## *Numerical Series*

**ATTACHMENT 1 (A & B) .....A-4**

1 a NYS Elder Law ..... {see Link}
1 b NYPS Legislation ..... A-5

**ATTACHMENT 2.....A-6**

EPIC Regulations ..... {see.ZIP file}

**ATTACHMENT 3 (TABLES 1-7).....A-6**

Table 1 Claims & Enrollment {All Programs} ..... {see.ZIP file}
Table 2 Monthly Participant Applications Statistics ..... A-7
Table 3 EPIC Enrollee Tax Match Statistics..... {see.ZIP file}
Table 4 Request For Additional Information {RFAI} Forms ..... A-9
Table 5 Annual Reassignments .....A-10
Table 6 Middleware Cost .....A-11
Table 7 Bank Charges by Program .....A-12

**ATTACHMENT 4 (TABLES 1-4)..... A-13**

Table 1 EPIC Provider Reimbursement .....A-13
Table 2 Helpline & Written Correspondence Statistics ..... {see.ZIP file}
Table 3 EPIC Monthly Reimbursables – Postage/Printing/Applications .....A-15
Table 4 Contractor Staffing Plan (FTE's) .....A-16

**ATTACHMENT 5..... A-17**

Software List

**ATTACHMENT 6..... A-18**

EPIC Annual Report (10/08 thru 09/09) ..... {see Link}

**ATTACHMENT 7 (CHARTS A-C) ..... A-19**

a - Brand Generic Algorithm Flow Chart ..... {see.ZIP file}
b – Brand Generic pricing Chart ..... {see.ZIP file}
c – EPIC Pricing Formula .....A-20

**ATTACHMENT 8 (APPLICATIONS A-C) ..... A-21**
a – EPIC Application ..... {see.ZIP file}
b – EPIC Application - SPANISH ..... {see.ZIP file}
c – EPIC Renewal Form ..... {see.ZIP file}

**ATTACHMENT 9 {PURPOSELY LEFT BLANK} ..... A-22**

**ATTACHMENT 10 ..... A-23**
Performance Standards

**ATTACHMENT 11 (Instructions & Cost Exhibits) ..... A-38**
Pricing Schedule Instructions ..... A-39
**COST EXHIBITS ..... A-42**
A.1 Implementation Fee And EPIC Per Claim Fee ..... {see.ZIP file}
A.2 AIH Per Claim Fee ..... {see.ZIP file}
A.3 NYPS Per Claim Fee ..... {see.ZIP file}
A.4 Claims Fee breakdown by Function ..... {see.ZIP file}
A.5 Systems Change Hours ..... {see.ZIP file}
A.6 Key Staffing Plan & Daily Rate Per FTE ..... {see.ZIP file}
A.7 Additional Staffing Pricing ..... {see.ZIP file}
A.8 Generic Drugs – State Maximum Allowable Cost {Per NDC} ..... {see.ZIP file}

**ATTACHMENT 12 ..... A-43**
NYPS Rebate Agreement ..... A-44

**ATTACHMENT 13 ..... A-51**
Dispute Resolution Process

**ATTACHMENT 14 ..... A-54**
Listing of Reports ..... A-55

**ATTACHMENT 15 (A&B) ..... A-58**
a – FMG File Specifications ..... A-58
b – Premium Remittance Advice File Specifications ..... A-59

**ATTACHMENT 16 (A&B) ..... A-60**
a – EPIC Provider Agreement ..... {see.ZIP file}
b – NYPS Provider Agreement ..... {see.ZIP file}

**ATTACHMENT 17 ..... A-61**
NYPS Additional Rebate Processing

**ATTACHMENT 18 ..... A-66**
Base Operations Staffing Plan & Credentials ..... {see.ZIP file}

**ATTACHMENT 19 ..... A-66**
Contractor Staff Qualifications & Credentials ..... {see.ZIP file}

**ATTACHMENT 20 ..... A-67**
Corporate Experience & References

**ATTACHMENT 21 (TABLES 1-5) ..... A-68**
Table 1a NYPS Trial Invoice ..... {see.ZIP file}
Table 1b NYPS State Invoice ..... {see.ZIP file}
Table 1c NYPS Manufacturer Invoice ..... {see.ZIP file}
Table 2 NYPS Prior Period Rate & Utilization Adjustment Report ..... {see.ZIP file}
Table 3 NYPS Monthly Statement ..... {see.ZIP file}
Table 4 NYPS Weekly Update Rebate Report ..... {see.ZIP file}
Table 5 MDRP State Invoice Format ..... {see.ZIP file}

**ATTACHMENT 22 (TABLE 1 & 2) ..... A-68**
Table 1 2008 Quarterly Pricing File Layout ..... {see.ZIP file}
Table 2 2008 Product File Layout ..... {see.ZIP file}

**ATTACHMENT 23 ..... A-68**
NYPS Pricing Matrix ..... {see.ZIP file}

**ATTACHMENT 24 ..... A-69**
Rebate Reports ..... {see.ZIP file}

# Attachment 1a

## NYS Elder Law Legislation

http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@SLELD0A2T3+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=32728242+&TARGET=VIEW

# Attachment 1b

## New York Prescription Saver Card Legislation

### NEW YORK PRESCRIPTION SAVER CARD LEGISLATION

**Section 280 of New York State Public Health Law**

* § 280. Prescription drug discount program. The prescription drug discount program is hereby established in the department. The drug discount card shall be available to any resident between the ages of fifty and sixty-four, and any resident of any age who has been determined to meet the disability criteria in 20 C.F.R. § 404.1505, who: meets the income eligibility levels established under subdivision one or two of section two hundred forty-two of the elder law; is not in receipt of medical assistance under title eleven of article five of the social services law. The drug discount card shall offer discounts on drug purchases which are not covered by other public or private third party payment sources. Provided, however, that participation by a provider pharmacy and drug manufacturers shall be voluntary and reimbursement to the provider pharmacy under the drug discount card program shall be adjudicated and paid within two business days for any rebates, dispensing fees and drug costs not paid by the resident eligible for such program at the point of sale. * NB Repealed June 15, 2012

# Attachment 2

## EPIC Regulations

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 3, Table 1

## Claims & Enrollment All Programs

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 3 –Table 2

## Monthly Participant Application Stats

EPIC, AIH and NYPS RFP
Monthly Participant Application Statistics (1)
July 1, 2009 - March 31, 2011

| Month | EPIC Applications | EPIC Renewals | NYPS Applications |
|---|---|---|---|
| Jul-09 | 2,406 | 9,865 | 1,232 |
| Aug-09 | 1,859 | 11,382 | 794 |
| Sep-09 | 2,288 | 13,185 | 983 |
| Oct-09 | 3,016 | 12,572 | 720 |
| Nov-09 | 2,948 | 11,548 | 446 |
| Dec-09 | 3,622 | 14,483 | 481 |
| Jan-10 | 2,922 | 13,171 | 514 |
| Feb-10 | 2,482 | 12,079 | 445 |
| Mar-10 | 3,577 | 11,589 | 468 |
| Apr-10 | 2,851 | 10,080 | 390 |
| May-10 | 1,893 | 8,264 | 358 |
| Jun-10 | 1,885 | 9,226 | 352 |
| Jul-10 | 2,078 | 10,490 | 224 |
| Aug-10 | 1,728 | 8,806 | 219 |
| Sep-10 | 1,895 | 14,469 | 231 |
| Oct-10 | 1,407 | 13,013 | 157 |
| Nov-10 | 1,913 | 11,807 | 198 |
| Dec-10 | 2,946 | 13,763 | 183 |
| Jan-11 | 2,040 | 13,102 | 144 |
| Feb-11 | 2,232 | 10,975 | 193 |
| Mar-11 | 2,226 | 11,730 | 166 |
| **Total** | **50,214** | **245,599** | **8,898** |

(1) May not agree with similar data provided in other attachments to this RFP due to timing or the different methods utilized to categorize or compute the data

# Attachment 3 – Table 3

## EPIC Enrollee Tax Match Statistics

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 3 – Table 4

## Request for Additional Information (RFAI)

**Request For Additional Information Forms ***
**July 2009 Through April 2011**

| **2009 Mailing Second Half of Year** | | |
|---|---|---|
| 1st Notice | July | **34,615** |
| 2nd Notice - non responders | August | 13,175 |
| 3rd Notice - non responders | September | 7,823 |
| 4th Notice - non responders | October | 3,701 |
| | | |
| | | |
| **2010 Mailing First Half of Year** | | |
| 1st Notice | March | **43,276** |
| 2nd Notice - non responders | April | 20,364 |
| 3rd Notice - non responders | June | 10,652 |
| 4th Notice - non responders | July | 5,274 |
| | | |
| | | |
| **2010 Mailing Second Half of Year** | | |
| 1st Notice | July | **5,751** |
| 2nd Notice - non responders | August | 2,732 |
| 3rd Notice - non responders | September | 1,888 |
| 4th Notice - non responders | November | 911 |
| | | |
| **2011 Mailing First Half of Year** | | |
| 1st Notice | February | **11,161** |
| 2nd Notice - non responders | March | 5,234 |
| 3rd Notice - non responders | April | 3,607 |
| | | |

* These forms are used to apply for extra help from Medicare for prescription costs.

# Attachment 3 – Table 5

## Annual Reassignment

**Annual Reassignment**
**of NYS EPIC Members into Medicare Part D Benchmark Plans**
**January 2010 and January 2011**

| Effective Date | | Reassignments | No. Plans |
|---|---|---|---|
| | | | |
| January 2010 | | 7,001 | 10 |
| January, 2011 | | 12,085 | 9 |
| | | | |
| **Total** | | **19,086** | |

# Attachment 3- Table 6

## Middleware Cost

**Middleware Cost**
**July 1, 2009 - March 31, 2011**

| Month | Number Of LIS Requests | Cost |
|---|---|---|
| Jul-09 | 762 | $571.50 |
| Aug-09 | 7,726 | $5,794.50 |
| Sep-09 | 1,895 | $1,421.25 |
| Oct-09 | 1,905 | $1,428.75 |
| Nov-09 | 916 | $687.00 |
| Dec-09 | 604 | $453.00 |
| Jan-10 | 4,206 | $3,154.50 |
| Feb-10 | 594 | $445.50 |
| Mar-10 | 11,379 | $8,534.25 |
| Apr-10 | 12,425 | $9,318.75 |
| May-10 | 6,954 | $5,215.50 |
| Jun-10 | 4,555 | $3,416.25 |
| Jul-10 | 8,454 | $6,340.50 |
| Aug-10 | 3785 | $2,838.75 |
| Sep-10 | 1143 | $857.25 |
| Oct-10 | 843 | $632.25 |
| Nov-10 | 791 | $593.25 |
| Dec-10 | 483 | $362.25 |
| Jan-11 | 457 | $342.75 |
| Feb-11 | 1353 | $1,014.75 |
| Mar-11 | 3781 | $2,835.75 |

# Attachment 3- Table 7

## Bank Changes by Program

Schedule of Bank Charges by Program
July 1, 2009 Through March 31, 2011

| Month | EPIC | AIH | NYPS | | **Total** |
|---|---|---|---|---|---|
| Jul-09 | $10,355.30 | $659.08 | $437.37 | | **$11,451.75** |
| Aug-09 | $9,564.31 | $701.96 | $481.91 | | **$10,748.18** |
| Sep-09 | $10,176.74 | $853.90 | $520.43 | | **$11,551.07** |
| Oct-09 | $9,423.75 | $414.98 | $454.54 | | **$10,293.27** |
| Nov-09 | $5,851.80 | $0.00 | $0.00 | | **$5,851.80** |
| Dec-09 | $13,285.03 | $830.88 | $959.87 | | **$15,075.78** |
| Jan-10 | $3,613.52 | $549.92 | $496.63 | | **$4,660.07** |
| Feb-10 | $0.00 | $0.00 | $0.00 | | **$0.00** |
| Mar-10 | $8,565.19 | $1,144.70 | $1,251.41 | | **$10,961.30** |
| Apr-10 | $6,072.30 | $495.99 | $677.95 | | **$7,246.24** |
| May-10 | $5,398.06 | $537.13 | $644.51 | | **$6,579.70** |
| Jun-10 | $7,019.41 | $489.99 | $686.21 | | **$8,195.61** |
| Jul-10 | $4,908.01 | $533.99 | $733.34 | | **$6,175.34** |
| Aug-10 | $13,463.74 | $615.62 | $557.54 | | **$14,636.90** |
| Sep-10 | $6,707.33 | $668.65 | $621.69 | | **$7,997.67** |
| Oct-10 | $0.00 | $0.00 | $0.00 | | **$0.00** |
| Nov-10 | $3,454.17 | $565.76 | $662.50 | | **$4,682.43** |
| Dec-10 | $10,010.94 | $1,009.58 | $1,304.08 | | **$12,324.60** |
| Jan-11 | $6,962.97 | $703.37 | $650.66 | | **$8,317.00** |
| Feb-11 | $5,459.83 | $520.51 | $625.15 | | **$6,605.49** |
| Mar-11 | $4,373.03 | $576.61 | $630.32 | | **$5,579.96** |
| | | | | | |
| **Total** | **$144,665.43** | **$11,872.62** | **$12,396.11** | | **$168,934.16** |

# Attachment 4 – Table 1

## Provider Reimbursements

| Cycle Number | Cycle End Date | Provider EFT Reimbursement # Pymts | Total Pymts | |
|---|---|---|---|---|
| 1 | 7/15/2009 | 2,141 | $ 16,251,322 | |
| 2 | 7/31/2009 | 2,110 | 17,271,246 | |
| 3 | 8/15/2009 | 2,131 | 16,218,145 | |
| 4 | 8/31/2009 | 2,095 | 17,193,404 | |
| 5 | 9/15/2009 | 2,170 | 16,948,059 | |
| 6 | 9/30/2009 | 2,118 | 16,625,273 | |
| 7 | 10/15/2009 | 2,118 | 16,390,177 | |
| 8 | 10/31/2009 | 2,105 | 16,502,154 | |
| 9 | 11/15/2009 | 2,108 | 15,296,417 | |
| 10 | 11/30/2009 | 2,092 | 15,274,226 | |
| 11 | 12/15/2009 | 2,125 | 16,198,929 | |
| 12 | 12/31/2009 | 2,072 | 15,203,045 | |
| 13 | 1/15/2010 | 2,140 | 14,484,443 | |
| 14 | 1/31/2010 | 2,088 | 12,599,878 | |
| 15 | 2/15/2010 | 2,130 | 12,422,331 | |
| 16 | 2/28/2010 | 2,078 | 9,208,585 | |
| 17 | 3/15/2010 | 2,129 | 12,063,059 | |
| 18 | 3/30/2010 | 2,117 | 12,181,194 | |
| 19 | 4/15/2010 | 2,115 | 11,818,746 | |
| 20 | 4/30/2010 | 2,539 | 11,938,047 | |
| 21 | 5/15/2010 | 2,151 | 12,268,849 | |
| 22 | 5/31/2010 | 2,107 | 12,121,588 | |
| 23 | 6/15/2010 | 2,139 | 14,365,739 | |
| 24 | 6/30/2010 | 2,081 | 13,419,185 | |
| 25 | 7/15/2010 | 2,080 | 14,186,514 | |
| 26 | 7/31/2010 | 2,044 | 14,549,114 | |
| 27 | 8/15/2010 | 2,071 | 14,190,216 | |
| 28 | 8/31/2010 | 2,075 | 15,801,418 | |
| 29 | 9/15/2010 | 2,050 | 14,708,848 | |
| 30 | 9/30/2010 | 2,088 | 14,538,350 | |
| 31 | 10/15/2010 | 2,060 | 13,670,699 | |
| 32 | 10/31/2010 | 2,055 | 13,109,738 | |
| 33 | 11/15/2010 | 2,041 | 13,581,469 | |
| 34 | 11/30/2010 | 2,055 | 12,603,064 | |
| 35 | 12/15/2010 | 2,054 | 13,092,025 | |
| 36 | 12/31/2010 | 2,017 | 12,379,819 | |
| 37 | 1/15/2011 | 2,065 | 10,768,465 | |
| 38 | 1/31/2011 | 2,043 | 10,108,602 | |
| 39 | 2/15/2011 | 2,058 | 8,690,570 | |
| 40 | 2/28/2011 | 2,061 | 6,787,965 | |
| 41 | 3/15/2011 | 2,056 | 8,382,962 | |
| 42 | 3/23/2011 | 0 | 4,203,227 | (1) |
| 43 | 3/31/2011 | 2,095 | 4,132,248 | |
| | Total | 88,267 | $ 559,617,108 | |

(1) Combined with 3/31/2011 cycle

# Attachment 4- Table 2

## Helpline & Written Correspondence Statistics

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 4 – Table 3

## Miscellaneous Expenditures

**Selected Monthly Reimbursable**
**July 1, 2009 - March 31, 2011**

| | Postage Expenses | | | |
|---|---|---|---|---|
| **Month** | **USPS** | **Express Mail** | **Total** | **Printing/Application Costs & ID Cards** |
| **2009** | | | | |
| July | $83,504 | $1,907 | **$85,411** | $8,829 |
| August | $75,107 | $1,743 | **$76,850** | $6,128 |
| September | $82,027 | $291 | **$82,317** | $64,355 |
| October | $91,946 | $314 | **$92,260** | $12,203 |
| November | $72,246 | $369 | **$72,614** | $2,632 |
| December | $88,371 | $19,673 | **$108,045** | $103,481 |
| **2010** | | | | |
| January | $65,122 | $1,007 | **$66,129** | $16,235 |
| February | $68,331 | $955 | **$69,286** | $21,250 |
| March | $80,365 | $1,750 | **$82,114** | $227,794 |
| April | $76,650 | $1,446 | **$78,097** | $4,438 |
| May | $48,862 | $1,343 | **$50,206** | $564 |
| June | $57,780 | $1,696 | **$59,477** | $0 |
| July | $57,360 | $2,024 | **$59,385** | $45,708 |
| August | $60,731 | $518 | **$61,248** | $36,842 |
| September | $72,986 | $316 | **$73,302** | $5,708 |
| October | $48,301 | $344 | **$48,645** | $0 |
| November | $59,679 | $457 | **$60,136** | $66,568 |
| December | $45,446 | $770 | **$46,216** | $6,335 |
| **2011** | | | | |
| January | $50,561 | $833 | **$51,394** | $7,020 |
| February | $52,640 | $3,963 | **$56,604** | $0 |
| March | $47,022 | $2,846 | **$49,869** | $47,536 |

Note: Postage and printing costs will be paid to the contractor as a reimbursable expense in accordance with Section V.I.1.G of the RFP.

# Attachment 4 – Table 4

## Contractor Staffing Plan

| | *As of 3/31/2011* |
|---|---|
| | *Actual FTE* |
| **Management:** | |
| Director of Operations | 1.00 |
| Assistant Director | 1.00 |
| Claims Manager | 1.00 |
| Finance Manager | 1.00 |
| Systems Manager | 1.00 |
| Customer Service Manager | 1.00 |
| Outreach Manager | 1.00 |
| Customer Service Supervisors | 2.00 |
| Training and Quality Manager | 1.00 |
| **Total Management** | **10.00** |
| **Professional & Technical:** | |
| Quality Control Specialists | 1.00 |
| Auditor Prepayment/VOB | 1.00 |
| Trainers | 1.00 |
| Staff Pharmacists | 2.00 |
| Pharmacist Tech | 1.00 |
| Financial Analyst | 3.00 |
| Accounting Specialist | 2.00 |
| Business Analyst for Rebate | 1.00 |
| Computer Operator | 2.00 |
| LAN/WAN | 1.00 |
| Plan Administration | 1.00 |
| Corporate HR Generalist | 1.00 |
| **Total Professional & Technical** | **17.00** |
| **Clerical:** | |
| Administrative Assistant | 1.00 |
| Claims/Provider Services Reps. | 4.00 |
| Data Entry Operator | 1.00 |
| Mail Processors | 4.00 |
| COB/TPL Coordinators | 2.00 |
| Eligibility File Processors | 6.00 |
| Customer Services Reps. | 22.00 |
| Temp Reps | 16.00 |
| **Total Clerical** | **56.00** |
| **Billable Staff:** | |
| Outreach Representative | 7.00 |
| Programmer/Analyst ï Development | 8.00 |
| Appeals Pharmacist Tech. | 4.00 |
| **Total Billable Staff** | **19.00** |
| **Grand Total ï All EPIC Staff** | **102.00** |

# Attachment 5

## Software list

| ***Without Restriction**** |
|---|
| |
| ID Card Creation |
| Suffolk County |
| Tax Match |
| COB |
| Refund Issue Process |
| COC |
| Deductible Credit |
| Raising Deductible |
| Eligibility |
| FE |
| Premium Payment |
| Premium Reconciliation |
| RFAI/Middleware |
| Un cashed Checks |
| EPIC COBOL Code ï Enrollment |
| EPIC Easy Retrieve Code ï Enrollment |

***Available in procurement library***

| ***Proprietary Software*** | ***System*** |
|---|---|
| | |
| First Rx Claim System | Claims Processing System |
| First Rebate | Rebate System |
| First Decision | Query and Reporting System |
| First IQ | Query and Reporting System |
| First Financial | Financial and Payment System |
| First Enroll | Enrollment System |
| First Trax | Call Tracking System |
| First CI | Interface with First Trax |
| | |
| ***Third Party Proprietary*** | |
| | |
| Microsoft Office Suite | |
| SAS | |
| Pitney Bowes Mailing Software | |
| Elixer | |
| Avaya Phone Monitoring Software | |
| Unisys Imaging Software | |
| WinZip 12 | |
| SFTP (PGP) | |
| SQL server 2005 | |
| Crystal Reports | |
| | |

# Attachment 6

## EPIC Annual Report
## October 2008-September 2009

http://www.nyhealth.gov/health_care/epic/annual_report/2008_2009/index.htm

# Attachment 7a

## Brand Generic Algorithm Flow Chart

&

# Attachment 7b

## Brand Generic Pricing Chart

These attachments are available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 7c

## EPIC Pricing Formula

- Payment is always at the ñlesser ofò the CALCULATED AMOUNT, GROSS AMOUNT DUE (NCPDP field # 430 ï DU) USUAL AND CUSTOMARY (NCPDP field # 426 ï DQ) or OTHER PAYER-PATIENT RESPONSIBILITY AMOUNT (field 352-NQ), minus the Other Payer Amount Paid (431-DV), result can not be less than $0.00.
- Generic/ brand classification is based on FDB classification.
- The Total Amount Paid (NCPDP field # 505-F9) is the Allowed Amount minus the Patient Pay Amount (NCPDP field # 505-F5).
  - **Gross Amount Due**: Based on NCPDP pricing formula
    - NCPDP pricing formula (prescription formula response):
      - INGREDIENT COST PAID:
      - + DISPENSE FEE PAID
      - + INCENTIVE AMOUNT PAID
      - + FLAT SALES TAX AMOUNT SUBMITTED
      - + PERCENTAGE SALES TAX AMOUNT SUBMITTED
    - ❖ Under New York State EPIC guidelines, this amount should reflect the Patient Responsibility to Medicare Part-D plan.
  - **Usual and Customary Price:** The U/C Price is the amount charged cash customers for the prescription. It includes dispensing fee.
  - **Calculated Amount:** Lesser of the following:
    - ❒ Generic drugs or claims submitted with a Dispense as Written value of ó5ô with Federal Upper Limit (FUL) price:
      FUL x submitted quantity + $4.50 dispense fee = Calculated amount.
    - ❒ Generic drugs or claims submitted with a Dispense as Written value of ó5ô with State Maximum Allowable Cost (SMAC) price:
      SMAC x submitted quantity + $4.50 dispense fee = Calculated amount.
    - ❒ Generic drugs or claims submitted with a Dispense as Written value of ó5ô:
      (AWP ï 25.0% percent) x submitted quantity + $4.50 dispense fee = Calculated amount.
    - ❒ Brand drugs:
      (AWP ï 16.25% percent) x submitted quantity + $3.50 dispense fee = Calculated amount.
  - **Other Payer-Patient Responsibility Amount:** Amount listed in the Other Payer-Patient Responsibility Amount (field 352-NQ), with the qualifier of 12 - Amount Attributed to Coverage Gap that was collected from the patient due to a coverage gap. (field 351-NP)

**Additional Notes:**

- Co-payments will only be returned to claims that have a Benefit Stage Qualifier of 03 ï Coverage Gap (NCPDP field 392-MU).
- Claims that indicate a Benefit Stage Qualifier not equal to 03 ï Coverage Gap will return a 100% amount to the Participant, based on the amount submitted in Gross Amount Due.
- The provider reimbursement amount will be reflected in Total Amount Paid (NCPDP field FÏ 9-F9).
- The co-payment owed by the Participant will be reflected in Patient Pay Amount (NCPDP field # 505-F5).
- Any additional amounts listed Other Payer-Patient Responsibility Amount (field 352-NQ), that are not equal to qualifier 12 ï Amount Attributed to Coverage Gap, will be added to the Patient Pay Amount, as the Patientôs Responsibility

# Attachment 8a

## EPIC Application v.4.11

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 8b

## EPIC Application ï SPANISH-v.4.11

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 8c

## EPIC Renewal

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 9

## Purposely left Blank

# Attachment 10

## Performance Standards

## A. CONTRACTOR PERFORMANCE REQUIREMENTS

The contractor must at all times comply with all operational performance requirements and expectations specified in this RFP.

Notwithstanding anything to the contrary, the contractor must warrant that the programs and functions must meet all requirements of this RFP and must be fully operational on the first day of the claims processing year. The contractor further warrants that it shall meet all performance requirements listed in this RFP during the term of this contract.

The contractor must at all times operate the EPIC, AIH and NYPS programs and perform its activities in conformity with the policies and procedures of the three programs. All requirements described in this RFP are subject to monitoring by the Department. The Department reserves the right to monitor performance at any time and may exercise such option, at its discretion, without notice. In the event of a failure to meet the performance requirements, the contractor agrees that the Department may assess and withhold from payments due its actual damages for the losses set forth below and as assessed at the Departmentôs discretion.

Amounts due the Department from assessment of damages may be deducted from any money payable to the contractor pursuant to this contract. The Department shall notify the contractor, in writing, of any claim for damages prior to the date the Department deducts such sums from money payable to the contractor.

### *A.1 PERFORMANCE STANDARDS AND DAMAGES*

It is expressly agreed by the Department and the contractor that, in the event of a failure to meet the performance requirements listed below, damage shall be sustained by the State, and the contractor may have to pay the State its actual damages according to the following subsections.

### A.1.1 Claims and Adjustment Processing Accuracy - Requirement

All payments, adjustments, and other financial transactions made for claim and premium payments must be made on behalf of eligible members, to entities, for approved services, and in accordance with the payment methodology and other policies of EPIC, AIH, and NYPS. The contractor must notify the Department immediately upon discovery of any mispayments or duplicate payments, irrespective of cause.

### A.1.2.1 Claims and Adjustment Processing Accuracy ï Damages

The contractor is liable for the actual amount of all contractor-caused overpayments, duplicate payments, or payments that should have been denied. Contractor-caused mispayments may result from either the contractorôs failure to utilize available information or by a failure to process the claim or transaction correctly.

The contractor must provide a monthly report listing all contractor or State-identified inappropriate payments. This report will describe the cause of the inappropriate payment, whether the inappropriate payment represents a mispayment, and an estimate of the dollar amount of any mispayment. The DOH shall review the report, decide whether further research and analysis is required before correction of the problem, approve the plan for correction, and establish a correction date.

The contractor is liable for the actual amount of the contractor-caused overpayments that are not recovered. The actual amount of the outstanding mispayment may be deducted from contractor payments. Recovery from providers to whom erroneous payments were made will be performed in accordance with a Department-approved recovery program. The contractor is fiscally responsible for any mispayments or duplicate payments that cannot be recovered by the State within ninety (90) calendar days. This responsibility shall apply to all mispayments caused by contractor negligence, system failure or other causes.

## *A.2 OPERATIONAL PERFORMANCE STANDARDS*

Operational Performance standards play an important role in defining and managing the relationship between the contractor and the Department. Operational Performance standards define the Departmentôs service requirements and expectations regarding how the contractor will meet these requirements. A successfully implemented service level management discipline ensures that systems function smoothly while fulfilling the business needs of stakeholders.

This section presents the following areas and their associated operational performance standards including calculation of damages:

1. System Availability;
2. Processing Performance;
3. Customer Service;
4. Rebates; and
5. Staffing.

The Operational Performance Standards <u>are not</u> subject to a maximum cap in damages on an individual performance standard nor in aggregate.

## A.2.1. System Availability

| | System Availability | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| A.2.1.a Online Claims Processing System Availability | EPIC | The contractor guarantees that the online claims processing system be available at least ninety-nine and five-tenths percent (99.5%) of the time, calculated on a **monthly** basis, excluding periods of scheduled down time which shall be reported in advance to DOH and kept to a minimum, based on a 24 hours a day, 7 days a week availability. | **Access Hours**:<br>24 hours/day, 7 days a week<br>Online claims processing system availability requirement is ninety-nine and five-tenths percent (99.5%). | For each .01 to.25% below the standard of ninety-nine and five-tenths percent (99.5%) that the contractorôs online claims processing system based on a 24 hours a day, 7 days a week availability, and calculated on a **monthly** basis, excluding periods of scheduled down time, which shall be reported in advance to DOH and kept to a minimum, is not available, the contractor shall credit against the Programôs administrative fees the amount of $10,000. |
| | | | | |
| A.2.1.b Online Claims Processing System Availability | AIH | The contractor guarantees that the online claims processing system be available at least ninety-nine and five-tenths percent (99.5%) of the time, calculated on a **monthly** basis, excluding periods of scheduled down time which shall be reported in advance to DOH and kept to a minimum, based on a 24 hours a day, 7 days a week availability. | **Access Hours**:<br>24 hours/day, 7 days a week<br>Online claims processing system availability requirement is ninety-nine and five-tenths percent (99.5%). | For each .01 to.25% below the standard of ninety-nine and five-tenths percent (99.5%) that the contractorôs online claims processing system for the **AIH** Program, based on a 24 hours a day, 7 days a week availability, and calculated on a **monthly** basis, excluding periods of scheduled down time, which shall be reported in advance to DOH and kept to a minimum, is not available, the contractor shall credit against the AIH Programôs administrative fee the amount of $1,000. |
| | | | | |
| A.2.1.c Online Claims Processing System Availability | NYPS | The contractor guarantees that the online claims processing system be available at least ninety-nine and five-tenths percent (99.5%) of the time, calculated on a **monthly** basis, excluding periods of scheduled down time which shall be reported in advance to DOH and kept to a minimum, based on a 24 | **Access Hours**:<br>24 hours/day, 7 days a week<br>Online claims processing system availability requirement is ninety-nine and five-tenths percent (99.5%). | For each .01 to.25% below the standard of ninety-nine and five-tenths percent (99.5%) that the contractorôs online claims processing system for the **NYPS** Program, based on a 24 hours a day, 7 days a week availability, and calculated on a **monthly** basis, excluding periods of scheduled down time, which shall be reported in advance to DOH and kept to a minimum, is not available, the contractor shall credit against the NYPS Programôs administrative fee the amount of $500. |

| | System Availability | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| | | hours a day, 7 days a week availability. | | |
| | | | | |
| A.2.1.d On-line Inquiry and Data access systems | EPIC | The contractor guarantees that the programôs online inquiry and data access systems be available at least ninety-eight percent (98%) of the time, calculated on a **monthly** basis, excluding periods of scheduled down time which shall be reported in advance to DOH and kept to a minimum, based on a 8 am to 6 pm ET, 5 days/week (Monday ï Friday) | **Access Hours**:<br>Accessible by Department staff between 8 am ï 6 pm ET, 5 days/week (Monday ï Friday)<br><br>System availability requirement is ninety-eight percent (98%). | For each .01 to.25% below the standard of ninety-eight percent (98%) that the contractorôs online inquiry and data access systems is not available, based on an 8 am ï 6 pm ET, 5 days/week (Monday ï Friday) availability, calculated on a **monthly** basis, excluding periods of scheduled down time, which shall be reported in advance to DOH and kept to a minimum, the contractor shall credit against the Programôs administrative fees the amount of $5,000. |
| | | | | |

## A.2.2 Processing Performance

| | Processing Performance | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| | | | | |
| A.2.2.a Paper claim Timeliness | EPIC | The contractor guarantees that at least ninety-eight percent (98%) of submitted paper claims must be turned around within ten (10) business days from the date the claim is received in the DOH Designated Post Office Box to the date the Explanation of Benefits is received by the mailing agent, as calculated on a **monthly** basis. For example, a claim received on Monday August 2, 2010, with the | **Timeliness**:<br>Pay or deny ninety-eight percent (98%) of submitted paper claims within ten (10) business days of receipt by the contractor. | For each .01 to .50% below the ninety eight percent (98) ten (10) business day standard or one hundred percent (100%) twenty (20) business day standard calculated on a **monthly** basis, the contractor shall credit against the Programôs administrative fees the amount of $2,000. |

| | Processing Performance | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| Paper claim Timeliness | EPIC | Explanation of Benefits received by the mailing agent on August 16, 2010 will have been turned around in ten (10) business days.<br><br>The contractor guarantees that one hundred percent (100%) of submitted paper claims must be turned around within twenty (20) business days from the date the claim is received in the DOH Designated Post Office Box to the date the Explanation of Benefits is received by the mailing agent, as calculated on a **monthly** basis. | Pay or deny one hundred percent (100%) of submitted paper claims within twenty (20) business days of receipt by the contractor. | |
| | | | | |
| A.2.2.b Pricing Reference Files | EPIC, AIH, NYPS | The contractor agrees to process files containing updated reference data including but not limited to: SMAC, AWP pricing, and drug classification information on the dates and frequency as specified by the Department. The contractor must have the ability to update reference data at a minimum once a week, any updates less than weekly will be agreed upon by the contractor and the State. | **Timeliness:** Files containing reference data required to price claims must be processed on the date and frequency as specified by the Department. | For those pricing reference files not processed on the dates and frequency specified by the Department or for those instances where out dated files have been utilized by the contractor, the contractor shall credit the Programôs administrative fees the amount of any claim overpayment or underpayment plus ten percent (10%) |

| | Processing Performance | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| A.2.2.c Reassignment | EPIC | The Contractor guarantees to electronically submit EPIC member files for reassignment in the State approved format to Medicare Part D plans by the dates specified by the Department. | **Timeliness:** Electronic files submitted to Medicare Part D plans in a state approved format by the dates specified by the Department. | For the reassignment file, for each business day past the date specified by the Department, the contractor shall credit against the Programôs administrative fees the amount of $3,000. |
| | | | | |
| A.2.2.d Member Enrollment, Re-enrollment and Cancellations | EPIC, NYPS | The contractor guarantees that at least ninety-five percent (95%) of all member enrollment, re-enrollment and cancellation documents that require no additional information in order to be properly processed as calculated on a **monthly** basis, must be turned around within seven (7) business days from the date the enrollment form is received in the DOH Designated Post Office Box to the date an enrollment transaction is performed. | **Timeliness:** Ninety-five percent (95%) of the member enrollment, re-enrollment, and cancellation documents must be turned around within seven (7) business days from the date the documents are received in the DOH designated post office box.<br><br>Member enrollment, Re-enrollment and cancellations must be reported separately for EPIC and NYPS. | For each .01 to .50% of member enrollment, re-enrollment, and cancellation documents (that require no additional information in order to be properly processed) not turned around within seven (7) business days from the date the documents are received in the DOH Designated Post Office Box to the date an enrollment transaction is performed, below the standard of ninety-five percent (95%), as calculated on a **monthly** basis, the contractor shall credit against the Programôs administrative fees the amount of $2,000. |
| | | | | |

| | Processing Performance | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| A.2.2.e Identification Cards | EPIC, AIH, NYPS | The contractor guarantees that at least ninety-nine and five-tenths percent (99.5%) of new identification cards or replacement identification cards be generated within three (3) business days from the placement of the participant on file as eligible, or receipt of the request for a replacement card, whichever is applicable, to the delivery of the card to the post office for mailing, calculated on a **monthly** basis. For example, if a replacement card is requested on Monday August 2, 2010 and it is delivered to the post office for mailing on August 5, 2010, it will have been turned around in three (3) business days. | **Timeliness:** Ninety-nine and five-tenths percent (99.5%) percent of new identification cards or replacement identification cards must be generated within three business days from the placement of the member on file as eligible or receipt of the request for a replacement card.<br><br>Identification Card turnaround times must be reported separately for EPIC, AIH and NYPS | For each .01 to .50% of identification cards or replacement identification cards not generated within three (3) business days from the placement of the participant on file as eligible, or receipt of the request for a replacement card, whichever is applicable, to the delivery of the card to the post office for mailing, below the standard of ninety-nine and five-tenths percent (99.5%) percent calculated on a **monthly** basis, the contractor shall credit against the Programôs administrative fees the amount of $2,000. |
| | | | | |
| A.2.2.f Tax Match | EPIC | The contractor guarantees on each business day to systematically transmit a complete readable file (in State approved format) of newly enrolled and re-enrolled participants to the NYS Department of Tax and Finance for the purpose of conducting a tax match between income reported to EPIC and income reported to the Department of Tax and Finance. | **Timeliness:** Complete readable file (in the State approved format) systematically transmitted on each business day to the NYS Department of Tax and Finance. | For each business day past the daily business day requirement to systematically transmit a complete readable file of newly enrolled and re-enrolled participants to the NYS Department of Tax and Finance, the contractor shall credit against the EPIC Programôs administrative fee the amount of $1,000. |
| | | | | |

| | Processing Performance | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| A.2.2.g Checks and Payment Remittance Advices | EPIC, AIH, NYPS | The contractor guarantees that one hundred percent (100%) of checks be released or EFT files be sent to the bank for processing within one business day of receipt of the Stateôs official memorandum authorizing such release. | **Timeliness:** Release check and EFTs to the bank within one (1) business day of receipt of the Stateôs official memorandum.<br><br>Check and EFT requirement is one hundred (100%).<br><br>Check and EFT turnaround times must be reported separately for EPIC, AIH and NYPS. | For each business day past the required one business day turnaround time for release of checks or EFT files to the bank, (after State approval), the contractor shall credit against the EPIC Programôs administrative fee the amount of $1,000. |
| | | | | |

## A.2.3 Customer Service

| | Customer Service | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| A.2.3.a Hours for member call line availability | EPIC, NYPS | The contractor guarantees that the EPIC and NYPS member call lines will be operational and available to members at least 99.5% of the scheduled member call line hours, calculated on a **monthly** basis.<br><br>Call line availability is defined as having available:<br>• The call center staff to answer calls<br>• The systems | **Member Access Hours:**<br>8:30 AM to 5:00 PM Mon-Fri -5 days a week<br><br>EPIC and NYPS Member call line availability requirement is ninety-nine and five-tenths percent (99.5%).<br>Member call line | For each .01 to .25% below the standard of ninety-nine and five-tenths percent (99.5%) that the contractorôs EPIC and NYPS member call line is not operational and available to members, during the scheduled member call line hours calculated on a **monthly** basis, the contractor shall credit against the EPIC Programôs administrative fees the amount of $10,000. |

| | Customer Service | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| | | required to handle inquiries<br>• Member line up and operational | availability must be reported separately for EPIC and NYPS. | |
| A.2.3.b Hours for provider call line availability | EPIC, NYPS | The contractor guarantees that the EPIC and NYPS provider call line will be operational and available to providers at least, 99.5% of the scheduled provider call line hours, calculated on a **monthly** basis<br><br>Call line availability is defined as having available:<br>• The call center staff to answer calls<br>• The systems required to handle inquiries<br>• Provider line up and operational | **Provider Access Hours**:<br>24 hours/day, 365 days a year<br>EPIC and NYPS Provider call line availability requirement is ninety-nine and five-tenths percent (99.5%).<br><br>Provider call line availability must be reported separately for EPIC and NYPS. | For each .01 to .25% below the standard of ninety-nine and five-tenths percent (99.5%) that the contractorôs EPIC and NYPS provider call line is not operational and available to providers, calculated on a **monthly** basis, the contractor shall credit against the EPIC Programôs administrative fee the amount of $10,000. |
| A.2.3.c Member telephone line responsiveness | EPIC, NYPS | The contractor guarantees at least ninety percent (90%) of the incoming calls to the contractorôs EPIC and NYPS member telephone lines will be answered by a customer service representative within one hundred twenty (120) seconds, calculated on a **monthly** basis. Response time is defined as the time it takes incoming calls to the contractorôs EPIC and NYPS member telephone line to be answered by a customer service representative. | **Member Telephone Response Time:**<br>90% of EPIC and NYPS member telephone line calls answered within one hundred twenty seconds (120).<br><br>Response time is defined as the time it takes incoming calls to the contractorôs EPIC and NYPS member telephone lines to be answered by a customer service | For each .01 to 1.0% of incoming calls to the contractorôs EPIC and NYPS member telephone lines below the standard of ninety percent (90%) that is not answered by a customer service representative within one hundred twenty (120) seconds. calculated on a **monthly** basis, the contractor shall credit against the EPIC Programôs administrative fee the amount of $10,000. |

| | Customer Service | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| | | | representative<br><br>Member telephone line response time must be reported separately for EPIC and NYPS. | |
| | | | | |
| A.2.3.d Provider telephone line responsiveness | EPIC, NYPS | The contractor guarantees at least ninety percent (90%) of the incoming calls to the contractorôs EPIC and NYPS provider telephone line will be answered by a customer service representative within one hundred twenty (120) seconds, calculated on a **monthly** basis. Response time is defined as the time it takes incoming calls to the contractorôs EPIC and NYPS provider telephone line to be answered by a customer service representative. | **Provider Telephone Response Time:**<br>90% of EPIC and NYPS provider telephone line calls answered within one hundred twenty (120) seconds.<br>Response time is defined as the time it takes incoming calls to the contractorôs EPIC and NYPS provider telephone line to be answered by a customer service representative.<br><br>Provider telephone line response time must be reported separately for EPIC and NYPS. | For each .01 to 1.0% of incoming calls to the contractorôs EPIC and NYPS provider telephone line below the standard of ninety percent (90%) that is not answered by a customer service representative within one hundred twenty (120) seconds, calculated on a **monthly** basis, the contractor shall credit against the EPIC Programôs administrative fee the amount of $10,000. |
| | | | | |
| A.2.3.e Member telephone abandonment rate | EPIC,NYPS | The contractor guarantees that the percentage of incoming calls to the contractorôs EPIC and NYPS member telephone lines in which the caller disconnects prior to the call being answered by a customer service representative will not exceed three percent | **Member Telephone Abandonment Rate**<br>EPIC and NYPS Member telephone abandonment requirement is no greater than three percent (3%) | For each .01 to 1.0% of incoming calls to the contractorôs EPIC and NYPS member telephone lines in which the caller disconnects prior to the call being answered by a customer service representative in excess of the standard of three percent (3%) calculated on a **monthly** basis, the contractor shall credit against the EPIC Programôs administrative fee the amount of $10,000. |

| | Customer Service | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| | | (3%), calculated on a **monthly** basis. | Member telephone abandonment rate must be reported separately for EPIC and NYPS | |
| | | | | |
| A.2.3.f Provider telephone abandonment rate | EPIC, NYPS | The contractor guarantees that the percentage of incoming calls to the contractorôs EPIC and NYPS provider telephone line in which the caller disconnects prior to the call being answered by a customer service representative will not exceed three percent (3%), calculated on a **monthly** basis. | **Provider Telephone Abandonment Rate**<br>EPIC and NYPS provider telephone abandonment requirement is no greater than three percent (3%)<br><br>Provider telephone abandonment rate must be reported separately for EPIC and NYPS. | For each .01 to 1.0% of incoming calls to the contractorôs EPIC and NYPS provider telephone line in which the caller disconnects prior to the call being answered by a customer service representative in excess of the standard of three percent (3%) calculated on a **monthly** basis, the contractor shall credit against the EPIC Programôs administrative fee the amount of $10,000. |
| | | | | |
| A.2.3.g Member blockage rate | EPIC, NYPS | The contractor guarantees that not more than three percent (3%) of incoming calls to the EPIC and NYPS member telephone lines will be blocked by a busy signal, calculated on a **monthly** basis. | **Member Blockage Rate**<br>Maintain sufficient telephone line capacity so that no more than three percent (3%) of incoming calls to the EPIC and NYPS member line ring busy.<br><br>Member blockage rate must be reported separately for EPIC and NYPS. | For each .01 to 1.0% of incoming calls to the EPIC and NYPS member telephone line that are blocked by a busy signal, in excess of the standard of three percent (3%) calculated on a **monthly** basis, the contractor shall credit against the EPIC Programôs administrative fee the amount of $10,000. |

| | Customer Service | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| | | | | |
| | | | | |
| A.2.3.h Provider telephone blockage rate | EPIC, NYPS | The contractor guarantees that not more than three percent (3%) of incoming calls to the EPIC and NYPS provider telephone line will be blocked by a busy signal, calculated on a **monthly** basis. | **Provider Blockage Rate**<br>Maintain sufficient telephone line capacity so that no more than three percent (3%) of incoming calls to the EPIC and NYPS provider line ring busy.<br><br>Provider telephone blockage rate must be reported separately for EPIC and NYPS. | For each .01 to 1.0% of incoming calls to the EPIC and NYPS provider telephone line that are blocked by a busy signal, in excess of the standard of three percent (3%) calculated on a **monthly** basis, the contractor shall credit against the EPIC Programôs administrative fee the amount of $10,000. |
| | | | | |
| A.2.3.i Correspondence both hardcopy and electronic | EPIC, AIH, NYPS | The contractor guarantees at least ninety-eight percent (98%) of all written correspondence (inquiries) including email must be responded to within ten (10) business days. For written responses the turnaround time shall be measured from the date the correspondence is received to the date the correspondence is received by the mailing agent, as calculated on a **monthly** basis. For example, correspondence received on Monday August 2, 2010, with the response received by the mailing agent on August 16, 2010 will have been turned around in ten (10) business days. | **Timeliness**<br>Ninety-eight percent (98%) of all written correspondence (inquiries) including email must be responded to within ten (10) business days of receipt of the correspondence by the contractor.<br><br>Correspondence turnaround time must be reported separately for EPIC, AIH and NYPS. | For each .01 to .50% below the ninety eight percent (98%) ten (10) business day standard or one hundred percent (100%) twenty (20) business day standard for response time, calculated on a **monthly** basis, the contractor shall credit against the Programôs administrative fees the amount of $2,000. |
| Correspondence both hardcopy and | EPIC, AIH, NYPS | The contractor guarantees that one hundred percent | One hundred percent (100%) of all written | |

| | Customer Service | | | |
|---|---|---|---|---|
| Requirements Category | Program(s) | Description | Specifications | Damages |
| electronic | | (100%) of all written correspondence (inquiries) including email must be responded to within twenty (20) business days. For written responses the turnaround time shall be measured from the date the correspondence is received to the date the correspondence is received by the mailing agent, as calculated on a **monthly** basis. | correspondence (inquiries) including email must be responded to within twenty (20) business days of receipt of the correspondence by the contractor. | |
| | | | | |

## A.2.4 Rebates

| | Rebates | | | |
|---|---|---|---|---|
| Requirements Category | Program | Description | Specifications | Damages |
| | | | | |
| A.2.4.b Rebates ï Invoicing Timeliness | NYPS | The contractor guarantees that one hundred (100%) percent of the NYPS drug rebate invoices must be generated and transmitted within 60 calendar days after the end of each **quarterly** rebate period. | Generate and transmit NYPS drug rebate invoices no later than 60 calendar days after the end of the quarterly rebate period. | For each quarter in which 100% of the NYPS drug rebate invoices are not generated and transmitted within 60 calendar days after the end of each **quarterly** rebate period, the contractor shall credit against the NYPS Programôs administrative fee the amount of $500 for each calendar day beyond the 60 days, up to and including the day that 100% of the quarterly invoices are generated and transmitted. |
| | | | | |
| A.2.4.c Rebates ï Pricing Data-Timeliness | NYPS | The Contractor guarantees that it will contact all contracted NYPS manufacturers labels by letter who have not submitted the required **quarterly** price data, within thirty eight calendar days (38) after the end of the calendar quarter.<br><br>A second notice must be | Generate and send letter to all NYPS manufacturer labels who did not submit the required quarterly price data within the specified time periods. | For each NYPS manufacturer label not contacted within the required day turnaround times, the contractor shall credit against the applicable Programôs administrative fee the amount of $200. |

| | Rebates | | | |
|---|---|---|---|---|
| Requirements Category | Program | Description | Specifications | Damages |
| | | sent to all manufacturer labels who have not submitted the required quarterly price data, within two (2) business days after the production of the final quarterly invoice. | | |
| | | | | |
| A.2.4.e Rebates ï Price Submissions | NYPS | The contractor guarantees to load and/or data enter price NYPS price submissions (conforming to the required format specifications) into the rebate system within one (1) business day from the date of receipt by the contractor. | Load and/or data enter required NYPS price submissions within one (1) business day from the date of receipt. | For each NYPS pricing submission (conforming to the format specifications) not entered into the rebate system within one (1) business day from the date of receipt by the contractor, the contractor shall credit against the NYPS Programôs administrative fee the amount of $100. |
| | | | | |
| A.2.4.g NYPS Rebate -Data | NYPS | The contractor guarantees to provide manufacturer quarterly claims detail data to NYPS in the state approved format within seven (7) business days after the end of the calendar quarter. | The contractor shall provide manufacturer quarterly claims detail data to NYPS in the state approved format within seven (7) business days after the end of the calendar quarter. | For each quarterly claim detail file not received by EPIC in the state approved format within seven (7) business days after the end of the calendar quarter the contractor shall credit against the NYPS Programôs administrative fee the amount of $500 per day for each business day past the seven (7) business day standard. |
| | | | | |
| A.2.4.j Rebates ï Timeliness of Discount File | NYPS | | The applicable quarterly NYPS rebate pricing discount amounts for the point-of sale must be loaded and available to the point-of-sale one (1) business day before the next applicable calendar | For each applicable NYPS quarterly rebate pricing file not loaded or available to the point-of-sale, one (1) business day before the next applicable calendar quarter, the contractor shall credit against the NYPS Programôs administrative fee the amount of $500 per day for each business day past the one (1) business day standard. |

| | Rebates | | | |
|---|---|---|---|---|
| Requirements Category | Program | Description | Specifications | Damages |
| | | | quarter. | |
| | | | | |

## A.2.5 Staffing

| Staffing | | | | |
|---|---|---|---|---|
| Requirements Category | | Description | Specifications | Damages |
| | | | | |
| A.2.5.a Staffing Levels | EPIC, AIH, NYPS | The contractor guarantees certain positions be filled within sixty (60) calendar days after vacancy. Key staff are defined as dedicated ñkeyò managers or dedicated ñkeyò supervisors of staff including the local account team staff within the contractorôs overall Staffing and Organization Plan. | The contractor must fill vacant dedicated key staff positions within sixty (60) calendar days of the date the position is vacated. The calendar day after the position is vacated begins the count towards the 60 calendar day requirement for filling the position. | For each calendar day beyond the sixty (60) calendar day limit that a dedicated key position remains vacant, the offeror shall credit the Program the daily rate assigned to that position for the applicable year, until the position is filled. |
| | | | | |

# Attachment 11

## Pricing Schedule Instructions
## &
## Cost Exhibits

## Pricing Schedule Instructions

**Offerorôs should use the Microsoft Excel spreadsheets numbered 11A.1 through 11A.8 in the form and content provided with this RFP.**

### Pricing Schedule A.1 – Implementation Fee and EPIC Final Paid Claim Administrative Fee

Pricing Schedule A.1 provides an EPIC pricing matrix the offeror must complete. **Failure to provide a proposed EPIC Final Paid Claim Administrative Fee shall result in a bidder's disqualification.**

**A.** Offerors may, but are not required to include an implementation fee. The implementation fee is capped at $500,000.

**B.** The per final paid claim administrative fee includes the Offerorôs price to perform the operations of the EPIC program except for certain System Change Hour costs. Any costs for turnover must be included in the Offerorôs EPIC final paid claim administrative fee. EPIC reimbursable costs will be charged to the program separately from the EPIC operations charges. Reimbursable costs as defined in Section V.I.1.G are not included in the pricing matrix and should not be proposed by the Offeror.

For more specifics on how the contractor will be reimbursed including annual increases, see Section V.I.1 of the RFP.

### Pricing Schedule A.2 – AIH Final Paid Claim Administrative Fee

Pricing Schedule A.2 provides an American Indian Health pricing matrix the Offeror must complete. **Failure to provide a proposed AIH Final Paid Claim Administrative Fee shall result in a bidder's disqualification.**

The Offerorôs final paid claim administrative fee includes any and all AIH implementation fees. There will be no separate payment for AIH implementation costs. The per final paid claim administrative fee includes the Offerorôs price to implement and perform the operations of the American Indian Health program, except for certain System Change Hour costs. Any costs for turnover must be included in the Offerorôs AIH final paid claim administrative fee. AIH reimbursable costs will be charged to the program separately from the AIH operations charges. Reimbursable costs as defined in Section V.I.1.G are not included in the pricing matrix and should not be proposed by the Offeror.

For more specifics on how the contractor will be reimbursed including annual increases, see Section V.I.1 of the RFP.

### Pricing Schedule A.3 – NYPS Final Paid Claim Administrative Fees

Pricing Schedule A.3 provides a New York Prescription Saver Card pricing matrix the Offeror must complete. **Failure to provide proposed NYPS Final Paid Claim Administrative Fees shall result in a bidder's disqualification.**

The Offerorôs final paid claim administrative fees include any and all NYPS implementation fees. There will be no separate payment for NYPS implementation costs.

**A**. The Offeror shall propose an NYPS Final Paid Administrative Fee for all claims processed without a rebate.

**B.** The Offeror shall propose an NYPS Final Paid Administrative Fee for all claims processed with a rebate.

The per final paid claim administrative fees include the Offerorôs price to implement and perform the operations of the NYPS program, except for certain System Change Hour costs. Any costs for turnover must be included in the Offerorôs NYPS final paid claim administrative fee. NYPS reimbursable costs will be charged to the program separately from the NYPS operations charges. Reimbursable costs as defined in Section V.I.1.G are not included in the pricing matrix and should not be proposed by the Offeror.

For more specifics on how the contractor will be reimbursed including annual increases, see Section V.I.1 of the RFP.

## Pricing Schedule A.4 – EPIC Final Paid Claim Administrative Fee by Function

Pricing Schedule A.4 provides an EPIC pricing matrix by function for level 1, level 2, and level 3 of EPIC claims processing volume that the Offeror should complete.

The amount shown for each function should accurately reflect the value of each function in relation to the total final paid claim administrative fee.

**The sum of the components of the final paid claim administrative fee breakdown for each function (line 17) should match the corresponding final paid claim administrative fee provided by the Offeror in Pricing Schedule A.1, level 1, level 2, and level 3.** The Offeror should also provide the percent of each function as a percentage of the proposed final paid claim administrative fee.

## Pricing Schedule A.5 – EPIC/AIH/NYPS System Change Hours

Pricing Schedule A.5 provides a pricing matrix that the Offeror must complete. **Failure to provide a proposed hourly rate shall result in a bidder's disqualification.**

Offerors must submit an hourly rate based on the annual hours provided. These system costs exclude hardware costs, the project manager and systems staff that must be included in the Offerorôs per final paid claim administrative fee in Pricing Schedule A.1. See the systems and reporting section of the RFP (III.D) to determine system requirements and the System Change Hours that may be charged to the State. System change hours only apply to approved System Change Hours subsequent to implementation. The systems change hourly rate submitted by the Offeror must be inclusive of all personal service, administrative, overhead, indirect, travel, profit, equipment usage, miscellaneous and other costs.

For more specifics on how the contractor will be reimbursed including annual increases, see Section V.I.1 of the RFP.

## Pricing Schedule A.6 – Key Staffing Plan and Daily Rate Per Full Time Equivalent

Pricing Schedule A.6 provides a matrix that the Offeror should complete for key staff.

Offerors should submit the daily rate per full time equivalent for each key position proposed by the Offeror. The daily rate per full time equivalent must be inclusive of all personal service, administrative, overhead, indirect, travel, profit, equipment usage, miscellaneous and other costs.

## Pricing Schedule A.7 – Additional Staffing Pricing

Pricing Schedule A.7 provides a matrix by additional position that the Offeror should complete.

Offerors should submit the billed daily rate per full time equivalent for each position listed on the matrix. For the additional staffing titles that match the Offerorôs key staff titles provided in A.6 the billed daily rate per full time equivalent may not exceed the billed daily rate provided in pricing schedule A.6. The billed daily rate per full time equivalent must be inclusive of all personal service, administrative, overhead, indirect, travel, profit, equipment usage, miscellaneous and other costs.

For more specifics on how the contractor will be reimbursed including annual increases, see Section V.I.1 of the RFP.

## Pricing Schedule A.8 – Additional Staffing Pricing

Pricing Schedule A.8 provides an attestation document that the Offeror must complete concerning the State Maximum Allowable Cost for generic drugs.

Offerors must provide a ñyesò or ñnoò response to the attestation question and should provide the product name and two governmental clients who currently utilize their proposed SMAC list and the product name associated with the proposed SMAC list. **Failure to attest to at least an overall annual discount of 70% (for each separate Program, EPIC, AIH, NYPS) off the aggregate AWP for all paid generic drugs paid to network pharmacies shall result in a bidder's disqualification.**

# Attachment 11

## Cost Exhibits

**A.1 Implementation Fee and EPIC Per Claim Fee**

**A.2 AIH Per Claim Fee**

**A.3 NYPS Per Clam Fee**

**A.4 Claims Fee Breakdown by Function**

**A.5 Systems Change Hours**

**A.6 Key Staffing Plan & Daily Rate Per FTE**

**A.7 Additional Staffing Pricing**

**A.8 Generic Drugs ï State Maximum Allowable Cost**

These attachments are available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 12

## NYPS Rebate Agreement

## NYPS Rebate Agreement

REBATE AGREEMENT
Between

The New York State Department of Health

and
Manufacturer name, Labeler Code XXXXX

This Agreement is made on _____ by and between The New York State Department of Health, acting by and through the NY PRESCRIPTION SAVER CARD having its principal office at 260 Washington Avenue Extension, Albany, New York 12203 (herein referred to as ñNY PRESCRIPTION SAVER CARDò) and manufacturer name, Labeler Code XXXXX, at _____ (hereinafter referred to as ñManufacturerò), and shall be interpreted pursuant to the laws of the State of New York. The 8 page 'Letter of Agreement' attached hereto, containing substantive terms and conditions of this NY PRESCRIPTION SAVER CARD REBATE AGREEMENT, is hereby incorporated into this AGREEMENT and made a part hereof.

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

AGREED ON BY MANUFACTURER:

By: _____

_____

Print Name

Title: _____

Date: _____

Labeler Code: _____XXXXX_____

Federal ID No. _____

Manufacturer Name:

Manufacturername

STATE AGENCY SIGNATURES:

By: _____ Signature

Signature

New York State Department of Health
Office of Health Insurance Programs

Date:_____

State Agency Certification:
ñIn 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.

NYS Contract No.:

**NYPS Rebate Agreement**

**CORPORATION ACKNOWLEDGEMENT**

STATE OF )

COUNTY OF )

On the _____ da y of _____, 20__, before me personally came _____, to me known, who being by me duly sworn, did depose and say that he/she is the (title)_____ of Manufacturername, the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he/she signed his/her name thereto by like order.

_____
NOTARY PUBLIC
Affix Current Notary Stamp/Seal

## NYPS Rebate Agreement

**LETTER OF AGREEMENT**

**LABELER CODE: XXXXX**

**MANUFACTURER NAME: Manufacturername**

**WHEREAS**, New York State Public Health Law, Article 2A, Section 280 authorizes drug rebates for the NY PRESCRIPTION SAVER CARD program; and

**WHEREAS**, NY PRESCRIPTION SAVER CARD desires to implement a rebate agreement intended to decrease the cost of NY PRESCRIPTION SAVER CARD covered drugs to cardholders; and

**WHEREAS**, the Manufacturer agrees to provide to NY PRESCRIPTION SAVER CARD a rebate for such utilized drugs; and

**WHEREAS**, NY PRESCRIPTION SAVER CARD agrees to use the rebates to make payments for drugs of the Manufacturer utilized by NY PRESCRIPTION SAVER CARD enrollees;

**NOW, THEREFORE**, for and in consideration of mutual promises and covenants herein set forth, the parties agree as follows:

I. DEFINITIONS

Terms used in this Agreement shall have the same meaning as defined in the Secretary of Health and Human Servicesô Manufacturer rebate agreement pursuant to Section 1927 of the Social Security Act (42 U.S.C.A, 1396 r-8), and shall include any amendments thereto and any future amendments in federal or state law or regulation that may be made from time to time, except as otherwise expressly provided herein:

a. ñCovered Outpatient Drugò and ñCovered Drugò means a drug dispensed subject to a legally authorized prescription pursuant to section sixty-eight hundred ten of the education law, and insulin, an insulin syringe, or an insulin needle. Such term shall not include: (a) any drug determined by the commissioner of the federal food and drug administration to be ineffective or unsafe; (b) any drug, including vitamins, which is generally available without a physician's prescription; and (c) drugs for the treatment of sexual or erectile dysfunction, unless such drugs are used to treat a condition, other than sexual or erectile dysfunction, for which the drugs have been approved by the federal food and drug administration.

b. ñNY PRESCRIPTION SAVER CARD Utilization Information,ò means the information on the total number of units of each dosage form and strength of the Manufacturerôs Covered Outpatient Drugs for which claims were approved and processed during a quarter under the NY PRESCRIPTION SAVER CARD Program. This information is based on claims approved and processed by NY PRESCRIPTION SAVER CARD during a calendar quarter and not drugs that were dispensed during a calendar quarter (except it shall not include drugs dispensed prior to April 1, 2009). NY PRESCRIPTION SAVER CARD Utilization Information will include at a minimum for each product code, package size and unit of measure, the total number of claims, total allowed charges and total units dispensed. NY PRESCRIPTION SAVER CARD may, at its option, compute the total rebate anticipated, based on its own records, but it shall remain the responsibility of the Manufacturer to correctly calculate the rebate amount.

## NYPS Rebate Agreement

II. MANUFACTURERôS RESPONSIBILITIES

The Manufacturer agrees to the following:

a. The Manufacturer agrees that it has entered into a rebate agreement with the Elderly Pharmaceutical Insurance Coverage (EPIC) program. Notwithstanding Section V (a) of the Manufacturerôs rebate agreement with the EPIC program, the Manufacturer agrees that data submitted to the EPIC program pursuant to Manufacturer Section II (a) of that agreement, will be made available to the NY Prescription Saver Card administrator for the purpose of calculating discounts to be provided to participant consumers using the NY Prescription Saver Card.

b. The Manufacturer shall calculate and, except as provided under Section IV. b of this Agreement, make a timely rebate payment to NY PRESCRIPTION SAVER CARD for the Manufacturerôs Covered Outpatient Drugs which have been approved and processed pursuant to the NY PRESCRIPTION SAVER CARD Program during the preceding quarter and which have been dispensed on or after the effective date of this Agreement, and for which a formula for calculating rebates is provided under subdivision (c) of Section 1927 of the Federal Social Security Act, including any amendments thereto and any future amendments in federal or state law or regulations that may be made from time to time affecting such rebate formula. The amount of rebate shall be calculated by multiplying the required rebate formulas by the total number of units of each dosage form and strength dispensed. The Manufacturer shall utilize the following formulas to determine the amount of rebate payment due NY PRESCRIPTION SAVER CARD:

   For all rebate periods and Covered Outpatient Drugs, the Manufacturer shall utilize the identical formula to determine the amount of basic rebate payment due to NY PRESCRIPTION SAVER CARD as used to determine the basic rebate pursuant to subdivision (c) of Section 1927 of the Federal Social Security Act, including any amendments thereto and any future amendments in federal or state law or regulations that may be made from time to time affecting such basic rebate calculation.

   The rebates paid or payable under this Agreement shall not affect the manufacturerôs rebates required by section 1927 of the federal Social Security Act. In the event that any rebate paid or payable under this Agreement is deemed to set a new final Best Price that would increase the federal rebate, the Manufacturer shall have the option, upon notice to the Department as set forth elsewhere in this Agreement, to reduce the rebate level under this Agreement to the maximum amount that would not affect the federal rebate or, in the event that rebates have already been paid, to a financial reconciliation of the amount necessary to avoid setting such a new final Best Price.

c. Except as provided under Section IV.b of this Agreement, the Manufacturer agrees to make such rebate payments within 30 days after receiving the NY PRESCRIPTION SAVER CARD Utilization Information. Rebate payments which are not made by the due date as required in this Section and Section IV.c of this Agreement shall be subject to an interest charge calculated at a rate of 10 percent per annum

d. The Manufacturer shall continue to make rebate payments to NY PRESCRIPTION SAVER CARD on all of its Covered Outpatient Drugs for the duration of this Agreement and NY PRESCRIPTION SAVER CARD Utilization Information reports that payment was made for that drug so long as such Covered Outpatient Drug was dispensed under the Manufacturerôs NDC number, regardless of whether the Manufacturer continues to market that drug. If no sales are reported by the Manufacturer during a quarter, the AMP and Best Price last reported shall be used in calculating rebates.

## NYPS Rebate Agreement

III. NY PRESCRIPTION SAVER CARDôS RESPONSIBILITIES

a. NY PRESCRIPTION SAVER CARD each quarter must promptly notify pharmacies of those Manufacturers that have entered into a rebate agreement. NY PRESCRIPTION SAVER CARD must also promptly notify pharmacies regarding any changes to the list of Covered Outpatient Drugs. The NY Prescription Saver Card shall also promptly notify the public as to the participation by Manufacturers via a website or other appropriate media.

b. NY PRESCRIPTION SAVER CARD will report NY PRESCRIPTION SAVER CARDôs Utilization Information to the Manufacturer, within 60 days of the last day of each quarter subsequent to the effective date of this Agreement, and in a manner prescribed by the NY PRESCRIPTION SAVER CARD. If the NY PRESCRIPTION SAVER CARD does not submit a rebate invoice to the Manufacturer within one year after the rebate period ends, the Manufacturer is not required to pay a rebate on drugs approved and processed during that rebate period.

c. NY PRESCRIPTION SAVER CARD shall maintain electronic claim records for the most recent four quarters that will assist the Manufacturer in verifying the utilization information provided by NY PRESCRIPTION SAVER CARD. NY PRESCRIPTION SAVER CARD reserves the right to charge the Manufacturer an amount sufficient to cover the costs of providing such data.

IV. DISPUTE RESOLUTION

a. In the event that for any quarter a discrepancy in NY PRESCRIPTION SAVER CARD Utilization Information or payment is alleged by either party to this Agreement, the party must provide written notice of the discrepancy, by NDC number, to the other party. Discrepancies in utilization data must be reported to NY PRESCRIPTION SAVER CARD prior to the due date for payment of rebate for that quarter. Discrepancies in payments must be reported to the Manufacturer within 45 days of receipt of the payment.

b. If the Manufacturer in good faith disputes NY PRESCRIPTION SAVER CARDôs Utilization Information, the Manufacturer shall pay the NY PRESCRIPTION SAVER CARD that portion of the rebate amount claimed which is not disputed no later than the date of payment of the rebate for the quarter as prescribed in Section II. c of this Agreement. If the dispute is resolved after negotiation, the balance due, if any, will be paid or credited by the Manufacturer or the State by the due date of the next quarterly payment as required in Section II.c of this Agreement.

c. NY PRESCRIPTION SAVER CARD and the Manufacturer will use their best efforts to resolve any disputes within 60 days of receipt of the written notice of discrepancy. In the event that NY PRESCRIPTION SAVER CARD and the Manufacturer are not able to resolve a dispute within 60 days, NY PRESCRIPTION SAVER CARD shall appoint an administrative law judge who shall review written submissions by both parties and make a written finding thereon. Both NY PRESCRIPTION SAVER CARD and the Manufacturer shall implement this finding unless within 30 days the matter is brought before a court of competent jurisdiction.

d. Appropriate adjustments to rebate payments will be made no later than 30 days following the finding of the administrative law judge.

e. The Manufacturer has the right to audit NY PRESCRIPTION SAVER CARD utilization data using mutually agreeable audit procedures. Quarterly NY PRESCRIPTION SAVER CARD utilization data will be made available on demand. The Manufacturer has the right of access to NY PRESCRIPTION SAVER CARD audit findings with respect to pharmacy purchasing of their products when such utilization information is under dispute.

**NYPS Rebate Agreement**

## V. CONFIDENTIALITY PROVISIONS

a. Information disclosed by the Manufacturer in connection with this Agreement is confidential and will not be disclosed, except as required by State and Federal law and by the provisions of Section II.a of this Agreement.

b. The Manufacturer will maintain the confidentiality of NY PRESCRIPTION SAVER CARD Utilization Information and use such information only for purposes approved by NY PRESCRIPTION SAVER CARD, as in furtherance of Public Health Law Article 2A, Section 280. If the Manufacturer audits this information or receives additional information on such data, that information shall also be held confidential. The Manufacturer agrees to abide by applicable State confidentiality statutes, regulations and other properly promulgated policy.

c. Notwithstanding the non-renewal or termination of this Agreement for any reason, these confidentiality provisions will remain in full force and effect.

d. The Manufacturer hereby applies to NY PRESCRIPTION SAVER CARD for an exception to the disclosure of information under Public Officers Law, Article 6 (Freedom of Information) concerning information supplied by the Manufacturer for the determination of rebate amounts under this Agreement. The exceptions applied for are Public Officers Law Sections 87.2(c) and (d). The information if disclosed by NY PRESCRIPTION SAVER CARD would impair contract awards and cause substantial injury to the competitive position of the Manufacturer.

e. Both parties hereto shall inform and train, if necessary, their respective employees, agents, advisors, consultants and officials regarding the confidential nature of such data and shall cause such persons (including any board or committee) to keep such data and information confidential.

## VI. NON-RENEWAL AND TERMINATION

a. This Agreement shall be effective for an initial period of one year from the date noted on Page 1 of the Agreement and shall automatically be renewed for additional terms of one year, unless the Manufacturer or NY PRESCRIPTION SAVER CARD gives written notice of intent not to renew the Agreement at least 90 days before the end of the contract period.

b. The Manufacturer may terminate the Agreement for any reason upon no less than 60 days prior written notice of the termination. Termination shall become effective the earlier of the first day of the next calendar quarter following the Manufacturerôs 60 day prior notice of termination, or the ending date of the term of the Agreement if notice has been given, in accordance with Section VII.a.

c. NY PRESCRIPTION SAVER CARD may terminate the Agreement for violations of this Agreement or other good cause upon 60 days prior written notice.

**NYPS Rebate Agreement**

## VII. GENERAL PROVISIONS

a. Notice and reports to the Manufacturer will be sent to the address as provided with this Agreement and updated upon Manufacturer notification to NY PRESCRIPTION SAVER CARD.

   Notice and Reports to the NY PRESCRIPTION SAVER CARD will be sent to:

   NY Prescription Saver Card
   ATTENTION: Gloria LeBesco
   One Corporate Plaza
   260 Washington Avenue Extension ï Suite 101
   Albany, NY 12203

b. In the event of a transfer in ownership of the Manufacturer, the Manufacturer shall assign its rights and responsibilities under this Agreement to the new owner, subject to the conditions specified in Section 2 of Appendix A.

c. Nothing in this Agreement will be construed to require or authorize the commission of any act contrary to law. If any provision of this Agreement is found to be invalid by a court of law, this Agreement will be construed in all respects as if any invalid or unenforceable provision was eliminated, and without any effect on any other provision.

d. Nothing in this Agreement shall be construed as a waiver or relinquishment of any legal rights of the Manufacturer or NY PRESCRIPTION SAVER CARD under the Constitution, the Social Security Act, other Federal law, or State law.

e. Any ambiguities in this Agreement shall be interpreted in the manner which best effectuates the statutory scheme.

f. This Agreement may be amended in writing subject to approval by the New York State Comptroller.

g. In the event that a due date falls on a weekend, federal or state holiday, the report or other items will be due on the first business day following that weekend, federal or state holiday.

h. The NY PRESCRIPTION SAVER CARD must submit changes to utilization within three years after the quarter to which the data pertains.

## VIII. APPENDIX

Appendix A is attached hereto and is made part of this Agreement. The Appendix A, ñStandard Clauses for all New York State Contracts,ò supersedes any and all prior versions thereof heretofore applicable to this Agreement. If there is a conflict between Appendix A and any terms and conditions in the contract, then Appendix A will supersede these provisions.

# Attachment 13

## Dispute Resolution Process

**Overview**

The participant/applicant dispute resolution process is closely tied to the eligibility determination and review process. As required by EPICôs regulations, upon issuance of any determination, notice should also be issued advising the participant/applicant that the determination is appealable, and have the opportunity for, and the method by which, to request a reconsideration. Also, any failure on the part of the Contractor to timely institute a required change in benefits, which would be advantageous to the participant/applicant, would be appealable. An essential element to the hearing process is the provision of an adequate reconsideration (pre-hearing review) by the Contractor in order that mistakes may be quickly and efficiently rectified.

In general, the issues which are subject to an administrative hearing include:

- a denial of a request for income correction;
- a denial of an application for benefits or failure to act upon an application within thirty days;
- an acceptance of an application which includes an inaccurate determination of a co-pay limit or deductible;
- miscalculation of point-of-sale co-payments;
- failure to timely notify of any benefit change or of re-application requirements;
- recoupments of excess benefits.

**Reconsiderations**

At all stages where a hearing right attaches, and at any time during the coverage period when the participant/applicant so requested, a Contractor reconsideration must be made available to the participant/applicant. The reconsideration would be a procedure in which the participant/applicant could have any aspect of his case reviewed by an employee of the Contractor with the authority to correct the issue in question. Where the issue involved the miscalculation of benefits, income or other mathematical computation, the participant/applicant is able to telephone a request for a reconsideration and receive a written response within thirty (30) working days. Issues which required a review of documentation or submission of collateral proof, (e.g. age, residency, or income), would be initially considered at the option of the participant/applicant either at a face to face reconsideration with an employee of the Contractor, at a supervisory level, or by submission of written documentation and arguments. Any remaining issues would lend themselves to a face to face reconsideration by supervisory personnel of the Contractor who are empowered to make changes to the eligibility file or to order payments to the participant; however, the participant would be permitted to choose either a face to face reconsideration or a reconsideration on written submissions.

All reconsideration determinations should be made in writing within thirty (30) days of the request in the form of a Notice of Determination After Reconsideration and mailed to the participant with a notice of his/her right to challenge an adverse reconsideration by requesting a fair hearing and of the procedure for requesting the hearing.

The Notice shall be mailed to the participant/applicant within three (3) days of the determination, and shall state the determination made, the basis and reasons for the determination, the action to be taken, the effective date of the action and information concerning the right to a fair hearing.

Communications to the Contractor by or on be half of an applicant or participant requesting a review of the reconsideration shall constitute a request for a fair hearing if it is made within sixty (60) days of the notice. The Contractor must maintain written records of and respond to written or telephone requests for a fair hearing.

**Fair Hearings**

The Fair Hearings is a procedure by which the participant may appeal any determination by the Contractor affecting program eligibility or be nefits. F air Hearings are held at a time and location convenient to the participant and easily accessible to the participant/applicant, allowing for age and any disabling conditions.

The hearing will be conducted by Department of Health employees pursuant to the Department's agreement with the Director of the Program. In addition to having all the powers conferred by law, the hearing officer is empowered to hear and determine the issues raised, and to conduct the hearing in a manner to afford the participant a full opportunity to present his objections to the action taken. The parties to the hearing are the participant seeking review of a determination and the Contractor. The participant will be afforded the right to have assistance of an attorney or friend and the Contractor will be required to be represented by an employee who has the ability and authority to reverse a determination made and to effect any payment ordered. The Contractorôs representative will provide a brief written summary including, but not limited to, the decision which resulted in the hearing request, a brief description of the facts and evidence supporting the action, including the specific provisions of the law or regulations which support the action taken and a copy of the determination after reconsideration.

Additionally, the notice to the participant should include a statement of his/her right to be represented by an attorney or friend; the availability of assistance from legal societies and Offices for the Aging and that participation in the reconsideration process is a prerequisite to a fair hearing.

A request for a fair hearing can be made by a participant either in writing or by telephone to the office of the Contractor. The participant has sixty (60) days to request a fair hearing after receipt of the reconsideration determination.

When the participant requests a reconsideration within the prescribed time period, no reduction in benefits or termination from benefits will be effective until a hearing decision has been issued affirming the determination or the participant fails to request a hearing after receipt of the reconsideration. Any excess benefits provided by this continuation of benefits during the pending of the hearing and determination is subject to recoupment from the participant.

Once a fair hearing is requested, a notice of hearing is issued by the Department of Health advising the participant of the date, time and place of the hearing, his/her rights with respect to the hearing, procedure for requesting an adjournment or relocation of the hearing, the issue to be determined

participant/applicant and the participant/applicant had filed a timely request for hearing. The notice of hearing would be issued at least ten (10) days prior to the scheduled hearing date. The hearing will be held at a time and place convenient to the appellant, as far as practical. The Contractor shall send the appellant or his/her representatives copies of all documents to be submitted into evidence at the hearing in support of the Contractorôs action.

On the scheduled hearing date, the parties, their representatives and the hearing officer will meet at the time and place designated in the notice. The participant will be permitted to examine any information or documentation contained in his/her eligibility file prior to the hearing date and at the hearing and will be afforded an opportunity to informally settle the matter with the Contractor's employee. The hearing officer will state the issues to be decided and obtain agreement from the parties as to those issues in dispute. The Contractor will open the hearing by summarizing what had transpired to date, what action he/she intended to take and the basis for that intended action. Both parties would be permitted to present relevant evidence and witnesses on their behalf, to cross-examine witnesses of the other party, and offer evidence in rebuttal. The hearing officer will preside and assure an orderly hearing, ruling on evidence, objections and points of law; he/she will also assume responsibility for assuring that all relevant evidence on the issue was brought out, either by the parties or by direct questioning of the parties and their witnesses.

Upon completion of the hearing, the hearing officer will consider the record and issue his decision. Where the issue involved was solely one relating to computation of benefits, or like matters, the hearing officer will be permitted to issue an oral decision immediately and to direct the Contractor's employee to take action consistent with he decision. In such cases a written memorandum decision would be issued to the parties within ten (10) days of the hearing. Where the issue involved a policy or procedure of the Contractor or the State, or an issue requiring more than a mere recomputation of benefits, the hearing officer will be permitted to reserve decision until such time as he/she had been able to review the record and the evidence presented. In cases where a decision was reserved, the written decision of the hearing officer would be issued in a timely manner. This written decision should describe the issues, recite the relevant facts as found by the hearing officer, describe the applicable law, regulations and policies, make appropriate findings and determinations, stating the reasons therefore, and direct the Contractor to take specific action with respect to the issue decided. A copy of the written decision would be mailed to both parties.

Where any decision of the hearing officer was adverse to the participant, in whole or in part, the participant would be advised of his right to seek judicial review pursuant to Article 78 of the Civil Practice Law and Rules. The notice of this right would accompany the written decision of the hearing officer.

**Provider Hearings**

Hearings will be made available to provider pharmacies when EPIC determined that the provider had received overpayments and EPIC intended to recover them or when a program sanction was to be imposed. It is not anticipated that the Contractor would be involved in the provider hearing process, other than to recover overpayments or impose a sanction. These actions will only be taken at EPICôs direction.

# Attachment 14

## Listing of Reports

| **AIH Reports** | | |
|---|---|---|
| **Program** | **Report ID** | |
| AIH | 55708 | AIH TWELVE MONTH SUMMARY REPORT |
| AIH | 55709 | AIH COMBINED GENDER UTILIZATION REPORT |
| AIH | 55710 | AIH GENERIC ANALYSIS REPORT |
| AIH | 55712 | AIH THERAPEUTIC ANALYSIS REPORT |
| AIH | 55713 | AIH MOST UTILIZED PHARMACIES BY DOLLAR AMOUNT REPORT |
| AIH | 55715 | AIH MOST UTILIZED PHARMACIES BY NUMBER OF CLAIMSREPORT |
| AIH | 55717 | AIH TOP MEMBERS RANKING BY DOLLAR AMOUNT REPORT |
| AIH | 55718 | AIH TOP MEMBERS RANKING BY NUMBER OF CLAIMS REPORT |
| AIH | 55719 | AIH MOST PRESCRIBED NDCS BY DOLLAR AMOUNT REPORT |
| AIH | 55720 | AIH MOST PRESCRIBED NDCS BY NUMBER OF CLAIMS REPORT |
| AIH | 55721 | AIH MONTHLY PRODUR TOP ENCOUNTERS BY PROBLEM TYPE REPORT |
| AIH | 55725 | AIH PRESCRIBER RANKING REPORT |
| AIH | 56813 | AIH TOP 20 PRODUCTS BY DOLLAR AMOUNT PER THERAPEUTIC CLASS |
| AIH | 56814 | AIH POS TRANSACTION RECAP REPORT |
| AIH | 56815 | AIH CLAIMS WITH TPL > 0 REPORT |
| AIH | 56816 | AIH RECIPIENT SUMMARY REPORT |
| AIH | 57263 | AIH TOP 20 DRUGS BY DOLLAR AMOUNT REPORT |
| AIH | 57264 | AIH CLAIMS SUMMARY REPORT |
| AIH | 58491 | CYCLICAL CHECKWRITE BALANCING REPORT |
| AIH | 58494 | CYCLICAL CHECKWRITE PHARMACY FUNDING REPORT |
| AIH | 557041 | DAILY REPORT ON PRODUR DENIALS FOR SPECIFIED PERIOD |
| AIH | 557042 | DAILY REPORT ON PRODUR DENIALS FOR SPECIFIED PERIOD BROKEN DOWN BY HIC3 |
| AIH | 557043 | DAILY REPORT ON DENIALS FOR SPECIFIC NCPDP ERRORS |
| AIH | 557044 | DAILY REPORT ON DENIALS FOR SPECIFIC NCPDP ERRORS |
| AIH | 557045 | DAILY REPORT ON ADJUDICATION SUMMARY STATISTICS |
| AIH | 557046 | DAILY REPORT ON NCPDP DENIAL STATISTICS |

| **EPIC Reports** | | |
|---|---|---|
| **Program** | **Report ID** | |
| EPIC | 31363 | DUR Summary Activity Report |
| EPIC | 31384 | Paid Claims > $400 Report |
| EPIC | 31387 | Claims Over $1500 Report |
| EPIC | 31390 | Therapeutic Class Analysis Summary Report |
| EPIC | 31395 | Top 300 Drugs Dispensed - By Dollar |
| EPIC | 31396 | Top 300 Drugs Dispensed - By Rx Count |
| EPIC | 31397 | Generic Analysis Report |
| EPIC | 31398 | Participant Hi Benefit Report |
| EPIC | 31902 | Drug Usage Frequency Analysis |
| EPIC | 31903 | Paid Originals by Controlled Substance |
| EPIC | 31904 | Top 20 Products by Dollar per Therapeutic Class |
| EPIC | 31905 | Top 50 Drugs by Dollar per Therapeutic Class |
| EPIC | 31906 | Top 100 Provider DUR Activity |
| EPIC | 32154 | Denied Analysis Report ï  Cycle |
| EPIC | 44492 | Daily DUR Summary Activity - Top 25 |
| EPIC | 44918 | Daily Report on Adjudication Summary Statistics |
| EPIC | 47126 | Claims History Report |
| EPIC | 47838 | Participant Exception Report |
| EPIC | 49434 | FDB Drug Records Added |
| EPIC | 481172 | Variance Edit Analysis - Variance >= $100 |
| EPIC | 495812 | Error 70 Report |
| EPIC | ADHOC (EPZ50386) | Reporting Subsystem Annual Participant File Delete/Update Process 5 Year Summary Archive Totals (EPZ50386) |
| EPIC | ADHOC Report | Tax Match Clients with a Diff. >2000/new applic. and renewals (daily report) |
| EPIC | ADHOC00016 | COMMERCIAL INSURANCE (BENCHMARK) REPORT |
| EPIC | ADHOC1065 | PARTICIPANT DEMOGRAPHICS BROKEN DOWN |
| EPIC | ADHOC1094 | BY ZIP CODE |
| EPIC | EPC50SUF | DAILY SUFFOLK COUNTY LETTERS REPORT |
| EPIC | EPCPDTX1 | Tax Match Records sent to client/new applications and renewals |
| EPIC | EPCPDTX2 | Returned Tax Match Records/ new applications and renewals |
| EPIC | EPCPDTX2 | Tax Match Records changed to status codes 00 or 09(weekly)/new applic. and renewals |
| EPIC | EPCPTX03 | Returned Tax Match Records which do not match/ new applications and renewals |
| EPIC | EPCPWTX5 | Tax Match Weekly Status |
| EPIC | EPWDRG01 | DRUG RECORDS ADDED |
| EPIC | HEIPCNT2 | APPLICATIONS RECEIVED BY COUNTY |
| EPIC | HETPESTD | APPLICATIONS OF PROCESSING TIME > 30 DAYS |
| EPIC | HETPEXPD | EXPEDITE PROGRESS REPORT (daily/weekly) |
| EPIC | HETRCNCL | PARTICIPANTS IN CANCELLED STATUS |
| EPIC | HETRO842 | PARTICIPANT MASTER TOTALS |
| EPIC | MHS/Systems | Dollar Amount Report (monthly) Part D Premium |
| EPIC | MHS/Systems | Participant Total Report (monthly) Part D Premium |
| EPIC | | Daily Suffolk County Letters  EPC50SUF |
| EPIC | | Disenrollment File 20100917.xls (Part D Disenrollment) |
| EPIC | | Middleware Submissions Results |
| EPIC | | Participant System Tax Match Daily Letters totals/new applic and renewals |
| EPIC | | Participant system Tax Match Weekly Status Totals/new applic and renewals |
| EPIC | | RFAI Tracking Summary (current and previous years) |
| EPIC | | Tax Match Clients with a income > Threshold/new applic. and renewals |
| EPIC | | Tax Match Reporting daily final totals/new applic. and renewals |
| EPIC | | Tax Match Reporting Daily Letters Totals/new applic. and renewals |
| EPIC | | Tax Match Reporting Returned Tax Match Records daily totals/new applic. and renewals |
| EPIC | | Tax Match Reporting Tax Match Letters Produced/new applic. and renewals |
| EPIC | | Weekly_Suffolk_County_d2010 1003 TXT file (Just a text file of weekly suffolk county letter data, no corresponding report) |

| **NYPS Reports** | | |
|---|---|---|
| **Program** | **Report ID** | |
| NYPS | 111575 | DAILY CLAIMS SUMMARY-Claims Summary for Claims Adjudicated |
| NYPS | 111576 | DAILY CLAIMS DENIAL - NCPDP ERRORS |
| NYPS | 111578 | DAILY PRODUR DENIAL |
| NYPS | 111579 | TOP MEMBERS RANKING BY AMOUNT PAID |
| NYPS | 111580 | DAILY DENIED/REJECTED BY REASON (daily) |
| NYPS | 111581 | DAILY PRODUR BY HIC3 DENIAL |
| NYPS | 111582 | 12 MONTH SUMMARY |
| NYPS | 111583 | GENDER UTILIZATION-Non-Disabled |
| NYPS | 111584 | GENERIC UTILIZATION-Generic Analysis |
| NYPS | 111586 | THERAPEUTIC CLASS ANALYSIS |
| NYPS | 111588 | MOST UTILIZED PHARMACIES BY AMOUNT PAID |
| NYPS | 111589 | MOST UTILIZED PHARMACIES BY NO. CLAIMS |
| NYPS | 111590 | TOP MEMBERS RANKING BY NO. CLAIMS |
| NYPS | 111592 | MOST PRESCRIBED NDCS BY AMOUNT PAID |
| NYPS | 111593 | MOST PRESCRIBED NDCS BY NO. CLAIMS |
| NYPS | 111604 | ACTIVE PHARMACY PROVIDER (monthly) |
| NYPS | 111605 | DENIED CLAIMS ANALYSIS |
| NYPS | 111606 | COST SHARING SAVINGS |
| NYPS | 111608 | ADJUDICATION DEMOGRAPHICS |
| NYPS | 111609 | PRESCRIBER RANKING |
| NYPS | 111610 | CARDHOLDER SAVINGS (monthly report) |
| NYPS | 111614 | ENROLLMENT BY COUNTY 07/31/10 (daily) |
| NYPS | 111616 | APPLICATIONS BY COUNTY MONTHLY 07/01/10 TO 07/31/10 (monthly) |
| NYPS | 112451 | NYPSP 20102 |
| NYPS | 1133701 | NYPDS CYCLICAL CHECKWRITE BALANCING REPORT |
| NYPS | 1133702 | NYPDS CYCLICAL CHECKWRITE PHARMACY FUNDING REPORT |
| NYPS | Tentative | Most Prescribed Drugs by Drug Name (by total number of claims) Appendix D |
| NYPS | Tentative | Most Prescribed Drugs by Drug Name (by total claim amount) Appendix C |
| NYPS | webreport | Applications Receieved by Type Annual Report |
| NYPS | webreport | Applications Received by Type Monthly Report |
| NYPS | webreport | Cancellation/Denial Report ï Annual |
| NYPS | webreport | Cancellation/Denial Report ï Monthly |
| NYPS | webreport | Daily Duplicate Application report |
| NYPS | webreport | Daily Duplicate SSN Report |
| NYPS | webreport | Daily Notification Summary |
| NYPS | webreport | Daily Pended Application Report |
| NYPS | webreport | Demographic Monthly Report |
| NYPS | webreport | Denial Notice |
| NYPS | webreport | Enrollment Cumulative Demographic Report |
| NYPS | webreport | Number of Applicants Entered Monthly Report |
| NYPS | webreport | Production Statistics Monthly Report - By Case Decided |
| NYPS | webreport | Production Statistics Monthly Report - By Operator |
| NYPS | webreport | Reaching Age 65 Disabled Notice |
| NYPS | webreport | Reaching Age 65 Notice |
| NYPS | webreport | Reason (Ineligible) Monthly Report |
| NYPS | webreport | Request for Additional Information Notice |
| NYPS | webreport | Time Elapsed Between Application and Decision Monthly Report |

# Attachment 15a

## FMG File Specifications

### NYS Department of Health Financial Management Group
### Monthly File Specifications - Premium Payments

| Field Name | Description |
|---|---|
| fed_id | FEIN |
| pay_vname1 | Payee Name 1 |
| pay_vname2 | Payee Name 2 |
| pay_addr1 | Payee Address 1 |
| pay_addr2 | Payee Address 2 |
| pay_city | Payee City |
| pay_st | Payee State |
| pay_zip | Payee Zip + 4 |
| payee_amt | Payee Amount (includes decimal) |
| mir_dt | 20th of month preceding the payment coverage month (mmddyyyy) |
| invoice_no | Unique identifier for each specific pymt amount:<br>EPIC/Pymt Month Year/Plan Type/Carrier ID #<br>Example: EPIC1207MAPD12345 |
| invoice_dt | 20th of month preceding the payment coverage month (mmddyyyy) |

# Attachment 15b

## Premium Remittance Advice File Specifications

**Record Specifications for Premium Remittance Advice**
**Text File - Fixed Length Format**
**Rev.01/28/2010**

| Field Name | Position | Size | Remarks |
|---|---|---|---|
| | | | |
| PREM-RA-YYMM | 1 | 4 | Date |
| PREM-HICN | 5 | 12 | HICN |
| V-PART-LAST-NAME | 17 | 15 | Last Name |
| V-PART-FIRST-NAME | 32 | 10 | First Name |
| V-PART-DT-OF-BIRTH | 42 | 8 | DOB |
| V-PART-SSN | 50 | 9 | SSN |
| PREM-EPIC-PLAN | 59 | 1 | Coverage Package<br>C = Comprehensive Fee - EPIC pays up to benchmark amt<br>D = Deductible: Plan must bill member |
| PREM-EPIC-EFF-DATE | 60 | 8 | EPIC Coverage Effective Date |
| PREM-EPIC-END-DATE | 68 | 8 | EPIC Coverage End Date |
| PREM-LIS-PREMIUM-PCT | 76 | 3 | LIS Percentage |
| PREM-LIS-EFF-DATE | 79 | 8 | LIS Effective Date |
| PREM-LIS-END-DATE | 87 | 8 | LIS End Date |
| PREM-CONTRACT-NUMBER | 95 | 5 | Contract Number |
| PREM-PLAN-BENEFIT-PKG | 100 | 3 | Plan Benefit Package |
| PREMAMT-CARRIER-NUM | 103 | 5 | Carrier Number - Assigned by EPIC |
| PREMAMT-CARRIER-NAME | 108 | 45 | Carrier Name |
| PREMAMT-PAYEE-NAME | 153 | 45 | Payee Name |
| PREM-DIMINIMIS-IND | 198 | 1 | De minimis Indicator - No longer used |
| PREM-COSTEFF-IND | 199 | 1 | CostEff Indicator-No Longer Used |
| PREM-PLAN-EFF-DATE | 200 | 8 | Plan Effective Date |
| PREM-PLAN-END-DATE | 208 | 8 | Plan End Date |
| PREM-MTHLY-PREMIUM-AMT | 216 | 10 | Monthly Premium* |
| PREM-MTHLY-LIS-OWES-AMT | 226 | 10 | LIS Amount* |
| PREM-MTHLY-EPIC-OWES-AMT | 236 | 10 | EPIC Amount* |
| PREM-MTHLY-ENROLLEE-OWES-AMT | 246 | 10 | Enrollee Amount* |
| PREM-CUML-EPIC-PYMTS-AMT (this month) | 256 | 13 | Cumulative EPIC Paid**<br>Includes payment for current month |
| PREM-PRIOR-EPIC-PYMTS-AMT (last month) | 269 | 13 | Prior EPIC Amount Paid**<br>Does not include payment for current month |
| PREM-EPIC-BALANCE-DUE-AMT | 282 | 10 | EPIC Amount Paid or Credited this month* |
| ñNYEPICMMYYMAPD12345 ò | 292 | 20 | Unique Payee Identifier |
| EPIC ID | 312 | 9 | Unique EPIC Identifier |
| PRA-YEAR | 321 | 4 | Year Payment/Adjustment is applied |
| EPIC_FEE_PLAN_ST_DT | 325 | 8 | Date EPIC Member started in Fee Plan** |
| EPIC_FEE_PLAN_TERM_DT | 333 | 8 | Date EPIC Member terminated from Fee Plan** |
| New EPICID | 341 | 9 | New EPIC ID Number. |
| *Format is dddddd.ccs Where d = dollar, c = cents and s=sign. Sign will only appear if negative (-). Positive (+) are implied. | | | ** These fields are only populated if EPIC member switches between the EPIC Fee and EPIC Deductible Plans. Note, EPIC does not pay premiums for its Deductible members. |

# Attachment 16a

## EPIC Provider Agreement

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 16b

## NYPS Provider Agreement

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 17

## NYPS Additional Rebate Processing

The following sections include additional detail on the responsibilities required by the contractor in relation to the NYPS Manufacturer Rebate Invoicing and Support function.

### A. NYPS REBATE INVOICES

The contractor is responsible for performing the quarterly production and mailing of rebate invoices to participating drug manufacturers whose products were dispensed to NYPS members during the previous calendar quarter. Invoices must be mailed within sixty (60) days after the quarter has ended, following State approval. NYPS invoices include only claims dispensed for an NDC with the approved POS manufacturerôs rebate discount rate.

The contractor is required to produce the following for NYPS:

1. **Quarterly Invoicing** (agreed upon Stateôs invoicing schedule)

   a. **Trial invoice**

      i. 40 days after the end of a calendar quarter, the State will review and make any necessary adjustments.

      ii. Format ï with State requirements ï See Attachment 21, Table 1a

      iii. Web-based ready accessible invoice

   b. **Final invoice**

      Final invoice must be run and mailed within 60 days after the end of a calendar quarter with the Stateôs approval.

      **Manufacturer's version**

      i. Format ï with State requirements ï See Attachment 21, Table 1c

      ii. Two paper copies: one for mailing and one for the file

      iii. Electronic format

      - CD and Secured File Transfer Protocol
      - CMS-R-144 Record Format ï See Attachment 21, Table 5

      iv. Web-based ready accessible invoice

      **State's version**

      i. Format - with State requirements

      ii. One paper copy for State auditing

      iii. Web-based ready accessible invoice

      For required State format see Attachment 21, Table 1b. Required supporting reports for invoicing are identified under the Report section, Attachment 19.

### 2. Prior Period Rebate Rate Changes and Utilization Adjustments Report

The contractor is responsible for generating the prior period reports for any rebate rate changes and/or utilization adjustments. This report must be produced for each period (QYYYY) associated with changes.

- **a.** Format - with State requirements (see Attachment 21, Table 2)
- **b.** One paper copy for audit purpose, and one copy for mailing
- **c.** Web-based ready accessible copy (paper reduction).
- **d.** Mailing ï Within 60 days after the end of a calendar quarter (current rebate invoicing quarter)

### 3. Monthly Manufacturers Rebate Statement of Account

The contractor is required to produce and mail the monthly statements on the 15th of each month for all labelers with an outstanding rebate due. For the NYPS Manufacturers Rebate Monthly Statement of Account Form, see Attachment 21, Table 3.

Monthly statements will not be produced for the month immediately after the quarterly invoicing months (i.e. March, June, September, and December).

### 4. Weekly Manufacturers Rebate Invoice Report

- **a.** Contractor must have a weekly web-based report ready and accessible to the State reflecting the most current pricing and unit updates made after the final invoices are printed.
- **b.** Format ï with state requirements (see Attachment 21, Table 4).

## B. NYPS REBATE INFORMATION MANAGEMENT - SUPPORT OF STATE REBATE FUNCTIONS FOR NYPS

NYPS will report NYPSôs Utilization Information to the manufacturer, within 60 days of the last day of each quarter. The contractor shall maintain electronic claim records that will assist the manufacturer in verifying the utilization information provided by NYPS. The contractorôs tasks and system requirements include, but are not limited to:

1. Providing and supporting a web based rebate processing system for State rebate operations, providing daily overnight processing updates to invoice-related data for late and/or revised pricing data received from manufacturers. The contractor must maintain manufacturers rebate data, with the most recent thirteen (13) invoiced quarters and the current-to-be invoiced quarter of data.
2. Maintaining manufacturersô rebate data for quarters that are greater than the most recent fourteen quarters. Unit rebate amount calculations will not be performed for late submissions and revisions for a quarter that are greater than fourteen (14) quarters but the pricing data must be processed and accessible within the rebate application, and web-based reports (requirement under the report section).

1. Designing the rebate application system with pre-populated payment fields with the invoiced amount for each NDC the first time that a payment is processed for each invoice. Staff must be able to key-over the pre-populated amount entering payment data when the paid amount/units/rate differs from the invoice data.
2. Tracking the invoice and payment status of all rebates, including those for which the amount due canôt be calculated because the required pricing data was not received from the manufacturer.
3. Designing a system that drills down invoice data to the individual NDC level.
    - **a.** Tracking and accounting for units disputed by manufacturers.
    - **b.** Designing a system that has the functionality to process and account for the following:
        - **i.** Adjustments to the rebate amount for minor differences between amounts invoiced and amounts remitted.
        - **ii.** Adjustments to units invoiced for pharmacy software rounding and dispute resolution issues.
        - **iii.** Adjustments to payments remitted or credits applied by manufacturers to rebate periods that are greater than three years old. (Such adjustments are not permitted and must be credited or charged back to the manufacturer.)
        - **iv.** Adjustments for overpayments, refunds, and payment for other programs.
4. Providing an accounts receivable billing function capable of generating, on demand, summary level manufacturer invoices that include **all** rebates outstanding for all rebate periods.
5. Creating an invoice system that distinguishes between rebates that are currently due and rebates that are overdue. In addition, the invoice processing system must also identify or perform the following:
    - **a.** Rebates for which NYPS is unable to calculate the amount owed because pricing data hasnôt been received.
    - **b.** Payments received that NYPS is unable to completely process because pricing data hasnôt been received.
    - **c.** Credits and charge backs for manufacturer remittances and credits taken for rebate periods greater than three years old.
    - **d.** Unresolved disputes, paid and unpaid.
    - **e.** Late payment interest assessed.
    - **f.** Monthly labeler statements summarized by year quarter with detailed year quarter supporting rebate data.
    - **g.** For each category, illustrate the ending balance from the previous statement as the opening balance, identify payments, adjustments and new items applied this period, and provide a new ending balance.
    - **h.** Be capable of retroactively adjusting previously invoiced amounts for up to the most recent thirteen quarters of invoiced data (for late and revised pricing data received from manufacturers).
    - **i.** Calculate and assess (or suppressing at the Stateôs option) interest penalties on overdue payments.
    - **j.** Calculate the unit of measurement conversion for an NDC that has a dispensed drug form at the point-of-service that is different from the CMS unit type.

7. Producing a CD for NYPS quarterly claims level detail data and produce a subset of claims level detail data, for those drugs with a quantity dispensed that is greater than 4000 units by pay cycle(or agreed upon schedule)in an Access database format (data fields, query, and report ï an example of the current Access data format and an agreed upon schedule will be provided after signing of the agreement).
8. Creating an Access database file for NYPS.
9. Producing the quarterly claims level detail data in NCPDP format on CD upon manufacturer requests. The CD is due to the State five business day after the final invoice date.
10. Reconciling the claims processed and paid at the point of service for a calendar quarter to invoiced data. A detailed reconciliation report must be provided by the contractor within 20 business days after the final quarterly invoice.
11. Notifying and making recommendations to the State for any rebate changes made to Federal Medicaid rebate program which would affect NYPS.

## C. NYPS REBATE PROCESSING AT THE POINT OF SERVICE

A unique feature of NYPS is the requirement that any drug covered by the NYPS Program that has an NYPS contracted manufacturer discount (rebate), must have the rebate amount subtracted from the member amount due at the point of service. In order to accomplish this, the contractor must develop a process that assures the applicable, updated rebate amount is applied at the point of sale as an added discount for the NYPS member (in addition to the Programôs brand/generic drug discount). If a manufacturer discount rate for an NDC is not in the approved manufacturer discount file, NYPS will not offer a manufacturer discount rate at the point of service. However, a pharmacy

discount will still be offered for any covered drug dispensed at the point of service. These claims will not be invoiced via the NYPS rebate application. The contractorôs tasks and system requirements include, but are not limited to:

### 1. Point of Service (POS) Rebate Discount Rate

a. Creating a method to retrieve the most recent calculated manufacturerôs basic unit rebate rate for an NDC rebate year quarter. The amount will be used as the manufacturerôs rebate discount rate at the POS for the upcoming calendar quarter (see below table).

| Past Calendar Quarter | Current Calendar Quarter | Upcoming Calendar Quarter |
|---|---|---|
| Jan ï March 2010 | Apr ï June 2010 | July ï Sept 2010 |
| 1Q2010 | 2Q2010 | 3Q2010 |
| | | |
| 1Q2010 Utilization to-be Invoiced | 2Q2010 Utilization to-be Invoiced | 3Q2010 Utilization to-be Invoiced |
| May 2010 | August 2010 | Nov 2010 |
| | | |
| Invoiced Unit Rebate Rate to-be used as Rebate Discount at POS | Invoiced Unit Rebate Rate to-be used as Rebate Discount at POS | Invoiced Unit Rebate Rate to-be used as Rebate Discount at POS |
| July ï Sept 2010 | Oct ï Dec 2010 | Jan ï March 2011 |

**i.** Providing updated manufacturer pricing at any time for any quarter; NYPS may exercise its option to update the discount rate (other than the end of the quarter) to the POS.

**ii.** Not providing the quarterly manufacturerôs rebate discount at the POS if there is no pricing data on file for a participating labeler.

**iii.** Creating a rebate discount rate approval function.

**iv.** Ensuring the accuracy of the approved rebate discount rate at the point-of-service.

**v.** Transmitting approved rebate discount rates to the point of service in a systematic process.

**vi.** Performing the transmission of approved rebated discount rates to the point of service on a systematic quarterly basis. The transmission schedule should be flexible allowing the State to routinely make non-scheduled late and/or rate changes.

**vii.** Integrating NYPS pricing data into the rebate processing system to allow quarterly generation of trial and final invoices.

**2.Modified Rebate Discount Rate at the Point of Service**

**a.** Performing logic to update and complete the final calculated rate if a contracted manufacturer has agreed upon a special rate with NYPS for a specific NDC using AMP, WAC, or some other basis (variable rate other than the basic rebate calculated rate) as a source for the discount.

**b.** Creating a mutually agreed upon process for NDCôs that are affected by the unit of measurement conversion factor. These modified (converted) rebate discount rates must be entered into the rebate system.

**c.** Accepting a fixed dollar amount per rebate unit, if specified by NY.

**d.** Creating a system flexible enough to accept a state approved overridden rebate unit rate; which differs from the basic rebate rate calculation.

**e.** Creating a process that will allow for final calculated rates to be populated into the rebate system via a file load.

**f.** Differentiating an approved **modified** point of service rebate discount rate from the invoice rate for an NDC year/quarter. This **modified** exception unit rebate rate must not replace the invoiced unit rebate rate billed to the manufacturer.

# Attachment 18

## Base Operations Staffing Plan & Credentials

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 19

## Contractor Staff Qualifications & Credentials

### Fillable Form

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 20

## Corporate Experience & References

**Bidder Name: _____**

**TP FORM ï 1: Summary of Corporate Experience and References**

**Name of Organization:** **Telephone Number:**
**Contact Name and Title:**
**Address:** **E-Mail Address:**

| Specific Nature of Services Provided for Program<br>Provide an overview of the nature and extent of service provided to this referenced client. | Service Dates From/To | Project Scale Number of covered lives |
|---|---|---|
| | | |
| | | |

# Attachment 21

| | |
|---|---|
| **Table 1a** | **NYPS Trial Invoice** |
| **Table 1b** | **NYPS State Invoice** |
| **Table 1c** | **NYPS Manufacturer Invoice** |
| **Table 2** | **NYPS Prior Period Rate and Utilization Adjustment Report** |
| **Table 3** | **NYPS Monthly Statement** |
| **Table 4** | **NYPS Weekly Update Rebate Report** |
| **Table 5** | **MDRP State Invoices Form (CMS-R-144) Record Format** |

These attachments are available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 22

| | |
|---|---|
| **Table 1** | **2008 Quarterly Pricing File Layout** |
| **Table 2** | **2008 Product File Layout** |

These attachments are available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 23

**NYPS Pricing Matrix**

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachment 24

**Rebate Reports**

This attachment is available at www.health.ny.gov/funding/ in a .ZIP File on the RFP Face Page

# Attachments

## *Alphabetical Series*

**ATTACHMENT A** ..... **A-70**
Glossary of Terms

**ATTACHMENT B** ..... **A-74**
Procurement Library List

**ATTACHMENT C** ..... **A-75**
Bid Form

**ATTACHMENT D** ..... **A-78**
NYS Taxation and Finance Contractor Certification Form ST-220-CA and ST-220-TD

**ATTACHMENT E** ..... **A-79**
Letter of Credit Commitment

**ATTACHMENT F** ..... **A-81**
Bidders Proposed M/WBE Utilization Plan Form

**ATTACHMENT G** ..... **A-82**
Transmittal Letter Template

**ATTACHMENT H** ..... **A-86**
Vendor Responsibility Attestation

**ATTACHMENT I** ..... **A-87**
State Consultant Service Form A

**ATTACHMENT J** ..... **A-89**
State Consultant Service Form B

**ATTACHMENT K** ..... **A-90**
Sample Standard NYS Contract Language and Appendices

# Attachment A

## Glossary of Terms

The following provides definitions of terms and abbreviations used in this Request for Proposal:

**AIH** means the American Indian Health program, the prescription component of this state-sponsored program is to be administered by the contractor selected as a result of this RFP.

**AWP** means the average wholesale price refers to the average price at which wholesalers sell drugs to physicians, pharmacies, and other customers. While the term is intended as such, in practice, it is a figure reported by commercial publishers of drug pricing data ñbased on data obtained from manufacturers, distributors, and other suppliers.ò

**Brand Name Drug** means a prescription drug sold under a trade name other than its chemical name that is manufactured and marketed by a single manufacturer (or single group of manufacturers pursuant to agreement among the manufacturers) where the manufacturer holds or held a patent protecting the active ingredient from generic competition.

**Business Day(s)** means every Monday through Friday, except for days designated as business holidays by the State and approved as such by EPIC prior to January 1 of each calendar year.

**Controlled Drug** means drugs designated by Federal Law or New York State law as a Class I, II, III, IV or V substance. A controlled drug includes but is not limited to: some tranquilizers; stimulants; and pain medications.

**Claim** means a providerôs request for reimbursement of covered services; claims are submitted to the Programs using approved claim forms or approved electronic submittal media.

**Claims Processing Year** means a period of 12 months beginning with July 1 and ending with June 30.

**CMS** means Centers for Medicare & Medicaid Services; the Federal agency that oversees the Medicaid and Medicare programs.

**Contract Year** means a period of 12 months beginning with April 1 and ending with March 31.

**Copayment** means the amount the member is required to pay for Covered generic and brand drugs as specified by the benefit design of the Program.

**Covered drug(s)** means medically necessary prescription drugs as defined in the benefit guide, except to the extent that such care is otherwise limited or excluded as defined in the benefit guide.

**Day(s)** means calendar days unless otherwise noted.

**DOH or Department** means the New York State Department of Health, the Department responsible for the administration of the EPIC, NYPS and AIH programs

## Glossary of Terms

**DUR** means Drug Utilization Review, which is a specific prospective review program to assure the safety, health and appropriate utilization by members and participants.

**EFT** means electronic funds transfer; the process of paying providers for approved claims via electronic transfer of funds from the stat owned bank accounts directly to the providerôs account.

**Enrollee** means the same as ñmemberò or ñparticipantò.

**Enrollee or member submitted claim(s)** means a claim for benefits submitted by a member to the contractor for direct reimbursement.

**EOB** means explanation of benefits; the EOB details the payment/denial of claims submitted by providers for services provided to the recipient.

**EPIC** means the Elderly Pharmaceutical Insurance Coverage Program, a New York State-funded program to cover prescriptions for the stateôs elderly population with limited income.

**ET** means prevailing Eastern Time.

**FEIN** means Federal Employer Identification Number; a number assigned to businesses by the Federal government.

**Final EPIC Paid Claim** means a COVERAGE GAP claim **paid by EPIC** for a prescription drug provided to a member, at a participating pharmacy. A claim that is denied prior to EPIC PAYMENT is not considered a final paid claim. In addition, a COVERAGE GAP claim that is paid but is subsequently voided, reversed, or otherwise adjusted is not a final paid claim.

**Final AIH Paid Claim** means a claim paid by the contractor for a prescription drug provided to a AIH member, at a participating pharmacy. A claim that is denied prior to processing is not considered a final paid claim. In addition, a claim that is processed and paid but is subsequently voided, reversed, or otherwise adjusted is not a final paid claim.

**Final NYPS Paid Claim** means a claim paid by the contractor for a prescription drug provided to a member, at a participating pharmacy. A claim that is denied prior to processing is not considered a final paid claim. In addition, a claim that is processed and paid but is subsequently voided, reversed, or otherwise adjusted is not a final paid claim.

**FMG** means the NYSDOH Fiscal Management Group.

**Generic Drug** means a drug sold under its chemical name or sold under a name other than its chemical name by a manufacturer other than the manufacturer that held the original patent for the active ingredient in the drug. The term Generic Drug shall include ñauthorized genericsò marketed by or in conjunction with the manufacturer that is the holder of the original patent for the active ingredient of the drug.

## Glossary of Terms

**GSN** means generic sequence number uniquely identifies a product (i.e., it formulation) specific to its agent, dosage form, and strength, and route of administration.

**HICN** means health insurance claim number; the number used to identify Medicare beneficiaries.

**HIPAA** means the Health Insurance Portability and Accountability Act of 1996. Title II of HIPAA, known as the Administrative Simplification (AS) provisions, requires the establishment of national standards for electronic health care transactions and national identifiers for providers, health insurance plans, and employers. The Administration Simplification provisions also address the security and privacy of health data.

**IVR** means interactive voice response. In telecommunications, IVR allows customers to interact with a companyôs database via a telephone keypad or by speech recognition, after which they can service their own inquiries by following the IVR dialogue.

**NCPDP** means National Council for Prescription Drug Programs.

**NDC** means National Drug Code; a generally accepted system for the identification of prescription and non-prescription drugs available in the United States, including all subsequent editions, revisions, additions, and periodic updates.

**NPI** means National Provider Identifier. ***A system of standard unique identifiers for health care providers and health plans mandated under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).***

**NYPS** means the New York Prescription Saver program, a discount card for eligible New York State residents.

**Lock-In** means restriction of a recipient to particular providers, as determined necessary by the State.

**NYS** means New York State.

**OHIP** means Office of Health Insurance Programs, a Division within the New York State Department of Health which is responsible for administration of the EPIC and NYPS programs.

**OSC** means the office of the State Comptroller.

**Over-the-Counter Drug (OTC)** means a drug defined by the FDA as safe and effective for use by the general public without a doctorôs prescription.

**Participating Pharmacy** means a Pharmacy which has entered into an agreement with the Program to provide covered drugs.

## Glossary of Terms

**Participating Manufacturer** means any pharmaceutical manufacturer which has entered into a contractual agreement with the State to provide rebates for NYPS, consistent with state law.

**Pass-Through Pricing** means the Program is charged the same ingredient cost paid to the dispensing network pharmacy for the drugs dispensed.

**Pharmacy** means any establishment, which is registered as a Pharmacy with the appropriate State licensing agency or is a Veterans Affairs Hospital Pharmacy, and regularly dispenses medications that require a prescription from a physician.

**POS** means point of service or place of service.

**Prescription/Prescription Order** means the written or oral request for drugs issued by a physician duly licensed to make such a request in the ordinary course of his or her professional practice. This order must be written in the name of the person for whom it is prescribed or be an authorized refill of that order.

**Proposal** means both the Technical Proposal and Cost Proposal, including all responses to supplemental requests for clarification, information, and documentation submitted as the Contractorôs Proposal

**RFP** means this Request for Proposals including all documents, attachments and appendices associated with the RFP.

**SMAC** means the Programôs specific State Maximum Allowable Cost (SMAC) List loaded by the contractor to set the maximum price the Program will be charged and the dispensing pharmacy will be paid, for the ingredient cost of the drug.

**SSI** means Supplementary Security Income; the Federal supplemental security program that provides cash assistance to low-income aged, blind, and disabled persons.

**State** means the State of New York and any of its departments or agencies and public agencies.

**Subcontractors** means any person or firm undertaking part of the work under the terms of a contract, by virtue of an agreement with the prime contractor, who, prior to such undertaking, receives in writing, the consent and approval of the State.

**SFY** means State Fiscal Year, which in New York State is April 1st to March 31st.

**Federal Upper Limit** means a maximum reimbursement rate established by CMS for several hundred generic products, based on 250 percent of average manufacturer price.

**UCC or Usual and Customary Price** means the price for a given drug or service that a pharmacy or other provider would charge a cash paying customer without the benefit of insurance provided through a payer or intermediary with a contract with the provider.

# Attachment B

## Procurement Library List

The following list of materials will be made available upon offeror request to the permissible contact designated for distribution on page ii of this RFP.

1.) **Magellan Turnover Plan**
2.) **Magellan Monthly Operating Reports**
3.) **EPIC Program brochure, benefit guide, related outreach materials**
4.) **Manuals**
   a) **Participant Services**
      i. EPIC Enrollment
      ii. First Enroll for NYPS
   b) **Plan Administration**
      i. EPIC Administration
      ii. AIH Administration
      iii. NYPS Administration
   c) **Operations**
      i. Systems
      ii. Pharmacy
      iii. Finance
   d) **Helpline**
      i. Helpline
      ii. RFAI
      iii. Reconsideration
      iv. MSP
      v. Medicare Part D Refund
   e) **Claims & Mailroom**
      i. Claims
      ii. Mailroom
   f) **Other**
      i. Outreach
      ii. Quality Assurance
      iii. Performance Standards
      iv. Rebate
      v. Systems Disaster Recovery

# Attachment C

## Bid Form

**NEW YORK STATE**
**DEPARTMENT OF HEALTH**

# BID FORM

**PROCUREMENT TITLE: _____ FAU #1111091053**

Bidder Name:
Bidder Address:

Bidder Fed ID No:

**A.** _____bids a total price of $_____
(Name of Offerer/Bidder)

**B.** Affirmations & Disclosures related to State Finance Law ÄÄ139-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 Ä139-j (3) and Ä139-j (6) (b).

Pursuant to State Finance Law ÄÄ139-j and 139-k, this *Invitation for Bid or Request for Proposal* includes and imposes certain restrictions on communications between the Department of Health (DOH) and an Offerer during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit *bids/proposals* through final award and approval of the Procurement Contract by the DOH and, if applicable, Office of the State Comptroller (ñrestricted periodò) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Ä139-j(3)(a). Designated staff, as of the date hereof, is/are identified on the first page of this *Invitation for Bid, Request for Proposal, or other solicitation document.* DOH employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the Office of General Services Website at: http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html

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

   No Yes

   If yes, please answer the next questions:

   1a. Was the basis for the finding of non-responsibility due to a violation of State Finance Law Ä139-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 D

## SALES TAX FORMS CA-220 AND TD-220

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 E

## Letter of Credit Commitment

## (To Be Included in TAB 2 of the Proposal)

## Letter of Credit Commitment

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 institutionôs letterhead. The executed commitment letter should be included as part of the Bidderôs Technical Proposal under Tab 2.

---

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: [New York State EPIC, American Indian Health and the New York Prescription Saver Card Program RFP] RFP No. 1111091053

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 (2) 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 F

## New York State Department of Health

## BIDDERS PROPOSED M/WBE UTILIZATION PLAN

| | |
|---|---|
| **Bidder Name:** | |
| **RFP Title:** | **RFP Number 1111091053** |

**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** | | **$** |
| **4. M/WBE Combined Totals** | | **$** |

# Attachment G

## Transmittal Letter Template

## (To Be Included in TAB 2 of the Proposal)

**[TO BE COMPLETED ON OFFEROR'S LETTERHEAD]**

Mr. Joseph Zeccolo
New York State Department of Health
Corning Tower, Room 2019
Albany, NY 12237

[**Insert Current Date]**
Re: NYS Department of Health (Department)
EPIC, AIH, and NYPS Services Project

Dear Mr. Zeccolo:

**[Insert Offeror's Name]** submits this firm and binding offer to the Department in response to the above-referenced RFP and agrees as follows:

1. A statement that the offeroro's bid includes the administration of all functions included in the RFP and for the operation of all three programs (EPIC, AIH and NYPS).

2. A statement that the offeror and its subcontractors have the necessary qualifications and experience delineated in Section IV.B.2.1 of the RFP.

3. An attestation that the offeror will provide to the Department satisfactory proof of a five million dollar ($5,000,000) fidelity bond within ten (10) business days of notice from the Department of contract approval.

4. A statement that the local account staff location must be located within ten (10) miles of the State Capitol in Albany, New York and all other facilities will be located within the continental United States and a statement that, at a minimum, the contractor will include within the local Capital District office the following key dedicated staff: account manager, outreach manager, quality assurance manager, and a project manager with responsibility for system analysis, data access and reporting.

5. Offeror provides the following statement which describes the legal structure of the entity submitting the proposal _____ **[Insert Offeror's Response];**

6. Offeror accepts the contract terms and conditions contained in this RFP, including any exhibits and attachments;

7. Offeror acknowledges receipt of all Department amendments to this RFP, as may be amended;

8. A statement that the offeror is prepared, if requested by the DOH, to present evidence of legal authority to do business in New York State, subject to the sole satisfaction of the DOH.

9. Offeror (i) does not qualify its proposal, or include any exceptions from the RFP and (ii) acknowledges that should any alternate proposals or extraneous terms be submitted with the

proposal, such alternate proposals and extraneous terms will not be evaluated by the Department;

10. Offeror agrees that the proposal will remain valid for a minimum of 365 calendar days from the closing date for submission of proposals;

11. Offeror agrees that it has the sole responsibility for obtaining any third party financing which may be necessary for the offeror to submit a proposal, and further that the offeror understands and agrees that should an award be made, the State of New York and the Department of Health will in no manner underwrite, act as a signatory or co-signatory or in any manner guarantee participation in the securing of the offerorôs financing;

12. Offeror (and/or any subcontractor(s)) provides a statement which complies with the four conflict of interest requirements set forth in RFP Section IV.B.7., Conflict of Interest. Where any potential or actual conflict is disclosed, a description shall also be included, in Tab 2 of the proposal, as to how a potential or actual conflict and/or disclosure of confidential information relating to the contract will be avoided.

If there is no conflict of interest a statement so indicating should be included in the transmittal letter.

13. Offeror <u>is/is not</u> **[indicate one]** proposing to utilize the services of a subcontracts(s). Offeror has provided, in an appendix to this Transmittal Letter in Tab 2, a list of proposed subcontractors and one subcontractor summary for each listed subcontractor. An individual authorized to legally bind the subcontractor should sign that subcontractorôs summary document and certify that the information provided is complete and accurate.

The summary document for each listed subcontractor should contain the following information:

- **a.** Complete name of the subcontractor;
- **b.** Complete address of the subcontractor;
- **c.** A general description of the scope of work to be performed by the subcontractor;
- **d.** Percentage of work the subcontractor will be providing;
- **e.** A statement that the bidder is prepared, if requested by the DOH, to present evidence of legal authority to do business in New York State. This submission is subject to the sole satisfaction of the DOH; and
- **f.** The subcontractorôs 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.

The undersigned individual affirms and represents that he/she has the legal authority and capacity to sign and submit this offer on behalf of **[Insert Offeror's Name]** as well as to execute a contract with the Department.

_____
Signature

_____
Print Name

**Insert: [Offeror's Full Name]**

**[Offeror's Mailing Address]**

**[Title of Signatory]**

**[E-mail of Signatory]**

**[Telephone Number of Signatory]**

**[Fax Number of Signatory]**

**[Name of Proposal Contact]**
**(if different from Signatory)**

**[Mailing Address for Proposal Contact]**

**[Title of Proposal Contact]**

**[E-mail of Proposal Contact]**

**[Telephone Number of Proposal Contact]**

**[Fax Number of Proposal Contact]**

# Attachment H

## Vendor Responsibility Attestation

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

**Choose one:**

☐ An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: https://portal.osc.state.ny.us within the last six months.

☐ A hard copy Vendor Responsibility Questionnaire is included with this proposal/bid and is dated within the last six months.

☐ A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations.

Signature of Organization Official: _____

Print/type Name:_____

Title:_____

Organization:_____

Date Signed:_____

# Attachment I -- State Consultant Service Form A

**State Consultant Services**

**FORM A**

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

Contractorôs Planned Employment
From Contract Start Date through End of Contract Term

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

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

Name of person who prepared this report:

Title: Phone #:

Preparerôs signature:

Date Prepared: / / Page of
(use additional pages if necessary)

# Instructions

State Consultant Services

**Form A: Contractorôs Planned Employment**

and

**Form B: Contractorôs 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 Laborôs Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

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

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

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

**Attachment J** State Consultant Services Form B

| **State Consultant Services** **FORM B** | **OSC Use Only** Reporting Code: Category Code: |
|---|---|

Contractorôs Annual Employment Report
Report Period: April 1, ____ to March 31, ____

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

Description of Services Being Provided:

Scope of Contract (Chose one that best fits):

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

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

Name of person who prepared this report:
Title: Phone #:

Preparerôs signature:
Date Prepared: / / Page of (use additional pages if necessary)

# Attachment K

# SAMPLE STANDARD NYS CONTRACT LANGUAGE AND 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 NOT-FOR-PROFIT ORGANIZATION

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

( ) IF MARKED HERE, THIS CONTRACT'S 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.

___ APPENDIX A Standard Clauses as required by the Attorney General for all 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 Q Modification of Standard Department of Health Contract Language
___ STATE OF NEW YORK AGREEMENT
___ APPENDIX I Contract Requirements
___ APPENDIX B Request For Proposal (RFP)
___ APPENDIX C Proposal
___ APPENDIX E-1 Proof of Workers' Compensation Coverage
___ APPENDIX E-2 Proof of Disability Insurance Coverage
___ APPENDIX H Federal Health Insurance Portability and Accountability Act Business Associate Agreement
___ 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 Commissioner of Health.

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 Commissioner of Health, 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 Contractorôs receipt therefor, such written notice to specify the Contractorôs 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 WorkersôCompensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

2. C-105.2 ï Certificate of WorkersôCompensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR

3. SI-12 ï Certificate of WorkersôCompensation Self-Insurance, OR GSI-105.2 ï Certificate of Participation in WorkersôCompensation 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 WorkersôCompensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

2. DB-120.1 ï Certificate of Disability Benefits Insurance OR

3. DB-155 ï Certificate of Disability Benefits Self-Insurance

# APPENDIX A

# STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

December, 2011

# TABLE OF CONTENTS


| | | Page |
|---|---|---|
| 1. | Executory Clause | 3 |
| 2. | Non-Assignment Clause | 3 |
| 3. | Comptroller's Approval | 3 |
| 4. | Workers' Compensation Benefits | 3 |
| 5. | Non-Discrimination Requirements | 3 |
| 6. | Wage and Hours Provisions | 3 |
| 7. | Non-Collusive Bidding Certification | 4 |
| 8. | International Boycott Prohibition | 4 |
| 9. | Set-Off Rights | 4 |
| 10. | Records | 4 |
| 11. | Identifying Information and Privacy Notification | 4 |
| 12. | Equal Employment Opportunities For Minorities and Women | 4-5 |
| 13. | Conflicting Terms | 5 |
| 14. | Governing Law | 5 |
| 15. | Late Payment | 5 |
| 16. | No Arbitration | 5 |
| 17. | Service of Process | 5 |
| 18. | Prohibition on Purchase of Tropical Hardwoods | 5-6 |
| 19. | MacBride Fair Employment Principles | 6 |
| 20. | Omnibus Procurement Act of 1992 | 6 |
| 21. | Reciprocity and Sanctions Provisions | 6 |
| 22. | Compliance with New York State Information Security Breach and Notification Act | 6 |
| 23. | Compliance with Consultant Disclosure Law | 6 |
| 24. | Procurement Lobbying | 6 |
| 25. | Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors | 7 |

## 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 Stateôs 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 Comptrollerôs approval, where the assignment is due to a reorganization, merger or consolidation of the Contractorôs 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 Stateôs 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) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payeeôs Federal employer identification number, (ii) the payeeôs Federal social security number, and/or (iii) the payeeôs Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, 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 the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, 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 and 5 NYCRR 143, 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 the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractorôs equal employment opportunity policy that:

(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, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts 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. 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 Department of Economic Developmentôs Division of Minority and Women's Business Development pertaining hereto.

**13. <u>CONFLICTING TERMS</u>.** 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. <u>GOVERNING LAW</u>.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. <u>LATE PAYMENT</u>**. 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. <u>NO ARBITRATION</u>.** 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. <u>SERVICE OF PROCESS</u>**. 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. <u>PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS</u>**. 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 Ä165 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)

Signature Page for:

Contract Number:__________ Contractor:_________________________
Amendment Number: X-_____

_ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

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

**CONTRACTOR SIGNATURE:**

By:____________________________________ Date: _________________________

(signature)

Printed Name:___________________________________________

Title:_______________________________________________

STATE OF NEW YORK )
) SS:
County of ____________ )

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

_____________________________________________________
(Signature and office of the individual taking acknowledgement)

_ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

**STATE AGENCY SIGNATURE**

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

By:____________________________________ Date:_________________________________

(signature)

Printed Name:___________________________________________

Title:_____________________________________________

_ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

**ATTORNEY GENERAL'S SIGNATURE**

By:____________________________________ Date:_________________________________

**STATE COMPTROLLER'S SIGNATURE**

By:____________________________________ Date:_________________________________

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. ñBusiness Associateò shall mean CONTRACTOR.

B. ñCovered Programò 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 (ñHIPAAò), the Health Information Technology for Economic and Clinical Health Act (ñHITECHò) 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 Ä164.524.

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 Ä164.526.

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 Programôs 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 Ä164.528.

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 Ä164.528.

K. Business Associate agrees to comply with the security standards for the protection of electronic protected health information in 45 CFR Ä164.308, 45 CFR Ä164.310, 45 CFR Ä164.312 and 45 CFR Ä164.316.

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 Programôs 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 Associateôs 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 Ä208, 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.