



Department of Health

Request for Proposals

RFP #: 16342

New York State Physician Profile

November 4, 2016

DESIGNATED CONTACT:

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contact to whom all communications attempting to influence the Department of Health's conduct or decision regarding this procurement must be made.

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	New York State Physician Profile Operation Manual	Error! Bookmark not defined.

1.0 CALENDAR OF EVENTS

RFP #16342- NEW YORK STATE PHYSICIAN PROFILE	
<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals	November 4, 2016
Deadline for Submission of Written Questions	November 23, 2016 5:00 p.m. ET
Responses to Written Questions Posted by DOH	On or About December 9, 2016
Deadline for Submission of Proposals	Proposals Due January 18, 2017 4:00 p.m. ET
<u>Anticipated</u> Contract Start Date	August 1, 2017

2.0 OVERVIEW

Through this Request for Proposals (“RFP”), the New York State (“State”) Department of Health (“Department”) is seeking competitive proposals from vendors to provide services as detailed in [Section 3.0](#) (Scope of Work). It is the Department’s intent to award one (1) contract from this procurement.

2.1 Introductory Background

The Office of Professional Medical Conduct (OPMC) in the New York State Department of Health (Department) seeks a contractor to operate, maintain and enhance the New York State Physician Profile.

The Patient Health Information and Quality Improvement Act of 2000 was signed into law in the fall of 2000 (hereafter referred to as "The Act"). The purpose of The Act in creating a statewide health information system is to improve the quality of health care and increase public information about health care providers, practitioners and plans. The Act calls for the creation of a statewide health information system designed to collect a wide range of data on health care providers, practitioners and plans and to make such information, including physician profiles, available to the public on an ongoing basis.

Public Health Law section 2995-a.4 requires physicians to update his or her profile information within six months prior to the expiration date of such physician's registration period, as a condition of registration renewal under the State Education Law. Additionally, each physician licensed and registered to practice in New York State shall, within 30 days of the transmittal of an initial profile survey, and upon entering or updating his or her profile information, register and maintain an account with the Department’s Health Commerce System (or any successor electronic system), or provide an email address to the Department. Except for optional information provided, physicians shall notify the Department of any change in the Profile information within 30 days of such change.

Effective January 1, 2002, New York's Physician Profile became available via the Department’s public web site at www.health.ny.gov, as well as directly at www.nydoctorprofile.com. In addition, a toll-free Call Center became operational on January 1, 2002 to assist both consumers and physicians in addressing questions regarding the Profile. Operation and maintenance of the Physician Profile and Call Center is currently performed by a vendor under a contract.

This Request for Proposals solicits proposals for maintenance of the Physician Profile and data collection on behalf of the Department pertaining to approximately 93,000 physicians licensed and registered to practice medicine in New York State, as set forth under Section 2995-a of the Public Health Law ([Attachment L](#)).

The successful bidder must continue to make physician profiles available to the public via a public web site and to support a toll-free Call Center to respond to physician and consumer inquiries and requests for hard copies.

The Department will work closely with the Contractor on all aspects of the services to be delivered. The Department is soliciting the services of a qualified Contractor and Subcontractor, if necessary, to:

- Operate and maintain the public web site for purposes of public access to profile information;
- Collect all information necessary for physician profiles on an ongoing basis and utilize appropriate editing and verification methods;
- Correspond with physicians and provide them the opportunity to review profile information before public dissemination;
- Maintain existing tables from various databases that supply data to the Physician Profile web site (See [Attachment M](#) for a list of all data sources) ; and
- Staff and operate a Call Center to respond to questions regarding profile information as well as provide hard copies upon request.

2.2 Important Information

The bidder is required to review, and is requested to have legal counsel review, [Attachment E](#), the DOH Agreement as the Bidder must be willing to enter into an Agreement substantially in accordance with the terms of [Attachment E](#) should the bidder be selected for contract award. Please note that this RFP and the awarded bidder's proposal will become part of the contract as Appendix B and C, respectively.

It should be noted that Appendix A of [Attachment E](#), "Standard Clauses for New York State Contracts", contains important information related to the contract to be entered into as a result of this RFP and will be incorporated, without change or amendment, into the contract entered into between DOH and the successful Bidder. By submitting a response to the RFP, the Bidder agrees to comply with all the provisions of Appendix A.

Note, [Attachment A](#), the Bidder's Certifications/Acknowledgements, should be submitted and includes a statement that the bidder accepts, without any added conditions, qualifications or exceptions, the contract terms and conditions contained in this RFP including any exhibits and attachments. It also includes a statement that the bidder acknowledges that, should any alternative proposals or extraneous terms be submitted with the proposal, such alternate proposals or extraneous terms will not be evaluated by the DOH.

Any qualifications or exceptions proposed by a bidder to this RFP should be submitted in writing using the process set forth in [Section 5.2](#) (Questions) prior to the deadline for submission of written questions indicated in [Section 1.0](#) (Calendar of Events). Any amendments DOH makes to the RFP as a result of questions and answers will be publicized on the Department's web site.

2.3 Term of the Agreement

The term of the agreement is expected to be for a 3.5 year period with an option for two year renewal commencing on the date shown on the Calendar of Events in [Section 1.0](#), subject to the availability of sufficient funding and approvals from the New York State Attorney General (AG) and Office of the State Comptroller (OSC).

3.0 SCOPE OF WORK

This Section describes the services that are required to be provided by the selected bidder. The selected bidder must be able to provide all of these services throughout the contract term.

PLEASE NOTE: The terms “bidders”, “vendors” and “proposers” are also used interchangeably. For purposes of this RFP, the use of the terms “shall”, “must” and “will” are used interchangeably when describing the Contractor’s/Bidder’s duties.

3.1 Tasks/Deliverables

Pursuant to the current contract for the Physician Profile, all data collected by the incumbent vendor for purposes of profiling, including the Profile Survey, public web site, source code, all systems developed for purposes for profiling, all systems documentation developed pursuant to the contract, orientation manuals and questions and answers relating to operating the Call Center and any logo developed are the exclusive property of the Department. Accordingly, the State owns and will make available to the successor bidder under this RFP, at no cost, all computer programs, procedure manuals, operating plans, documentation, data, records, and related items to the existing Physician Profile System. The source code for the existing system was developed using Java/JSP with an Oracle database backend. No hardware is owned by the Department.

Important: Bidders may propose to use software other than existing profile software for one or more of the functions of this RFP with written approval from the State. If software other than the current software is used, it must be customized to meet Profile requirements, fully tested and proven to the State’s satisfaction to provide adequate support to assume completion of all required functions within 180 days of the contract start date. Documentation of the current profile website and database operations is included as Attachments S and T of this RFP. The incumbent vendor is responsible for providing continuing support to any successor contractor for a period of up to two months prior to the expiration of the contract.

The major activities that must be performed by the contractor include:

1. **Host and maintain the public physician profile website.** Data for the website shall be collected through (1) a physician “self-report” application maintained by the contractor, (2) data entered manually by the contractor from hard copy profile surveys returned by physicians, and (3) data imported and verified from various other data systems as described in this RFP. The public web site is currently available at: <http://www.nydoctorprofile.com/>.
2. **Provide and maintain a web based self-report application accessible by physicians.** This application should allow Physician’s to self-report their profile data directly to the profile. This application must be accessed through the Department’s Health Commerce System (HCS). This task includes maintaining the application as well as appropriate security protocols, ensuring compatibility with all commonly utilized web browser and producing necessary user and downtime reports.
3. **Update physician profile records through communications with physicians.** Maintenance of the accuracy of the profile involves issuing routine and follow-up correspondence to physicians, data collection and verification of information from newly licensed and registered physicians; and, as necessary, making referrals to the OPMC, regarding non-respondent physicians. The contractor will be expected to report monthly to the Department on metrics related to these tasks.
4. **Operate a Call Center.** The call center includes both a Physicians' Help Desk to answer questions from physicians and a Consumer Line to fulfill requests from consumers. Daily phone logs must be carefully maintained and monthly reports summarizing the activities of the Call Center must be produced.
5. **Meet future changes to data collection.** Over the life of the contract, the contractor may be required to accept and translate new data sources into the profile, or add new data to the public web site as a result of statutory changes.

Specific requirements to be completed by the Contractor in each of these areas are provided below.

3.1.1 MAINTAINING THE PHYSICIAN'S SELF REPORTING WEB APPLICATION AND PUBLIC WEB SITE

- a. The Contractor must develop/maintain capability for a physician to update and/or change required self-report information via the web as well as by hard copy. The electronic self-reporting of information must utilize the Department's Health Commerce System for authentication, access and identification. The self-report application must comply with the **Security Requirements** outlined in [Attachment Q](#).
- b. The Contractor must develop/maintain and update a public web site in accordance with Department security specifications and application standards. The Contractor will house the database server, web server and physician profile application. The public web site's functional requirements must meet or exceed the current website which is available at: <http://www.nydoctorprofile.com/>. The Department owns the URL of the Physician Profile public web site. The public web site must comply with the **Security Requirements** outlined in [Attachment Q](#).
- c. After acceptance of the technology required in 3.1.1 (a) and 3.1.1 (b), the Contractor must provide software maintenance. Software maintenance is defined in the Institute of Electrical and Electronics Engineers (IEEE) Standard for Software Maintenance, IEEE 1219, as the modification of a software product after delivery to correct faults, improve performance or other attributes, or adapt the product to a modified environment. Maintenance is needed to ensure that the software continues to satisfy user requirements. The system changes due to corrective and non-corrective software actions. Maintenance must be performed in order to
 - Correct faults
 - Improve the design
 - Implement enhancements
 - Interface with other systems
 - Adapt programs so that different hardware, software, system features and telecommunications facilities can be used
 - Migrate legacy software
 - Retire software
- d. The Contractor must make changes to the public web site, as approved and requested by the Department, which clarify information and/or enhance the accessibility or usefulness of profile information by consumers. During takeover, the contractor must devote a full time project manager to oversee design of systems that can be responsive to the need to accept new data feeds into the profile and capture new data elements over the life of the contract. At the end of takeover, and after acceptance of the database and software applications, Change System Requests (CSR) will be used by the Department to initiate any modifications to the system. The contractor must respond in writing to the CSR within 15 business days of receipt. The response shall consist of an acknowledgement of the request and a preliminary assessment of the effort (number of fully loaded change hours) required for completing the modification. A fully loaded change hour should include all costs associated with a system change, including labor, parts, shipping, profit, equipment and material, indirect costs and profit.
- e. Design of the web site and the backend database must take into consideration the potential for new data feeds and specification changes over the life of the contract.
- f. The Contractor must make daily refreshes to the public web site.
- g. The Contractor must maintain the capability of the public web site to handle up to 25,000 visitors per 24-hour period and up to 250,000 page requests per 24-hour period. The contractor must immediately notify

the department of public website downtime.

- h. The contractor will ensure the industry standard response times for the user interface for the public website and the self-reporting application are met to ensure users are not discouraged from completing the desired task.

3.1.2 MAINTAINING AND UPDATING THE PHYSICIAN PROFILE RECORDS

- a. Multiple sources of data contribute to the creation of the Physician Profile and are described in detail in [Attachment M](#).
 - i. The contractor will be provided with a complete data file (quarterly) and transaction updates (weekly) from the State Education Department which includes a list of Physicians who are licensed to practice medicine in the State of New York. Newly added physicians must be identified by the contractor on a monthly basis and provided to the Department.
 - ii. The contractor will be required to purchase the American Medical Association (AMA) Masterfile and American Osteopathic Association (AOA) database and sign Licensing Agreements with these organizations. The Department will reimburse the Contractor's actual cost of data acquisition from the AMA and AOA, subject to the Contractor obtaining best prices available. Monthly updates to data will be provided by the AMA and AOA and must be incorporated into the profile database.
 - iii. The Department will provide the Contractor with all malpractice payments made in the prior month (monthly) and notification of all public New York license actions (as it becomes available). The Contractor must store this data and identify any licensed physicians which meet criteria for public disclosure of this information as defined by Public Health Law section 2995-a.
- b. Both hard copy paper profiles and electronic profiles (provided to the physician through the self-report web application) must be pre-populated with information from the sources identified in 3.1.2(a) as follows:
 - i. State Education Department files: name, address, license number, date licensed to practice medicine in New York State;
 - ii. AMA and AOA: NPI, medical school, graduate medical education, board certifications and sub certifications; and
 - iii. Department's: medical malpractice and New York license actions.

[Attachment N](#) provides the Physician Profile instrument to be used by the contractor. A data table of fields in the Profile, including the identification of the primary data source can be located in [Attachment M](#).

- c. The Contractor will identify newly licensed and registered physicians based upon the weekly files received from the State Education Department (SED). Within 45 calendar days of initial registration with the SED, the Contractor will identify newly licensed physicians who did not initiate and complete their profile as required. These physicians will be mailed reminders as follows.
 - i. Each month the Contractor will mail out an initial letter, signed (electronically) by the Department of Health, to all newly licensed and registered physicians in New York State who have not initiated and completed their profile. Initial letters will explain the profile requirement and provide instructions on how to complete the profile electronically via the web-based self-report web application maintained by the Contractor or request a hard copy. (See Scope of Work requirement 3.1.1(a)). Physicians are instructed to initiate and complete their profile within 30 calendar days of the date of the letter. Based upon Physician Profile experience and data from SED, approximately 4,000 to 6,000 newly licensed and registered physicians in New York State are added to the Profile on an annual basis.
 - ii. Thirty to 45 calendar days after the date of the initial letter, the Contractor must send a reminder letter, signed (electronically) by the Department of Health, to all non-respondents reminding them

that the Initial Profile Survey was due back within 30 calendar days of the date of the initial letter. Based upon recent experience, approximately 86 percent of all newly licensed and registered doctors require a reminder letter.

- d. If a physician submits their profile electronically via the self-report application on the Health Commerce System, all fields that do not require review must be posted on the public profile with 24 hours. Fields that require review include open-ended text fields. These must be reviewed by the Contractor to determine that they do not contain any prohibited language as defined in NYS regulations (10 CRR-NY 1000.1). Any language identified that is in question is forwarded to the Department for review and determination. Examples of open-ended text field include:
- Out-of-State License Actions/Restrictions
 - Current Limitations
 - Hospital Privilege Restrictions
 - Criminal Convictions
 - Physician Statement
- e. Alternatively, physicians may request, in writing, to submit their profile via hard copy. Upon such request, the Contractor must send the physician a letter along with the hard copy of the survey, [Attachment N](#), within five business days of receipt of the written request. The letter must outline the pre-populated information received from other sources and how to request corrections. Physicians must be instructed to return their survey within 30 calendar days of the date of the letter. Once the returned survey is received the Contractor must enter the information into their database within 5 business days. Once the data is entered into their database, the Contractor prints a “review copy” of the profile information and mails it to the physician within one business day along with a review letter to ensure the Contractor correctly entered the information into the database. If the physician does not submit changes to the review copy within 10 calendar days, the Contractor will post the physician information to the public profile within 24 hours. If the physician does submit corrections to the review copy, the Contractor must enter the corrections and send a new review copy and letter and give another 10 calendar days. Based upon recent Physician Profile experience, approximately 500-600 physicians request to complete their profile via hard copy each year. Approximately 175 physicians return their review copy with corrections to their profile data each year.
- f. The Contractor must adhere to data verification protocols developed by the Department to verify self-reported information. The Contractor will become a designated agent of the Department for purposes of accessing the National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB). The Department will reimburse the Contractor at cost of data acquisitions from such data banks. The Contractor will utilize the NPDB when a physician self-reports a medical malpractice payment or a disciplinary action but did not provide all the necessary information, or in instances when the Department is made aware that a malpractice payment or disciplinary action may be missing from a physician’s profile. The Contractor will perform monthly data verification checks on a random sample of five percent of physicians annually; based on the current number of licensed physicians this is approximately 400 data verification checks each month. The Department may also request the Contractor perform ad-hoc NPDB queries. Specifically, information to be verified from the NPDB and/or HIPDB must include:
- Medical Malpractice payments
 - Out of State license actions
 - Hospital Privilege Restrictions
 - Failure to renew privileges in lieu of a pending action or investigation
 - Criminal Convictions

If the Contractor identifies a discrepancy in information the physician must be mailed a Data Verification letter requesting agreement with or changes to the information within 10 calendar days. If the physician disputes the information identified, they must contact the source of the data and the Contractor will suspend public dissemination until resolution is received. If no response is received after 10 calendar days, the Contractor will send a certified Data Verification letter. If the certified letter is signed as received and the physician does not submit a response within 10 calendar days, the information will be posted to

the public profile within 24 hours. If the certified letter is undeliverable, the Contractor will refer the physician to the Department. It is estimated that up to 10% of data verification checks will result in a Data Verification letter being mailed to the physician.

- g. Medical malpractice history is obtained both through physician self-reporting and from files provided by the Department. All medical malpractice history (judgments, arbitration awards and settlements) is considered regardless of the state in which the event occurred. All judgment and arbitration awards made against the physician in the past 10 years must be included on the physician profile. In addition, settlements must be posted to the profile if the criteria outlined in section 2995-a of Public Health Law are met. Current criteria is:
 - i. The physician has had 3 or more medical malpractice settlements in the past 10 years, regardless of severity; OR
 - ii. The total number of malpractice settlements is two or fewer and the settlement(s) is/are deemed by the Department as relevant to patient decision-making (such as those resulting in death or permanent injury).

For all publicly disclosable settlements, judgments and/or awards, the public web site must provide information regarding the date of award, judgment or settlement; significance of each award, judgment or settlement; and zip code or county in which the event occurred. The significance of award is to be calculated by the Contractor and shown in graduated categories of below average, average, or above average, using the calculations outlined in NYS regulations (10 CRR-NY 1000.3).

- h. Every physician must be given the opportunity to review his/her medical malpractice history and how it will be disclosed on the public web site prior to such public disclosure. Each month the Contractor will initiate a separate mailing, referred to as the Medical Malpractice Review Copy, to be sent to physicians having medical malpractice judgments, settlements and/or awards where payments have been awarded to complaining parties. The physician may either dispute the facts or appeal the severity (see below), with a response within 30 calendar days. Physicians may submit an extension request. The extension request must meet the criteria specified in regulations (10 CRR-NY 1000.3). The Contractor will send all requests meeting the criteria to the Department within one business day. The Department will notify the Contractor of a decision and the Contractor will send written correspondence of such decision with one business day. The Contractor will suspend public dissemination of malpractice information during the 30 calendar day response period (and extension period if granted) and until a determination is made for any disputes or appeals.
 - i. Disputes: For any medical malpractice history that meets the criteria for public disclosure, the physician may correct any factual inaccuracies on the medical malpractice review copy and return it to the Contractor within 30 calendar days. Each month the Contractor will submit all disputes electronically to the Department for review and decision.
 - ii. Appeals: If a physician has 2 or fewer settlements within the last 10-years, the Contractor must afford the physician the opportunity to appeal to the Department concerning whether the settlement is relevant to patient decision-making. The Contractor will review the appeal materials submitted by the physician to determine if the request was received within the required 30 calendar day time period and whether the request is appealable. The Contractor will submit all appeals meeting this criteria to the Department as they are received. The Department will convene a review panel to make appeal determinations. The Department will notify the physician and the Contractor of the decision.

Based upon recent Physician Profiling experience, there are approximately 1,000 medical malpractice review letters that will need to be sent to physicians each year. This not only includes newly-licensed doctors but doctors whose existing medical malpractice history has changed.

- i. Each month, the Contractor will send a letter to all physicians with a malpractice claim in which the severity is not indicated (self-reported or reported by the Department). This is required to determine appropriateness of public disclosure. If no response is received after 10 calendar days, the Contractor will send a certified Severity letter. If the certified letter is signed as received and the physician does not submit a response to the severity, the Contractor will post the claim to the profile the next business day as if it is relevant to patient decision-making. If the certified letter is undeliverable, the Contractor will refer the physician to the

Department. Approximately 250 letters will need to be sent each year to physicians seeking clarification of the severity of the medical malpractice case.

- j. Physicians in the weekly file from SED whose registration to practice medicine in New York has lapsed must be removed from the public web site within 24 hours.
- k. The Department will provide the Contractor with notification of all new board actions as the information becomes available. The Contractor will utilize the OPMC public website to search these physicians and identify any revocations, suspensions, surrenders, summary orders and permanent restrictions precluding the practice of medicine. For physicians with any of these actions, the Contractor must inactivate the profile from the public website and add a notation of the status of the license (i.e. revocation, suspension or surrender). In addition a link to the OPMC public website will remain on the profile, linked to the physician's public OPMC actions. The profile will remain inactive until the expiration of such action. If the action is anything other than a revocation, suspension, surrender or permanent restriction precluding the practice of medicine, and the physician is active with SED, the action is entered to the physician's profile and a Data Notification Letter is mailed to the physician informing of the action that was entered. Physicians are instructed to review their profile information on the NYPP public site. No further correspondence is needed since this information is not disputable. On average, less than 10 Data Notification letters are mailed each month.
- l. Each month the Department will query the list of newly licensed doctors (provided by the Contractor) to determine if any have public board actions within the last 10 years. Any matches are shared with the Contractor within 5 business days to update the physician's profile. This triggers the Data Notification process outlined in 3.1.2(k), above.
- m. The Contractor must provide for sufficient electronic storage space to maintain all Initial Profile Surveys, Review Copies, Update/Correction Copies and any other correspondence with physicians for 10 years. Contractor must ensure that only appropriate personnel have access to the files and that they are maintained in a secure environment.

3.1.3 OPERATION OF CALL CENTER

- a. The Contractor must staff the Physicians' Help Desk to support the electronic submission of changes in profile information Monday through Friday from 8:00am to 5:00pm EST. The Contractor shall also maintain the capability to voice record messages received during off hours and return any messages the next business day. The Contractor shall sufficiently staff and operate a Call Center within New York State that includes a Physicians' Help Desk to answer questions from physicians regarding any aspect of the New York Profile and a separate Consumer Help-line to answer individual profile questions. The consumer Help-line must offer interpretation services in Chinese, Spanish, Russian, Korean, Italian, Polish, Arabic and Haitian Creole.
- b. Based upon April to September 2016 experience, approximately 1,000 to 1,500 calls per month are received from physicians. Call volume is the highest following reminder emails sent to physicians by the Department (usually mid-month). If there is a statewide mailing required for all physicians call volume may be exceptionally high for approximately one week depending on the nature of the mailing. The Department shall make a reasonable effort to notify the Contractor at least 30 calendar days in advance of any statewide physician mailing. Approximately 200 to 300 calls per month are received from consumers. The average talk time for incoming phone calls is five to seven minutes.
- c. The Contractor must ensure that staff are sufficiently trained to address inquiries concerning profiles, browser and connection problems, and requirements for the Health Commerce System (HCS). Call center staff shall forward ID/password related calls to the NYS Commerce Accounts Management Unit (CAMU), as well as make necessary referrals to the OPMC and other Department units when appropriate.
- d. The Contractor must maintain and distribute copies of an orientation manual on the physician profiling system to all Call Center staff. In addition, the Contractor must develop, and keep updated, a list of frequently asked questions and responses to be available to all Call Center staff.

- e. The Contractor shall assume responsibility for sufficiently staffing the Call Center such that a caller will not wait in excess of 5 minutes to speak to a Call Center representative during business hours. The Contractor must insure that voice recorded messages are returned the next business day. The Contractor must periodically survey callers from both the physician and consumer call lines or monitor calls to ensure quality of responses by the Call Center. The Contractor must write a quality assurance protocol to be approved by the Department and results must be made available upon request.

3.1.4 REPORTING

- a. The Contractor must provide data files to the Department on a monthly basis. Data file format and mandatory fields will be defined by the Department.
 - i. A list of all newly licensed and registered physicians (identified from SED files)
 - ii. A list of all newly licensed physicians who were non-responsive ninety calendar days after the date of the initial letter
 - iii. A list of all physicians whose SED registration will expire in 6 months
 - iv. A list of all physicians whose SED registration will expire in 3 months and have not updated their profile in the previous 3 months
 - v. A list of all physicians who re-registered in the current month and did not update their profile within 6 months of re-registration
- b. The Contractor must provide routine reports to the Department on various metrics related to efforts to updating and maintaining the profile database. The Contractor will provide the reports outlined in [Attachment K](#) by email to the Department by the 10th of the following month (e.g. for March, due April 10).
- c. The Contractor will provide an annual report by email to the Department by January 31st containing all elements of each periodic report described in [Attachment K](#).
- d. The Contractor will also be required to participate in periodic conference calls and/or meetings with Office of Professional Medical Conduct staff, as necessary.

3.1.5 GENERAL SECURITY REQUIREMENTS

Within the first 60 days of the contract start date, the contractor must provide to the Department a security plan that describes their security and compliance with all applicable NYS policies and standards as described in [Attachment Q](#).

3.1.6 TAKEOVER AND TURNOVER

The major objectives of the takeover and turnover periods are:

- Provide an efficient, orderly and controlled transition to the successful bidder;
 - Minimize any disruption of services provided to physicians, consumers and other users of the Physician Profile System; and
 - Retain, enhance or replace existing systems, procedures and operating practices.
- a. The Contractor is required to assemble a management team to oversee takeover. The management team is expected to work closely with the State and the current Contractor during the takeover period. The current contractor is contractually obligated to provide up to two months' service.

- b. After takeover activities are completed, the management team of the Contractor will assume responsibility for the facility and operations. The management team must be identified and installed at the beginning of the takeover period.
- c. The Contractor shall, upon selection, prepare a detailed takeover plan for State approval. This plan must include:
 - 1) planned activities;
 - 2) staffing level plans ;
 - 3) schedule of events;
 - 4) a checklist software acceptance system to ensure the complete testing and acceptance of each program and procedure used in the administration of the Physician Profile;
 - 5) a listing of additional equipment required in order to implement the proposed work plan; and
 - 6) a plan for ensuring the complete review and operation of each computer program and procedure

Administrative functions, including accounting, purchasing, and assuring confidentiality and security, will not be turned over to the successor Contractor by the current Contractor. These functions must be implemented either in preparation for, or during, the takeover period. A detailed plan showing activities and staffing levels during the takeover period shall be delivered, for State approval within 30 days of contract start.

- d. The Contractor is required to ensure that, upon the expiration of the 180 day takeover period, sufficiently experienced and trained personnel are available to continue all operations without interruption of service to physicians, consumers and other users.
- e. During takeover, the Contractor will be responsible for staffing all required functions with trained employees. To take advantage of the current Contractor's two month turnover responsibility, the successor Contractor must commit personnel to the formal and on-the-job training provided, unless otherwise agreed to by the State. The current Contractor's emphasis will be on training the successor Contractor's management personnel. The successor Contractor will be responsible for training of non-management personnel.
- f. During takeover, the Contractor will be responsible for assuming the processing, or acquisition where appropriate, of the computer programs, files and systems software necessary for the Contractor's functions. Additionally, the successor Contractor will be responsible for ensuring full compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Responses to this RFP must include a solution to comply with these requirements.
- g. During takeover, the Contractor will be responsible for assuming the operation, maintenance, and acquisition where appropriate, of the computer hardware necessary to support profile processing functions.
- h. The Contractor will be responsible for developing a Disaster Recovery Plan, presented as part of the proposal, into a fully functional and documented arrangement during the takeover process. The disaster recovery plan shall include written procedures, responsible individuals, test results, and a periodic test schedule and shall be presented to the State for approval. Equipment backup must be tested for compatibility and capacity, with any identified shortcomings corrected. The Contractor shall complete the installation of the operations staff within the 180 day takeover period. Contractor shall modify the DRP, software installation procedures and operational procedures as needed to reflect the changes implemented with new data sources, if the system changes or any enhancements will impact the disaster recovery capability. Modifications to the DRP must be submitted to DOH for review and approval. Contractor shall execute the DRP test to demonstrate the capability of the DRP to restore processing capability for all critical system components at the DR site. The DRP test must be included as part of product acceptance and be executed annually after the implementation of the Physician Profile.
- i. The contractor shall assume responsibility, without interruption of service to physicians, consumers and other users, for the maintenance and development of forms, manuals, procedures and documentation for all current operations.
- j. Progress reports to the State shall be submitted by the Contractor at two-week intervals beginning two

weeks after start of the contract resulting from this RFP. These reports should include significant events, progress on software acceptance, staffing levels, problems encountered, planned activities for the next two reporting periods, meetings held, and any other information deemed necessary by the State.

- k. Experienced personnel are vital to a smooth turnover, and the contractor shall encourage all employees, including management, to remain throughout turnover. Over the final six months of the contract term, the contractor shall not transfer or otherwise reassign any of its dedicated staff without prior State approval.
- l. In order to ensure the State's or the Contractor's success in assuming operation of the proposed and delivered solution should that be required during or at the end of the contract, the Contractor will be required to define and execute a knowledge transfer plan for transitioning system knowledge to staff identified by the Department or by the successor contractor that meets the following requirements:
 - i. The plan must include a process by which the Contractor's system can be fully migrated to the Department's or successor contractor's resources.
 - ii. The plan must include walk-throughs with the State's or successor contractor's staff of the fully configured system and documentation, as to be installed in the State's or successor contractor's production environment.
 - iii. The plan must include all aspects of system and user administration, roles and responsibilities, software installation, and configuration.
 - iv. The plan must also include full conveyance of knowledge of the software and its implementation and execution to the State's or successor contractor's identified trainer(s).
 - v. The plan must acknowledge that all software assets developed and paid for under this contract are to be turned over to the State or successor contractor at the end of the contract in their entirety, regardless of what tools were used to create and manage them. Upon turnover of the awarded contract under this RFP to a successor contractor, the Contractor shall turn over all Profile operating documents, including, but not limited to, audits, physician data, and systems documentation. The State will own all program software which the Contractor shall transfer to the State or, at the State's option, to the successor Contractor, at no cost.
 - vi. The plan must be delivered to the Department in its entirety four months after the 180 day takeover period ends. It must be kept current for the life of the contract.
- m. The contractor is required to provide two months of turnover training for the successor Contractor's management in the operation and maintenance of the program. The turnover assistance furnished by the Contractor must include the development of a training plan. In addition, the Contractor shall make the following available to the State or successor Contractor during the turnover phase, in addition to any other proposed resources:
 - 1) Access to facilities
 - 2) Detailed turnover plan
 - 3) Availability of computer resources during turnover for training and testing, scheduled outside normal hours
 - 4) Computer system time scheduled within the resources available under the supervision of current Contractor staff
 - 5) Three computer terminals available for testing and training during normal working hours
 - 6) Space, desks, reasonable office support (copiers, etc.) provided for turnover staff of the successor Contractor and the State
 - 7) Access to current Contractor employees for interview and recruitment purposes during normal business hours.
- n. The bidder must offer fixed prices for the tasks described in Section 3.1.6 (l) and (m). Full payments shall

be made by the State to the Contractor upon the Department's review and determination that all milestones and deliverables relating to the knowledge transfer plan/turnover task have been properly achieved or furnished. Payment will not be made for the turnover task if the current Contractor is awarded the subsequent contract.

3.1.7 ADDITIONAL REQUIREMENTS

- a. The contractor must maintain a minimum set of supported Web browsers to ensure the Physician Profile website provides the best experience for providers to upload their information. Some Web pages and Web-based applications hosted by the Department require the Web browser to support JavaScript and to accept session-based cookies. By default, the major Web browsers are configured to handle this requirement.

Supported Web Browsers

- Google Chrome (Latest)
 - Firefox (Latest)
 - OSX Safari (Latest)
 - iOS Safari (Latest)
 - Internet Explorer* (likely multiple versions)
 - Google Android* (possibly multiple versions)
 - Because some Internet Explorer and Google Android browser versions with significant market-share do not auto-upgrade, versions should be evaluated independently against the 2% rule (e.g. Internet Explorer 8, 9 etc.). All browsers that have 2% or more share of a site/app's user base should be tested and functional. Current United States market-share statistics (e.g. StatCounter <http://bit.ly/1OiZdIT>) can serve as a starting point, but analytics from the actual userbase (e.g. Google Analytics) should be used whenever available to make a support determination.
- b. The site should display properly on a variety of devices. For better support on mobile devices, a Responsive Web Design (RWD) is recommended.
 - c. The selection and purchase of hardware and software by the Contractor must be approved in advance by the Department to ensure compatibility with departmental systems and all software will be owned by the Department.
 - d. The Contractor will assume all liability for maintenance and security of Profile Surveys, all supporting databases and the public web site and ensuring compliance with the federal HIPAA ([Attachment E](#)).
 - e. The Contractor will indemnify the State from any lawsuits relating to inaccurate data which the Contractor has independently verified or any inaccurate data resulting from data entry, for which the Contractor has responsibility,
 - f. The Contractor will maintain protocols, subject to the approval of the Department, to ensure the accuracy, completeness, timeliness and security of data.
 - g. The Contractor will assume responsibility for security of all profile data. The Contractor will provide the Department with access to all documentation, source code and on-site system access as required to audit and monitor the Contractor's compliance with the NYS Security policies and standards.
 - h. All data collected by the Contractor for purposes of profiling, Profile Survey, public web site, source code, all systems developed for purposes for profiling, all systems documentation developed pursuant to the contract, orientation manuals and questions and answers relating to operating the Call Center and any logo utilized shall be the exclusive property of the Department.

- i. The Contractor will employ or contract with appropriately trained personnel in order to carry out the necessary project management, data collection, data entry, verification activities, web site development and staffing of the Call Center.
- j. The Contractor's host site shall have an Internet footprint with adequate bandwidth and latency to support the requested application. The Contractor's host site will need to support Internet connectivity from:
 - 1) New York State physicians via a variety of Internet Service Providers; and
 - 2) The Department's authenticating proxy server, commerce.health.state.ny.us. Bidders are requested to provide evidence that the proposed host site is adequately positioned.
- k. Contractor must continue to update, with log files sent over an existing T1 line, a replica of the Physician Profile database that resides behind the Department's firewall.

4.0 BIDDERS QUALIFICATIONS TO PROPOSE

4.1 Minimum Qualifications

NYSDOH will accept proposals from organizations with the following types and levels of experience as a prime contractor:

- at least five (5) years of experience operating and maintaining a public web site; and
- at least five (5) years of experience operating and maintaining tables from various databases.

Additionally, any prime contractor meeting both of the above criteria must demonstrate that they, or a named subcontractor, has the following level of experience:

- at least five (5) years operating a call center

NYS DOH will **not** accept proposals from (or containing subcontracting arrangements with) organizations:

- That are a provider of health care services or be an organization or trade association or be affiliated with or owned by an organization or trade association whose primary business includes representing licensed and registered physicians or any Article 28 licensed provider or health care facility or provider.

All potential contractors must attest to the Department that the contractor has no conflict of interest with respect to conducting the duties and responsibilities specified in this RFP. The Department reserves the right to disqualify any bidder or entity that is not able to sufficiently demonstrate that it is free of any conflict of interest.

For the purposes of this RFP, a prime contractor is defined as one who has the contract with the owner of a project or job and has full responsibility for its completion. A prime contractor undertakes to perform a complete contract and may employ (and manage) one or more subcontractors to carry out specific parts of the contract.

Failure to meet these Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.

5.0 ADMINISTRATIVE INFORMATION

The following administrative information will apply to this RFP. Failure to comply fully with this information may result in disqualification of your proposal.

5.1 Restricted Period

“Restricted period” means the period of time commencing with the earliest written notice, advertisement, or solicitation of a Request for Proposals (“RFP”), Invitation for Bids (“IFB”), or solicitation of proposals, or any other method for soliciting a response from Bidders intending to result in a procurement contract with DOH and ending with the final contract award and approval by DOH and, where applicable, final contract approval by the Office of the State Comptroller.

This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this Section may be grounds for a determination that the bidder is non-responsible and therefore ineligible for this contract award. Two violations within four years of the rules against impermissible contacts during the “restricted period” may result in the violator being debarred from participating in DOH procurements for a period of four years.

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies a designated contact on face page of this RFP to whom all communications attempting to influence this procurement must be made.

5.2 Questions

There will be an opportunity available for submission of written questions and requests for clarification with regard to this RFP. All questions and requests for clarification of this RFP should cite the particular RFP Section and paragraph number where applicable and must be submitted via email to smriti.parida@health.ny.gov. It is the bidder’s responsibility to ensure that email containing written questions and/or requests for clarification is received at the above address no later than the Deadline for Submission of Written Questions as specified in [Section 1.0](#) (Calendar of Events). Questions received after the deadline may **not** be answered.

5.3 Right to Modify RFP

DOH reserves the right to modify any part of this RFP, including but not limited to, the date and time by which proposals must be submitted and received by DOH, at any time prior to the Deadline for Submission of Proposals listed in [Section 1.0](#) (Calendar of Events). Modifications to this RFP shall be made by issuance of amendments and/or addenda.

Prior to the Deadline for Submission of Proposals, any such clarifications or modifications as deemed necessary by DOH will be posted to the DOH website.

If the bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Bidder shall immediately notify DOH of such error in writing at smriti.parida@health.ny.gov and request clarification or modification of the document.

If, prior to the Deadline for Submission of Proposals, a bidder fails to notify DOH of a known error or an error that reasonably should have been known, the bidder shall assume the risk of proposing. If awarded the contract, the bidder shall not be entitled to additional compensation by reason of the error or its correction.

5.4 Payment

The contractor shall submit invoices and/or vouchers to the State's designated payment office:

Preferred Method: Email a .pdf copy of your signed voucher to the BSC at: AccountsPayable@ogs.ny.gov with a subject field as follows:

Subject: **Unit ID 3450369 <<Contract # TBD>**

Alternate Method: Mail vouchers to BSC at the following U.S. postal address:

NYS Department of Health

**Unit ID 3450369 <<Contract #XXXXX>>
c/o NYS OGS BSC Accounts Payable
Building 5, 5th Floor
1220 Washington Ave.
Albany, NY 12226-1900**

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 epayments@osc.state.ny.us or by telephone at 518-474-6019. 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.

The Contractor shall be paid the fixed price amount, for the one time deliverables at the completion of all the tasks associated with the deliverable (Takeover Plan, Physician Self Report Application, Website Delivery, and Security Plan.)

Once these deliverables are met, the Contractor will be paid monthly for the maintenance of system, call center operations and required reporting.

The Contractor shall be paid the fixed price amount for a Knowledge Transfer plan if delivered within 120 days of the completion of contract takeover.

At the conclusion of the contract, the successor contractor will be afforded a two month transition period with the contractor. At the conclusion of this time, the contractor will be paid one time turnover task associated with this deliverable.

5.5 Minority & Woman-Owned Business Enterprise Requirements

Pursuant to New York State Executive Law Article 15-A, the New York State Department of Health ("DOH") recognizes its obligation to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of DOH contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises:

Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in state procurement contracting versus the number of minority- and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that DOH establish goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, DOH hereby establishes an overall goal of **30%** for MWBE participation, **15%** for Minority-Owned Business Enterprises ("MBE") participation and **15%** for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs and outreach efforts to certified MWBE firms). A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that DOH may withhold payment pending receipt of the required MWBE documentation. For guidance on how DOH will determine "good faith efforts," refer to 5 NYCRR §142.8.

The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com>. The directory is found in the upper right hand side of the webpage under "Search for Certified Firms" and accessed by clicking on the link entitled "MWBE Directory". Engaging with firms found in the directory with like product(s) and/or service(s) is strongly encouraged and all communication efforts and responses should be well documented.

By submitting a bid, a bidder agrees to complete an MWBE Utilization Plan ([Attachment F](#), Form #1) of this RFP. DOH will review the submitted MWBE Utilization Plan. If the plan is not accepted, DOH may issue a notice of deficiency. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt. DOH may disqualify a Bidder as being non-responsive under the following circumstances:

- a) If a Bidder fails to submit a MWBE Utilization Plan;
- b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- c) If a Bidder fails to submit a request for waiver (if applicable); or
- d) If DOH determines that the Bidder has failed to document good-faith efforts;

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to DOH, but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report to the DOH, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

If the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding will constitute a breach of Contract and DOH may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

New York State certified Minority- and Women-Owned Businesses (M/WBE) may request that their firm's contact information be included on a list of M/WBE firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on the Department's website for reference by the bidding community. A firm requesting inclusion on this list should send contact information and a copy of its NYS M/WBE certification to

[smriti.parida@health.ny.gov] before the Deadline for Questions as specified in [Section 1.0](#) (Calendar of Events). Nothing prohibits an M/WBE Vendor from proposing as a prime contractor.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

5.6 Equal Employment Opportunity (EEO) Reporting

By submission of a bid in response to this solicitation, the Bidder agrees with all of the terms and conditions of Attachment E Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. Additionally, the successful bidder will be required to certify they have an acceptable EEO (Equal Employment Opportunity) policy statement in accordance with Section III of Appendix M in Attachment E.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

To ensure compliance with this Section, the Bidder should submit with the bid or proposal an Equal Employment Opportunity Staffing Plan ([Attachment F](#), Form #4) identifying the anticipated work force to be utilized on the Contract. Additionally, the Bidder should submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement ([Attachment F](#), Form # 5), to DOH with their bid or proposal.

5.7 Sales and Compensating Use Tax Certification (Tax Law, § 5-a)

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

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

The successful Bidder must file a properly completed Form ST-220-CA with the Department of Health and Form ST-220-TD with the DTF. These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance's website, available through this link: <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

Forms are available through these links:

- ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

5.8 Workers' Compensation and Disability Benefits Certifications

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that DOH shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with DOH, successful Bidders will be required to verify for DOH, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518) 486-6307. Failure to provide verification of either of these types of insurance coverage by the time contracts are ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

The successful Bidder must submit the following documentation to the Department within 10 calendar days of notification of award.

ONE of the following forms as Workers' Compensation documentation:

A. Proof of Workers' Compensation Coverage:

1. **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carrier (or Form U-26.3 issued by the State Insurance Fund); or
2. **Form SI-12** – Certificate of Workers' Compensation Self-Insurance (or Form GSI-105.2 Certificate of Participation in Workers' Compensation Group Self-Insurance); or
3. **Form CE-200** – Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

B. Proof of Disability Benefits Coverage:

ONE of the following forms as Disability documentation:

1. **Form DB-120.1** – Certificate of Disability Benefits Insurance; or
2. **Form DB-155** – Certificate of Disability Benefits Self-Insurance; or
3. **Form CE-200** – Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

Further information is available at the Workers' Compensation Board's website, which can be accessed through this link: <http://www.wcb.ny.gov>.

5.9 Subcontracting

Bidders may propose the use of a subcontractor. The Contractor shall obtain prior written approval from NYSDOH before entering into an agreement for services to be provided by a subcontractor. The Contractor is solely responsible for assuring that the requirements of the RFP are met. All subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of the prime contract, and that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the agreement between the DOH and the Contractor. DOH reserves the right to request removal of any bidder's staff or subcontractor's staff if, in DOH's discretion, such staff is not performing in accordance with the Agreement. Subcontractors whose contracts are valued at or above \$100,000 will be required to submit the Vendor Responsibility Questionnaire upon selection of the prime contractor.

5.10 DOH's Reserved Rights

The Department of Health reserves the right to:

1. Reject any or all proposals received in response to the RFP;
2. Withdraw the RFP at any time, at the agency's sole discretion;
3. Make an award under the RFP in whole or in part;
4. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
5. Seek clarifications and revisions of proposals;
6. Use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP;
7. Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
8. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments;
9. Change any of the scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
11. Waive any requirements that are not material;
12. Negotiate with the successful bidder within the scope of the RFP in the best interests of the state;
13. Conduct contract negotiations with the next responsible bidder, should the Department be unsuccessful in negotiating with the selected bidder;
14. Utilize any and all ideas submitted in the proposals received;
15. Every offer shall be firm and not revocable for a period of three hundred and sixty-five days from the bid opening, to the extent not inconsistent with section 2-205 of the uniform commercial code. Subsequent to such three hundred and sixty- five days, any offer is subject to withdrawal communicated in a writing signed by the offerer; and,
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation.

5.11 Freedom of Information Law ("FOIL")

All proposals may be disclosed or used by DOH to the extent permitted by law. DOH may disclose a proposal to any person for the purpose of assisting in evaluating the proposal or for any other lawful purpose. All proposals will become State agency records, which will be available to the public in accordance with the Freedom of Information Law. **Any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling, as an exception to the Freedom of Information Law, must be clearly and specifically designated in the proposal as directed in [Section 6.1 \(D\)](#) of the RFP.** If DOH agrees with the proprietary claim, the designated portion of the proposal will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

5.12 Lobbying

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, made significant changes as it pertains to development of procurement contracts with governmental entities. The changes included:

- a) made the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b) required the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c) required governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;

- d) authorized the New York State Commission on Public Integrity, (now New York State Joint Commission on Public Ethics), to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e) directed the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- f) required the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment; (Bidders responding to this RFP should submit a completed and signed [Attachment G](#), "Prior Non-Responsibility Determination".)
- g) increased the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
- h) established the Advisory Council on Procurement Lobbying.

Subsequently, Chapter 14 of the Laws of 2007 amended the Lobbying Act of the Legislative Law, particularly as it related to specific aspects of procurements as follows: (i) prohibiting lobbyists from entering into retainer agreements on the outcome of government grant making or other agreement involving public funding; and (ii) reporting lobbying efforts for grants, loans and other disbursements of public funds over \$15,000.

The most notable, however, was the increased penalties provided under Section 20 of Chapter 14 of the Laws of 2007, which replaced old penalty provisions and the addition of a suspension option for lobbyists engaged in repeated violations. Further amendments to the Lobbying Act were made in Chapter 4 of the Laws of 2010.

Questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Joint Commission on Public Ethics.

5.13 State Finance Law Consultant Disclosure Provisions

In accordance with New York State Finance Law Section 163(4)(g), State agencies must require all contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract.

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

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

State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment. These procedures can be found in Chapter XI Section 18 of the Guide to Financial Operations (GFO). Available on-line at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

5.14 Debriefing

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder's proposal, and will not include any discussion of other proposals. Requests must be received no later than fifteen (15) business days from date of award or non-award announcement.

5.15 Protest Procedures

In the event unsuccessful bidders wish to protest the award resulting from this RFP, bidders should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the Guide to Financial Operations (GFO). Available on-line at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>

5.16 Iran Divestment Act

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website (currently found at this address: <http://www.ogs.ny.gov/about/reggs/docs/ListofEntities.pdf>) and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should DOH receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, DOH will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then DOH shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default. DOH reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

5.17 Piggybacking

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

5.18 Encouraging Use of New York Businesses in Contract Performance

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All bidders should complete [Attachment H](#), Encouraging Use of New York Businesses in Contract Performance, to indicate their intent to use/not use New York Businesses in the performance of this contract.

6.0 PROPOSAL CONTENT

The following includes the requested format and information to be provided by each Bidder. Bidders responding to this RFP must satisfy all requirements stated in this RFP. All Bidders are required to submit complete Administrative, Technical, and Cost proposals. A proposal that is incomplete in any material respect will be rejected.

To expedite review of the proposals, Bidders are requested to submit proposals in separate Administrative, Technical, and Cost packages inclusive of all materials as summarized in [Attachment B](#), Proposal Document Checklist. This separation of information will facilitate the review of the material requested. No information beyond that specifically requested is required, and Bidders are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. Evaluations of the Administrative, Technical, and Cost Proposals received in response to this RFP will be conducted separately. Bidders are therefore cautioned not to include any Cost Proposal information in the Technical Proposal documents.

DOH will not be responsible for expenses incurred in preparing and submitting the Administrative, Technical, or Cost Proposals. Such costs should not be included in the Proposal.

6.1 Administrative Proposal

The Administrative Proposal should contain all submission items listed below. A proposal that is incomplete in any material respect may be eliminated from consideration. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP will be subject to verification for accuracy. Please provide the forms in the same order in which they are requested.

A. M/WBE FORMS

Submit completed Form #1 and/or Form #2, Form #4 and Form #5 as directed in [Attachment F](#), "Guide to New York State DOH M/WBE RFP Required Forms."

B. BIDDER'S DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Submit a completed and signed [Attachment G](#), "Prior Non-Responsibility Determination".

C. VENDOR RESPONSIBILITY QUESTIONNAIRE

Complete, certify, and file a **New York State Vendor Responsibility Questionnaire**. DOH recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions at www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the OSC Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website, www.osc.state.ny.us/vendrep, or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form.

Bidder's should complete and submit the Vendor Responsibility Attestation [Attachment J](#).

D. FREEDOM OF INFORMATION LAW – PROPOSAL REDACTIONS

Bidders must clearly and specifically identify any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law. See [Section 4.10](#), (Freedom of Information Law).

E. BIDDER'S CERTIFIED STATEMENTS

Submit [Attachment A](#), **Bidder's Certified Statements**, which includes information regarding the Bidder. Attachment A must be signed by an individual authorized to bind the Bidder contractually. Please indicate the title or position that the signer holds with the Bidder. DOH reserves the right to reject a proposal that contains an incomplete or unsigned Attachment A or no Attachment A

F. REFERENCES

Provide references using [Attachment D](#) (References) for three former clients. Provide firm names, addresses, contact names, telephone numbers, and email addresses.

G. ENCOURAGING USE OF NEW YORK BUSINESSES IN CONTRACT PERFORMANCE

Submit Attachment H, Encouraging Use of New York State Businesses in Contract Performance to indicate which New York Businesses you will use in the performance of the contract.

6.2 Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the Bidder to perform the services contained in this RFP. The Technical Proposal should demonstrate the qualifications of the Bidder and of the staff to be assigned to provide services related to the services included in this RFP.

A Technical Proposal that is incomplete in any material respect may be eliminated from consideration. The following outlines the information to be provided, in the following order, by Bidders. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP will be subject to verification for accuracy.

While additional data may be presented, the following should be included. Please provide the information in the same order in which it is requested. Your proposal should contain sufficient information to assure DOH of its accuracy. Failure to follow these instructions may result in disqualification.

Pricing information contained in the Cost Proposal must not be included in the Technical Proposal documents.

A. TITLE PAGE

Submit a Title Page providing the RFP subject and number; the Bidder's name and address, the name, address, telephone number, and email address of the Bidder's contact person; and the date of the Proposal.

B. TABLE OF CONTENTS

The Table of Contents should clearly identify all material (by section and page number) included in the proposal.

C. DOCUMENTATION OF BIDDER'S ELIGIBILITY RESPONSIVE TO SECTION 4.0 OF RFP

Bidders must submit documentation a written narrative that provides sufficient evidence of the Bidder's ability to meet Section 4.0 of the RFP. This narrative may reference specific portions of the technical proposal where details relating to experience is requested and/or a list of prior clients and a summary of the projects performed for the client.

D. EXECUTIVE SUMMARY

The Executive Summary should include a clear, concise summary of the proposed approach to the scope of work specifications as well as the bidder's past experience conducting relevant projects. Additionally, a summary of the bidder's understanding of the various components of work and required processes should be included. Identify the location(s) of the Project Team.

E. TECHNICAL PROPOSAL NARRATIVE

The technical proposal should provide satisfactory evidence of the Bidder's ability to meet each requirement in Section 3.0 of the Scope of Work. Bidder should respond to each element below and label each section by its corresponding number.

1. Describe your experience in developing web based applications to collect and publish data. Include your approach to front-end displays that provide easy to understand information to the public and website development techniques that will allow for expansion as the website needs change or grow.
2. Complete **Attachment P, Proposed Technology Solution**, to provide adequate detail for a proposed technical solution meeting the specifications detailed in Section 3.1.1(a) and (b) of the RFP.
3. Complete **Attachment R, Bidders Security Proposal** to describe how their proposed solution will comply with any applicable policies, standards, laws and rules, including but not limited to all policies and standards defined in the New York State ITS security policies and standards (<http://its.ny.gov/eiso/policies/security>), and issues highlighted in the attachment.
4. Describe your plan for maximizing the user's experience with the interface of both the public web site and the physician self-reporting application in order to prevent frustration and facilitate the completion of the user's task. (3.1.1(h))
5. Describe your experience entering into licensing agreements for data and managing data from multiple sources. Include your experience managing complex back end database development.
6. Explain your process for managing weekly and/or monthly data file updates from the SED, AMA and AOA (3.1.2(a)).
7. Describe how the data will be used to produce the required communications described in 3.1.2 (c), (h), (i), and (k). Further, please detail how you will implement tracking mechanisms and follow through with the required subsequent mailings as outlined in these sections of the Scope of Work.
8. Detail a plan to responsibly and accurately data-enter the profiling data received in hard copy both timely and accurately, and all verification methods you propose to use in order to meet this goal. Explain the steps you will utilize to furnish each physician who submits a hardcopy of their initial profile with a review copy of the entered data. Further, provide detail as to how you will handle corrections and the steps for the final copy of their information. (3.1.2(e)).
9. Provide a plan to furnish physicians with their medical malpractice data to be published on the public profile, prior to its publication. Please include steps to triage and serve letters to physicians for clarification, as needed. Finally, describe your plan to maintain and produce a monthly report to the Department regarding the aforementioned medical malpractice communications, requests, and underlying statistics. (3.1.2(h))
10. Physicians with two or fewer settlement within a 10 year period are allowed to appeal settlement posting to their profile. Please describe how you will serve these physicians notice, track and process the appeals. (3.1.2(h(ii)))
11. Explain the process you will put into place to handle changes to the physician profile such as lapse in registration, removal, suspension or surrender (notation) (3.1.2(j&k)).

12. Explain your plan to provide and maintain the secure electronic storage space needed to house 10 years of data(3.1.2(m))
13. Describe how you will sufficiently staff and operate a call center that includes a Physicians' Help Desk to answer questions from physicians and a separate Consumer Help-line to answer individual profile questions. Include your experience or a subcontractor's experience in operating a call center. Please include details that will address the current call volume of 1,500 – 2000 combined calls a month. (3.1.3)
14. Provide staffing guidelines you would utilize to obtain adequate coverage to ensure quick and efficient customer service at the call center. Additionally, the capability to record messages for off-hour calls need to be maintained. Provide details as to how you would achieve this. (3.1.3)
15. Detail your plan to incorporate call center staff training. This should include a plan to provide staff training for Profile, HCS, CAMU, and technical based questions. Additionally, detail your plan to produce and maintain an Operations manual as well as all system documentation. (3.1.3(c))
16. Upon commencement of the takeover, it is important that sufficiently staffed and trained personnel are available. Please detail how you will ensure that the takeover will be adequately staffed and those involved adequately trained for the transition. Further, describe how you will incorporate progress report generation into this part of the plan. (3.1.6 (k))
17. Describe how you will facilitate a successful takeover. As the new and current contractor, you will be responsible for providing an orderly and controlled transition training for any subsequent successor contractor. This will include planning, hands on training, providing materials, manuals, and availability of resources all detailed in the Scope of Work, Section 3.1. Please describe how you would produce and implement this plan to ensure a smooth transition in the future. (3.1.6(k-m)).

6.3 Cost Proposal

Submit a completed and signed [Attachment C – Cost Proposal](#). The Cost Proposal should comply with the format and content requirements as detailed in this document and in Attachment C. Failure to comply with the format and content requirements may result in disqualification.

The bid price is to cover the cost of furnishing all of the said services, including but not limited to materials, equipment, profit and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.

7.0 PROPOSAL SUBMISSION

A proposal consists of three distinct parts: (1) the Administrative Proposal, (2) the Technical Proposal, and (3) the Cost Proposal. The table below outlines the required format and volume for submission of each part. Proposals should be submitted in all formats as prescribed below.

	Electronic Submission	Paper Submission
Administrative Proposal	2 dedicated flash drives or CDs labeled “Administrative Proposal” containing a standard searchable PDF file with copy/read permissions only.	4 Originals 6 Copies
Technical Proposal	2 dedicated flash drives or CDs labeled “Technical Proposal” containing a standard searchable PDF file with copy/read permissions only.	4 Originals 6 Copies

Cost Proposal	2 dedicated flash drives or CDs labeled “Cost Proposal” containing standard searchable PDF file(s) with copy/read permissions only.	4 Originals 6 Copies
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1. All hard copy proposal materials should be printed on 8.5” x 11” white paper (two-sided) and **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 separate from the sealed Cost Proposal. The sealed Cost Proposal should also be presented in separate three-ring binder(s);
2. Where signatures are required, the proposals designated as originals should have a handwritten signature and be signed in blue ink.
3. The NYSDOH discourages overly lengthy proposals. Therefore, marketing brochures, user manuals or other materials, beyond that sufficient to present a complete and effective proposal, are not desired. Elaborate artwork or expensive paper is not necessary or desired. In order for the NYSDOH to evaluate proposals fairly and completely, proposals should follow the format described in this RFP to provide all requested information. The Bidder should not repeat information in more than one section of the proposal. If information in one section of the proposal is relevant to a discussion in another section, the Bidder should make specific reference to the other section rather than repeating the information;
4. Audio and/or videotapes are not allowed. Any submitted audio or videotapes will be ignored by the evaluation team; and
5. In the event that a discrepancy is found between the electronic and hardcopy proposal, the original hardcopy will prevail.

The complete proposal must be received by the NYSDOH, no later than the Deadline for Submission of Proposals specified in [Section 1.0](#), (Calendar of Events). Late bids will not be considered.

Proposals should be submitted in three (3) separate, clearly labeled packages: (1) Administrative Proposal, (2) Technical Proposal and (3) Cost Proposal, prepared in accordance with the requirements stated in this RFP. Mark the outside envelope of each proposal as “RFP# 16342 New York State Physician Profile – (Administrative) (Technical) or (Cost) Proposal submitted by (Bidder’s name)”. The three sealed proposals may be combined into one mailing, if desired.

Proposals must be submitted, by U.S. Mail, by courier/delivery service (e.g., FedEx, UPS, etc.) or by hand as noted below, in a sealed package to:

Department of Health (RFP # 16342- New York State Physician Profile)
Attention: Smriti Parida, Office of Professional Medical Conduct
Riverview Center Suite 354
150 Broadway
Albany, NY 12204

NOTE: You should request a receipt containing the time and date received and the signature of the receiver for all hand-deliveries and ask that this information also be written on the package(s).

Submission of proposals in a manner other than as described in these instructions (e.g., fax, electronic transmission) will not be accepted.

7.1 No Bid Form

Bidders choosing not to bid are requested to complete the No-Bid form [Attachment I](#).

8.0 METHOD OF AWARD

8.1 General Information
DOH will evaluate each proposal based on the “Best Value” concept. This means that the proposal that best “optimizes quality, cost, and efficiency among responsive and responsible offerers” shall be selected for award (State Finance Law, Article 11, §163(1)(j)).

DOH at its sole discretion, will determine which proposal(s) best satisfies its requirements. DOH reserves all rights with respect to the award. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and cost. Proposals failing to meet the requirements of this document may be eliminated from consideration. The evaluation process will include separate technical and cost evaluations, and the result of each evaluation shall remain confidential until both evaluations have been completed and a selection of the winning proposal is made.

The evaluation process will be conducted in a comprehensive and impartial manner, as set forth herein, by an Evaluation Committee. The Technical Proposal and compliance with other RFP requirements (other than the Cost Proposal) will be weighted **60%** of a proposal's total score and the information contained in the Cost Proposal will be weighted **40%** of a proposal's total score.

Bidders may be requested by DOH to clarify the contents of their proposals. Other than to provide such information as may be requested by DOH, no Bidder will be allowed to alter its proposal or add information after the Deadline for Submission of Proposals listed in [Section 1.0](#) (Calendar of Events).

In the event of a tie, the determining factors for award, in descending order, will be: (1) lowest cost and (2) highest proposed percentage of MWBE participation.

8.2 Submission Review

DOH will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in [Section 6.0](#) (Proposal Content) and [Section 7.0](#) (Proposal Submission), and include the proper documentation, including all documentation required for the Administrative Proposal, as stated in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of DOH, may be rejected.

8.3 Technical Evaluation (60%)

The evaluation process will be conducted in a comprehensive and impartial manner. A Technical Evaluation Committee comprised of program staff of DOH will review and evaluate all proposals.

The Technical Evaluation Committee members will independently score each Technical Proposal that meets the submission requirements of this RFP. The individual Committee Member scores will be averaged to calculate the Technical Score for each responsive Bidder.

The technical evaluation is **60%** of the final score.

8.4 Cost Evaluation (40%)

The Cost Evaluation Committee will examine the Cost Proposal documents. The Cost Proposals will be opened and reviewed for responsiveness to cost requirements. If a cost proposal is found to be non-responsive, that proposal may not receive a cost score and may be eliminated from consideration.

Each proposal that meets the submission requirements, and meets the cost proposal requirements will receive a cost score. The Cost Proposals will be scored based on a maximum cost score of 40 points. The maximum cost score will be allocated to the proposal with the lowest all-inclusive not-to-exceed maximum price. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the proposals offered at the lowest final cost, using this formula:

$$C = (A/B) * 40\%$$

A is Total price of lowest cost proposal;

B is Total price of cost proposal being scored; and

C is the Cost score.

The cost evaluation is **40%** of the final score.

8.5 Composite Score

A composite score will be calculated by the DOH by adding the Technical Proposal points and the Cost points awarded. Finalists will be determined based on composite scores.

8.6 Reference Checks

The Bidder should submit references for previous clients for whom they have maintained a public web site or developed a web based application. Bidders should use [Attachment D](#) (References). At the discretion of the Evaluation Committee, references may be checked at any point during the process to verify bidder qualifications to propose (Section 4.0).

8.7 Best and Final Offers

NYSDOH reserves the right to request best and final offers. In the event NYSDOH exercises this right, all bidders that submitted a proposal that are susceptible to award will be asked to provide a best and final offer. Bidders will be informed that should they choose not to submit a best and final offer, the offer submitted with their proposal will be construed as their best and final offer.

8.8 Award Recommendation

The Evaluation Committee will submit a recommendation for award to the bidder with the highest composite score(s) whose experience and qualifications have been verified.

The Department will notify the awarded Bidder and Bidder(s) not awarded. The awarded Bidder will enter into a written Agreement substantially in accordance with the terms of **Attachment E**, DOH Agreement, to provide the required services as specified in this RFP. The resultant contract shall not be binding until fully executed and approved by the New York State Office of the Attorney General and the Office of the State Comptroller.

ATTACHMENTS

- A Bidder's Certified Statements
- B Proposal Document Checklist
- C Cost Proposal
- D References
- E DOH Agreement
- F Guide to New York State DOH M/WBE Required Forms & Forms
- G Bidder's Disclosure of Prior Non-Responsibility Determination
- H Encouraging Use of New York Businesses in Contract Performance
- I No-Bid Form
- J Vendor Responsibility Attestation
- K Report Requirements
- L Public Health Law and Regulations on Physician Profile
- M Profile Data Sources
- N Physician Survey
- O
- P Bidder's Proposed Technology Solution
- Q New York State DOH Security Requirements for Physician Profile
- R Security Proposal
- S New York State Physician Profile Operation Manual
- T New York State Physician Profile Website Screen Capture Inventory
- U AMA Data Load.xls
- V AOA_File Layout.xls

ATTACHMENT A

BIDDER'S CERTIFIED STATEMENTS

To be completed and included in the Administrative Proposal documents)

RFP #16342- New York State Physician Profile
1. Information with regard to the Bidder
A. Provide the Bidder's name, address, telephone number, and fax number.
Name: <input type="text"/>
Address: <input type="text"/>
City, State, ZIP Code: <input type="text"/>
Telephone Number (including area code): <input type="text"/>
Fax Number (including area code): <input type="text"/>
B. Provide the name, address, telephone number, and email address of the Bidder's Primary Contact with DOH with regard to this proposal.
Name: <input type="text"/>
Address: <input type="text"/>
City, State, ZIP Code: <input type="text"/>
Telephone Number (including area code): <input type="text"/>
Email Address: <input type="text"/>
2. By submitting the bid the Bidder acknowledges and agrees to all of the following: [Please note: alteration of any language contained in this section may render your proposal non-responsive.]
Bidder certifies that either there is no conflict of interest or that there are business relationships and /or ownership interests for the organization for the above named organization that may represent a conflict of interest for the organization as a bidder and attached to this form is a description of how the potential conflict of interest and/or disclosure of confidential information relating to this contract will be avoided.
The Bidder certifies that it can and will provide and make available, at a minimum, all services as described in the RFP if selected for award.
Bidder acknowledges that, should any alternative proposals or extraneous terms be submitted with the proposal, such alternate proposals or extraneous terms will not be evaluated by the DOH.
Bidder accepts, without any added conditions, qualifications or exceptions, the contract terms and conditions contained in this RFP including any exhibits and attachments.
The bidder is either registered to do business in NYS, or if formed or incorporated in another jurisdiction than NYS, can provide a Certificate of Good Standing from the applicable jurisdiction or provide an explanation, subject to the sole satisfaction of the Department, if a Certificate of Good Standing is not available, and if selected, the vendor will register to do business in NYS.

A. The Bidder is (check as applicable):

- A New York State Certified Minority-Owned Business Enterprise
- A New York State Certified Woman-Owned Business Enterprise
- A New York State Certified Minority and Woman-Owned Business Enterprise (Dual Certified)
- None of the above

B. Provide the name, title, address, telephone number, and email address of the person authorized to receive Notices with regard to the contract entered into as a result of this procurement. See Section __ of the DOH Agreement (Attachment E), NOTICES.

Name: Click here to enter text.

Title: Click here to enter text.

Address: Click here to enter text.

City, State, ZIP Code: Click here to enter text.

Telephone Number (including area code): Click here to enter text.

Email Address: Click here to enter text.

C. Bidder's Taxpayer Identification Number:

Click here to enter text.

D. Bidder's NYS Vendor Identification Number as discussed in Section 6.1.F, if enrolled:

Click here to enter text.

By my signature on this Attachment A, I certify to the statements made above in Section 2 and that I am authorized to bind the Bidder contractually. Furthermore, I certify that all information provided in connection with its proposal is true and accurate.

Typed or Printed Name of Authorized Representative of the Bidder

Title/Position of Authorized Representative of the Bidder

Signature of Authorized Representative of the Bidder

Date

ATTACHMENT B

PROPOSAL DOCUMENT CHECKLIST

Please reference Section 7.0 for the appropriate format and quantities for each proposal submission.

RFP# 16342 New York State Physician Profile		
FOR THE ADMINISTRATIVE PROPOSAL		
RFP §	SUBMISSION REQUIREMENT	INCLUDED
§ 6.1.A	M/WBE Participation Requirements:	<input type="checkbox"/>
	Attachment F Form 1	<input type="checkbox"/>
	Attachment F Form 2 (If Applicable)	<input type="checkbox"/>
	Attachment F Form 4	
	Attachment F Form 5	
§ 6.1.B	Attachment G – Disclosure of Prior Non-Responsibility Determinations, completed and signed.	<input type="checkbox"/>
§ 6.1.C	Attachment J- Vendor Responsibility Attestation	<input type="checkbox"/>
§ 6.1.D	Freedom of Information Law – Proposal Redactions (If Applicable)	<input type="checkbox"/>
§ 6.1.E	Attachment A - Bidder's Certified Statements, completed & signed.	<input type="checkbox"/>
§ 6.1.F	Attachment D- References	<input type="checkbox"/>
§ 6.1.G	Attachment H- Encouraging Use of New York Businesses in Contract Performance	<input type="checkbox"/>
FOR THE TECHNICAL PROPOSAL		
RFP §	SUBMISSION REQUIREMENT	INCLUDED
§ 6.2.A	Title Page	<input type="checkbox"/>
§ 6.2.B	Table of Contents	<input type="checkbox"/>
§ 6.2.C	Documentation of Bidder's Eligibility	<input type="checkbox"/>
§ 6.2.D	Executive Summary	<input type="checkbox"/>
§ 6.2.E	Technical Proposal Narrative	<input type="checkbox"/>
FOR THE COST PROPOSAL		
RFP §	REQUIREMENT	INCLUDED
§ 6.3	Attachment C- Cost Proposal	<input type="checkbox"/>

ATTACHMENT C

COST PROPOSAL

Bid Form Provided in three page Excel Workbook.

See Attachment C: Physician Profile Bid Form.xlsx

ATTACHMENT D

REFERENCES

Submit a total of THREE references ([See Section 6.1.F](#)) using this form. Expand fields and duplicate this page as necessary.

RFP # 16342 New York State Physician Profile	
BIDDER:	
Provide the following information for each reference submitted. Fields will expand as you type.	
Reference Company #1:	Click here to enter text.
Contact Person:	Click here to enter text.
Address:	Click here to enter text.
City, State, Zip:	Click here to enter text.
Telephone Number:	Click here to enter text.
Email Address:	Click here to enter text.
Number of years Bidder provided services to this entity:	Click here to enter text.
Brief description of the services provided:	Click here to enter text.
Reference Company #2:	Click here to enter text.
Contact Person:	Click here to enter text.
Address:	Click here to enter text.
City, State, Zip:	Click here to enter text.
Telephone Number:	Click here to enter text.
Email Address:	Click here to enter text.
Number of years Bidder provided services to this entity:	Click here to enter text.
Brief description of the services provided:	Click here to enter text.
Reference Company #3:	Click here to enter text.
Contact Person:	Click here to enter text.
Address:	Click here to enter text.
City, State, Zip:	Click here to enter text.
Telephone Number:	Click here to enter text.
Email Address:	Click here to enter text.
Number of years Bidder provided services to this entity:	Click here to enter text.
Brief description of the services provided:	Click here to enter text.

ATTACHMENT E

DOH AGREEMENT

MISCELLANEOUS / CONSULTANT SERVICES

STATE AGENCY (Name and Address):
Department of Health
Corning Tower
Albany, NY 12237

NYS COMPTROLLER'S NUMBER: C#

ORIGINATING AGENCY GLBU: DOH01
DEPARTMENT ID: 3450000

CONTRACTOR (Name and Address):

TYPE OF PROGRAM(S):

CHARITIES REGISTRATION NUMBER:

CONTRACT TERM

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

FROM:
TO:

FUNDING AMOUNT FOR CONTRACT TERM:

FEDERAL TAX IDENTIFICATION NUMBER:

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

NYS VENDOR IDENTIFICATION NUMBER:

CONTRACTOR IS () IS NOT () A NOT-FOR-PROFIT
ORGANIZATION

MUNICIPALITY NO. (if applicable)

CONTRACTOR IS () IS NOT () A NYS BUSINESS
ENTERPRISE

() IF MARKED HERE, THIS CONTRACT IS RENEWABLE FOR _ ADDITIONAL ONE-YEAR PERIOD(S) AT
THE SOLE OPTION OF THE STATE AND SUBJECT TO APPROVAL OF THE OFFICE OF THE STATE
COMPTROLLER.

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT

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

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

Contract No. : C#

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: _____

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S. U. N. Y. and C. U. N. Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163. 6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

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 (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim 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 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 payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's 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 Contractor's 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 Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

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

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.

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

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

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

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbcertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the

same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**APPENDIX X
GLBU: DOH01**

Contract Number: _____ Contractor: _____

Amendment Number X-_____ BSC Unit ID: 345<XXXX>

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), having its mailing address at _____, 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.

Additionally, Contractor certifies that it is not included on the prohibited entities list published at <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> as a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York. Under the Act, the Commissioner of the Office of General Services (OGS) has developed a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Contractor (or any assignee) also certifies that it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

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- _____

BSC Unit ID: 345<XXXX> _____

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: _____

STATE OF NEW YORK
AGREEMENT

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

WITNESSETH:

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

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

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

I. Conditions of Agreement

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

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 to one of the following addresses:

1. Preferred Method: Email a pdf copy of your signed voucher to the BSC at: accountspayable@ogs.ny.gov with a subject field as follows:

Subject: **Unit ID: 3450369 <<Contract #>>**

(Note: **do not** send a paper copy in addition to your emailed voucher.)

2. Alternate Method: Mail vouchers to BSC at the following U. S. postal address:

**NYS Department of Health
Unit ID 3450369 Contract #
c/o NYS OGS BSC Accounts Payable
Building 5, 5th Floor
1220 Washington Ave
Albany, NY 12226-1900**

- A. 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.ny.gov/epay/index.htm, by email at helpdesk@sfs.ny.gov or by telephone at 1-855-233-8363. 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.ny.gov/vendors/vendorguide/guide.htm>.

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 Contractor's receipt therefor, such written notice to specify the Contractor's failure and the termination of this Agreement. Termination shall be effective ten (10) business days from receipt of such notice, established by the receipt returned to the Department. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.
- D. This Agreement may be deemed terminated immediately at the option of the Department upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further

obligations by the Department to the Contractor.

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

IV. Proof of Coverage

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

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

- 1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- 2. C-105. 2 – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26. 3; OR
- 3. SI-12 – Certificate of Workers' Compensation Self-Insurance, OR GSI-105. 2 – Certificate of Participation in Workers' Compensation Group Self-Insurance.

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

- 1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- 2. DB-120. 1 – Certificate of Disability Benefits Insurance OR
- 3. DB-155 – Certificate of Disability Benefits Self-Insurance

V. Indemnification

- A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.
- B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claims, demand or application to or for any right based upon any different status.

APPENDIX D GENERAL SPECIFICATIONS

- A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that all specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specifications, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.
- B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, e-mail, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.
- C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department, and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable, and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety shall be liable to the State of New York for any excess cost on account thereof.
- D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.
- E. The Department of Health will make no allowance or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.
- F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.
- G. The successful bidder will be required to complete the entire work or any part thereof as the case may be, to the satisfaction of the Department of Health in strict accordance with the specifications and pursuant to a contract therefore.
- H. CONTRACTOR will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
- I. Non-Collusive Bidding By submission of this proposal, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - a. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
 - b. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
 - c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

A bid shall not be considered for award nor shall any award be made where (a), (b) and (c) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (b) and (c) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made or its designee, determines that such disclosure was not made for the purpose of restricting competition. The fact that a bidder has published price lists, rates, or tariffs covering items being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price being bid, does not constitute, without more, a disclosure within the meaning of the above quoted certification.

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

- J. A bidder may be disqualified from receiving awards if such bidder or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
- K. The Department reserves the right to make awards within ninety (90) days after the date of the bid opening, during which period bids shall not be withdrawn unless the bidder distinctly states in the bid that acceptance thereof must be made within a shorter specified time.
- L. Any contract entered into resultant from this request for proposal will be considered a "Work for Hire Contract." The Department will be the sole owner of all source code and any software which is developed for use in the application software provided to the Department as a part of this contract.
- M. Technology Purchases Notification --The following provisions apply if this Request for Proposal (RFP) seeks proposals for "Technology"
 - 1. For the purposes of this policy, "technology" applies to all services and commodities, voice/data/video and/or any related requirement, major software acquisitions, systems modifications or upgrades, etc. , that result in a technical method of achieving a practical purpose or in improvements of productivity. The purchase can be as simple as an order for new or replacement personal computers, or for a consultant to design a new system, or as complex as a major systems improvement or innovation that changes how an agency conducts its business practices.
 - 2. If this RFP results in procurement of software over \$20,000, or of other technology over \$50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.
 - 3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.

N. Date/Time Warranty

- 1. Definitions: For the purposes of this warranty, the following definitions apply:

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

2. Date/Time Warranty Statement

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) transitions, including leap year calculations. Where a CONTRACTOR proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where CONTRACTOR is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e. g. , billing, invoicing, claim processing), CONTRACTOR warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of CONTRACTOR's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. CONTRACTOR shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of this contract through: a) ninety (90) days or b) the CONTRACTOR's or Product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

- O. No Subcontracting: Subcontracting by the CONTRACTOR shall not be permitted except by prior written approval of the Department of Health. All subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.
- P. Superintendence by Contractor: The CONTRACTOR shall have a representative to provide supervision of the work which CONTRACTOR employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the CONTRACTOR.
- Q. Sufficiency of Personnel and Equipment: If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the CONTRACTOR to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.

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

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

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

T. Provisions Upon Default

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

U. Upon termination of this agreement, the following shall occur:

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

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

W. Contract Insurance Requirements

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

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- a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).
- b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.
 - i. CONTRACTOR's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
 - ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
 - iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

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

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

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

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

- c. The prospective lower tier participant shall provide immediate written notice to the person to 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
 - d. circumstances.
 - e. 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.
 - f. 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.
 - g. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
 - h. 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.
 - i. 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.
 - j. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9. 4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
 - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Y. Confidentiality Clauses

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

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

Z. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15th following the end of each state fiscal year included in this contract term. This report must be submitted to:
 - a. The NYS Department of Health, at the following address New York State Department of Health, Bureau of Contracts Room -2756, Corning Tower, Albany, NY 12237 ; and
 - b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany NY 12236 ATTN: Consultant Reporting -or via fax at (518) 474-8030 or (518) 473-8808; and
 - c. The NYS Department of Civil Service, Albany NY 12239, ATTN: Consultant Reporting.

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

BB. Provisions Related to 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). CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

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

DD. On-Going Responsibility

1. General Responsibility Language: The CONTRACTOR shall at all times during the Contract term remain responsible. The CONTRACTOR agrees, if requested by the Commissioner of Health or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
2. Suspension of Work (for Non-Responsibility) :The Commissioner of Health or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the CONTRACTOR. In the event of such suspension, the CONTRACTOR will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the CONTRACTOR must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Health or his or her designee issues a written notice authorizing a resumption of performance under the Contract.
3. Termination (for Non-Responsibility) : Upon written notice to the CONTRACTOR, and a reasonable opportunity to be heard with appropriate Department of Health officials or staff, the Contract may be terminated by Commissioner of Health or his or her designee at the CONTRACTOR's expense where the CONTRACTOR is determined by the Commissioner of Health or his or her designee to be non-responsible. In such event, the Commissioner of Health or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

EE. Provisions Related to Iran Divestment Act: As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) has developed a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list has been posted on the OGS website at <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>.

By entering into this Contract, CONTRACTOR (or any assignee) certifies that it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list. Additionally, CONTRACTOR agrees that should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. CONTRACTOR also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before the New York State Department of Health may approve a request for Assignment of Contract. During the term of the Contract, should New York State Department of Health receive information that a person is in violation of the above referenced certification, New York State Department of Health will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then New York State Department of Health shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the CONTRACTOR in default. New York State Department of Health reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

APPENDIX B: REQUEST FOR PROPOSAL

To be added upon award

APPENDIX C: PROPOSAL OF BIDDER

To be added upon award.

APPENDIX F TECHNOLOGY PROVISIONS

I. WARRANTIES

- A. **Product Performance** Contractor hereby warrants and represents that the Products acquired by the State under this Contract conform to the manufacturer's specifications, performance standards and Documentation and that the Documentation fully describes the proper procedure for using the Products.
- B. **Title and Ownership** Contractor warrants and represents that it has (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver specified license rights to any Products acquired by the State under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor shall indemnify the State and hold the State harmless from any damages and liabilities (including reasonable attorneys' fees and costs) arising from any breach of Contractor's warranties as set forth herein.
- C. **Product Warranty** Contractor further warrants and represents that Products, components or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be free from defects in material and workmanship and will conform to all requirements of the Contract for the manufacturer's standard commercial warranty period, if applicable, or for a minimum of one (1) year from the date of acceptance, whichever is longer (the "Product warranty period").

During the Product warranty period, defects in the materials or workmanship of Products, components, or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be repaired or replaced by Contractor at no cost or expense to the State. Contractor shall extend the Product warranty period for individual Products, or for the system as a whole, as applicable, by the cumulative periods of time, after notification, during which an individual Product, or the system as a whole, requires repairs or replacement resulting in down time or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Any component or part replaced by the Contractor under the Contract warranties shall be guaranteed for the greater of: (i) the Product warranty period set forth herein; or (ii) the manufacturer's standard commercial warranty period offered for the component or part, if applicable.

All costs for materials, labor, and transportation incurred to repair or replace Products, parts, components, or systems as a whole during the warranty period shall be borne solely by the Contractor, and the State shall in no event be liable or responsible therefor.

Where Contractor, the independent software vendor (ISV), or other third-party manufacturer markets any Product delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the Product warranty and extended warranty periods. Where such standard commercial warranty covers all or some of the Product warranty or extended warranty periods, Contractor shall be responsible for

the coordination during the Product warranty or extended warranty periods with ISV or other third-party manufacturers for warranty repair or replacement of ISV or other third-party manufacturer's Product.

Where Contractor, ISV or other third-party manufacturer markets any Product with a standard commercial warranty that goes beyond the Product warranty or extended warranty periods, Contractor shall notify the the State and pass through the standard commercial warranty to the State at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the standard commercial warranty after expiration of the Product warranty and extended warranty periods.

Unless recycled, recyclable, or recovered materials are available in accordance with the Remanufactured, Recycled, Recyclable or Recovered Materials clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered. Contractor further warrants and represents that no component or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

Contractor shall not be responsible for any modification of the Products made by the State without Contractor's approval.

- D. **Virus Warranty** The Contractor represents and warrants that any Licensed Software acquired under the Contract by the the State does not contain any known Viruses. Contractor is not responsible for Viruses introduced at the State's Site.
 - E. **Date/Time Warranty** Contractor warrants that Product 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) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system. Where Contractor is providing ongoing services, including but not limited to: (i) consulting, integration, code or data conversion, (ii) maintenance or support services, (iii) data entry or processing, or (iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.
 - F. **Workmanship Warranty** Contractor warrants that the services acquired under this Contract will be provided in a professional and workmanlike manner in accordance with industry standards. The State must notify Contractor of any services warranty deficiencies within ninety calendar days from performance of the services that gave rise to the warranty claim.
 - G. **Survival of Warranties** All warranties contained in this Contract shall survive the termination of this Contract.
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- H. **Prompt Notice of Breach** The State shall promptly notify the Contactor and the Commissioner in writing of any claim of breach of any warranty provided herein.
- I. **Additional Warranties** Where Contractor, Product manufacturer or service provider generally offers additional or more advantageous warranties than those set forth herein, Contractor shall offer or pass through any such warranties to The State.
- J. **No Limitation of Rights** The rights and remedies of the State provided in this clause are in addition to and do not limit any rights afforded to the State by any other clause of the Contract.

II. OWNERSHIP/TITLE TO PROJECT DELIVERABLES

A. Definitions

(i) For purposes of this clause, "Products." Deliverables furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, Source Code, object code).

(ii) For purposes of this clause, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this clause, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for the State under the Contract.

- B. **Title to Project Deliverables** Contractor acknowledges that it is commissioned by the State to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Solicitation or Purchase Order, the State shall have ownership and license rights as follows:

(i) Existing Products:

1. Hardware - Title and ownership of Existing Hardware Product shall pass to the State upon acceptance.

2. Software - Title and ownership to Existing Software Products delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to the State in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant the State a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the State as part of Contractor's proposal that adaptation will violate existing

agreements or statutes and Contractor demonstrates such to the State's satisfaction) and distribute Existing Licensed Product to the State up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purposes stated in the Solicitation or the State's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the Licensee where the State is a State Agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the ISV's owner's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The State shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this clause.

(ii) Custom Products: Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to the State the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. 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 Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. The State may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of the State taking exclusive ownership and title to such Products. In such case, the State shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

- C. **Contractor's Obligation with Regard to ISV (Third Party) Product** Where Contractor furnishes Existing Licensed Product(s) as a project deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the State at Contractor's sole cost and expense.

III. PROOF OF LICENSE

The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified License Confirmation Certificates in the name of such Licensee; or (ii) a written confirmation from the proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the State.

APPENDIX H: HIPAA CONFIDENTIALITY

for CONTRACTOR that creates, receives, maintains or transmits individually identifiable health information on behalf of a New York State Department of Health HIPAA-Covered Program

- I.** Definitions. For purposes of this Appendix H of this AGREEMENT:
- A. “Business Associate” shall mean CONTRACTOR.
 - B. “Covered Program” shall mean the STATE.
 - C. Other terms used, but not otherwise defined, in this AGREEMENT shall have the same meaning as those terms in the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and implementing regulations, including those at 45 CFR Parts 160 and 164.
- II.** Obligations and Activities of Business Associate:
- A. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this AGREEMENT or as Required By Law.
 - B. Business Associate agrees to use the appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this AGREEMENT and to comply with the security standards for the protection of electronic protected health information in 45 CFR Part 164, Subpart 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.
 - C. 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.
 - D. Business Associate agrees, in accordance with 45 CFR § 164. 502(e)(1)(ii), to ensure that any Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same
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restrictions and conditions that apply to Business Associate with respect to such information.

- E. Business Associate agrees to provide access, at the request of Covered Program, and in the time and manner designated by Covered Program, to Protected Health Information in a Designated Record Set, to Covered Program in order for Covered Program to comply with 45 CFR § 164. 524.
- F. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Program directs in order for Covered Program to comply with 45 CFR § 164. 526.
- G. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164. 528; and Business Associate agrees to provide to Covered Program, in time and manner designated by Covered Program, information collected in accordance with this AGREEMENT, to permit Covered Program to comply with 45 CFR § 164. 528.
- H. Business Associate agrees, to the extent the Business Associate is to carry out Covered Program's obligation under 45 CFR Part 164, Subpart E, to comply with the requirements of 45 CFR Part 164, Subpart E that apply to Covered Program in the performance of such obligation.
- I. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Program available to Covered Program, or to the Secretary of the federal Department of Health and Human Services, in a time and manner designated by Covered Program or the Secretary, for purposes of the Secretary determining Covered Program's compliance with HIPAA, HITECH and 45 CFR Parts 160 and 164.

III. Permitted Uses and Disclosures by Business Associate

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

IV. Term and Termination

- A. This AGREEMENT shall be effective for the term as specified on the cover page of this AGREEMENT, after which time all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program; provided that, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Appendix H of this AGREEMENT.
 - B. Termination for Cause. Upon Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for Business Associate to cure the breach and end the violation or may terminate this AGREEMENT if Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or Covered Program may immediately terminate this AGREEMENT if Business Associate has breached a material term of this AGREEMENT and cure is not possible.
 - C. Effect of Termination.
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1. Except as provided in paragraph (c)(2) below, upon termination of this AGREEMENT, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Program, or created or received by Business Associate on behalf of Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
2. In the event that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of Business Associate and Covered Program that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this AGREEMENT to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

V. Violations

- A. Any violation of this AGREEMENT may cause irreparable harm to the STATE. Therefore, the STATE may seek any legal remedy, including an injunction or specific performance for such harm, without bond, security or necessity of demonstrating actual damages.
- B. Business Associate shall indemnify and hold the STATE harmless against all claims and costs resulting from acts/omissions of Business Associate in connection with Business Associate's obligations under this AGREEMENT. Business Associate shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and save harmless the STATE from suits, actions, damages and costs, of every name and description relating to breach notification required by 45 CFR Part 164 Subpart D, or State Technology Law § 208, caused by any intentional act or negligence of Business Associate, its agents, employees, partners or subcontractors, without limitation; provided, however, that Business Associate shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the STATE.

VI. Miscellaneous

- A. Regulatory References. A reference in this AGREEMENT to a section in the Code of Federal Regulations means the section as in effect or as amended, and for which compliance is required.
 - B. Amendment. Business Associate and Covered Program agree to take such action as is necessary to amend this AGREEMENT from time to time as is necessary for Covered Program to comply with the requirements of HIPAA, HITECH and 45 CFR Parts 160 and 164.
 - C. Survival. The respective rights and obligations of Business Associate under (IV)(C) of this Appendix H of this AGREEMENT shall survive the termination of this AGREEMENT.
 - D. Interpretation. Any ambiguity in this AGREEMENT shall be resolved in favor of a meaning that permits Covered Program to comply with HIPAA, HITECH and 45 CFR Parts 160 and 164.
 - E. HIV/AIDS. If HIV/AIDS information is to be disclosed under this AGREEMENT, Business Associate acknowledges that it has been informed of the confidentiality requirements of Public Health Law Article 27-F.
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APPENDIX G NOTICES

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

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

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

State of New York Department of Health

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

[Insert Contractor Name]

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

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

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

APPENDIX M

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The New York State Department of Health is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State New York State Department of Health (the “New York State Department of Health”), to fully comply and cooperate with the New York State Department of Health in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142. 8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. For purposes of this Amendment X-?, the New York State Department of Health hereby establishes an overall goal of **30%** for Minority and Women-Owned Business Enterprises (“MWBE”) participation, **15%** for Minority-Owned Business Enterprises (“MBE”) participation and **15%** for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<http://www.esd.ny.gov/mwbe.html>

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142. 8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and

intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the New York State Department of Health for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
 - 1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - 2. The Contractor shall submit an EEO policy statement to the New York State Department of Health within seventy two (72) hours after the date of the notice by New York State Department of Health to award the Contract to the Contractor.
 - 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the New York State Department of Health may provide the Contractor or Subcontractor a model statement (see Form #5 - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
 - 4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
 - c. 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.
 - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Form #4 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Form #6 - Workforce Employment Utilization Report (“Workforce Report”)

1. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the New York State Department of Health of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

E. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form #1) either prior to, or at the time of, the execution of the contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Department of Health shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waivers

- A. For Waiver Requests Contractor should use Form #2 – Waiver Request.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the New York State Department of Health shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the New York State Department of Health, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the New York State Department of Health may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form #3) to the New York State Department of Health by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

VII. Liquidated Damages - MWBE Participation

- A. Where New York State Department of Health determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the New York State Department of Health liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Department of Health, Contractor shall pay such liquidated damages to the New York State Department of Health within sixty (60) days after they are assessed by the New York State Department of Health unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Department of Health.

ATTACHMENT F

NEW YORK STATE DOH MWBE RFP REQUIRED FORMS

All DOH procurements have a section entitled “**MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE REQUIREMENTS.**” This section of procurement sets forth the established DOH goal for that particular procurement and also describes the forms that should be completed with their bid. Below is a summary of the forms used in the DOH MWBE Participation Program by a bidder.

Form #1: Bidder MWBE Utilization Plan - This document should be completed by all bidders responding to RFPs with an MWBE goal greater than zero. The bidder must demonstrate how it plans to meet the stated MWBE goal. In completing this form, the bidder should describe the steps taken to establish communication with MWBE firms and identify current or future relationships with certified MWBE firms. The second page of the form should list the MWBE certified firms that the vendor plans to engage with on the project and the amount that each certified firm is projected to be paid. Plans to work with uncertified firms or women and minority staffed firms do not meet the criteria for participation. The firm must be owned and operated by a Woman and/or Minority and must be certified by NYS Empire State Development to be eligible for participation. If the plan is not submitted or is deemed deficient, the bidder may be sent a notice of deficiency. It is mandatory that all awards with goals have a utilization plan on file.

Form #2: MWBE Utilization Waiver Request - This document should be filled out by the bidder if the utilization plan (Form #1) indicates less than the stated participation goal for the procurement. In this instance, Form #2 must accompany Form #1 with the bid. If Form #2 is provided and goal was initially set higher, revised goal approval will be necessary from DOB. When completing Form #2, it is important that the bidder thoroughly document the steps that were taken to meet the goal and provide evidence in the form of attachments to the document. The list of bidder generated attachments, documenting the bidder’s good-faith efforts, can be found in the “Detailed Instructions for Completing MWBE Forms 1 & 2”, which is found herein. A bidder can also attach additional evidence outside of those referenced attachments. Without evidence of good-faith efforts, in the form of attachments or other documentation, the Department of Health may not approve the waiver and the bidder may be deemed non-responsive.

New MWBE firms are being certified daily and new MWBE firms may now be available to provide products or services that were historically unavailable. If Form #2 is found by DOH to be deficient, the bidder may be sent a deficiency letter which will require a revised form to be returned within 7 business days of receipt to avoid a finding of non-compliance. DOH may work directly with firm to resolve minor deficiencies via e-mail.

Form #3: Replaced by Online Compliance System - <https://ny.newnycontracts.com> Contractors will need to login and submit payments to MWBE Firms in this online system once payments to these vendors commence.

Form #4 – MWBE Staffing Plan- This form should be completed based on the composition of staff working on the project. Enter the numbers or counts in the corresponding boxes and add up the totals in each column. This form is for diversity research purposes only and has no bearing on MWBE goal achievement.

Form #5 – EEO and MWBE Policy Statement -This is a standard EEO policy that needs to be signed and dated and submitted. If Bidder has their own EEO policy it may be submitted instead of endorsing this document.

**- M/WBE Form #1 -
New York State Department of Health
M/WBE UTILIZATION PLAN**

Bidder/Contractor Name: Click here to enter text.	
Vendor ID: Click here to enter text.	Telephone No. Click here to enter text. Email: Click here to enter text.
RFP/Contract Title: Click here to enter text.	RFP/Contract No. Click here to enter text.

Description of Plan to Meet M/WBE Goals

Click here to enter text.

PROJECTED M/WBE USAGE

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

“Making false representation or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Firms that do not perform commercially useful functions may not be counted toward MWBE utilization.”

- M/WBE Form #1 – cont.

**New York State Department of Health
M/WBE UTILIZATION PLAN**

MINORITY OWNED BUSINESS ENTERPRISE (MBE) INFORMATION

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

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

- M/WBE Form #1 – cont.

**New York State Department of Health
M/WBE UTILIZATION PLAN**

WOMEN OWNED BUSINESS ENTERPRISE (WBE) INFORMATION

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

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

**- M/WBE Form #4 –
New York State Department of Health
M/WBE STAFFING PLAN**

For project staff, consultants and/or subcontractors working on this grant complete the following plan. This has no impact on MWBE utilization goals, or the submitted Utilization Plan - Form#1. This is for diversity research purposes.

Contractor Name _____

Address _____

STAFF	Total	Male	Female	Black	Hispanic	Asian/ Pacific Islander	Other
Executive/Senior level Officials							
Managers/Supervisors							
Professionals							
Technicians							
Administrative Support							
Craft/Maintenance Workers							
Laborers and Helpers							
Service Workers							
Totals							

(Name and Title)

(Signature)

Date

**- M/WBE Form #5 –
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

M/WBE This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations. Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.

Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.

Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.

Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO (a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and 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.

(b) This organization shall state in all solicitation 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.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized 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 this organization's obligations herein.

(d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Name & Title

Signature & Date

Detailed Instructions for Completing MWBE Forms 1 & 2

Form#1 – MWBE Utilization Plan

Page #1 of Form #1:

Description of Plan - Describe any steps/details that support Bidder/Contractor plan to meet the MWBE goals stated in the procurement/contract.

Line#1 - Total Dollar Value of Proposal Bid – This line should represent the total dollar amount of bid. The total value is eligible for MWBE goal setting.

Line#2 - MBE Goal Applied to the Contract– Bidder/Contractor lists the amount to be paid/subcontracted to Certified Minority-owned Business Enterprise(s) and the percentage this amount represents of the Total Dollar Value of Proposal Bid listed on Line #1.

Example: If paying two MBE firms \$100,000 & \$50,000 each and Total Dollar Value of Proposal Bid listed on line #1 is \$1,000,000, list 15% and \$150,000 on Line #2.

Line#3 - WBE Goal Applied to the Contract– Bidder/Contractor lists the amount paid/subcontracted to Certified Woman-owned Business Enterprise(s) and the percentage this amount represents of the Total Dollar Value of Proposal Bid listed on Line 1 of the “Form #1 MWBE Utilization Plan”.

Example: If Bidder/Contractor is paying two WBE firms \$50,000 & \$100,000 each and the Total Dollar Value of Proposal Bid listed on line#1 is \$1,000,000 Bidder/Contractor would list 15% and \$150,000 on Line #2 of the Utilization Plan.

Line#4 - MWBE Combined Totals – Total of Line #2 and Line #3. [Line #2 + Line #3 = MWBE Combined Totals]

Example: Using the above Line #2 and Line #3 examples for payment data, Bidder/Contractor achieves a combined MWBE % of 30% and a combined MWBE dollar amount of \$300,000. (15%M and 15%W; \$150,000M + \$150,000W). MWBE total/Total dollar value of bid = %.

Page#2 of Form#1:

The first column (left column): Bidder/Contractor lists any Minority-owned Business Enterprises (MBE) that Bidder/Contractor will be subcontracting with or purchasing from and the MBE contact/company information.

The second column (center column): Bidder/Contractor describes what type of work certified MBE will be providing or what product certified MBE will be supplying to Bidder/Contractor.

Third column (right column): Bidder/Contractor states the amount to be paid to the certified MBE during the term of the contract. The amount totaled from Page #2 should equal the amount listed on Line #2 of Page #1.

Page#3 of Form#1:

The first column (left column): Bidder/Contractor lists any Woman-owned Business Enterprises (WBE) that Bidder/Contractor will be subcontracting with or purchasing from and WBE contact/company information.

The second column (center column): Bidder/Contractor describes what type of work certified WBE will be providing or what product certified WBE will be supplying to Bidder/Contractor.

Third column (right column): Bidder/Contractor states the amount to be paid to the certified WBE during the term of the contract. The amount totaled from Page#3 should equal the amount listed on Line#3 of Page#1.

Form#2 – MWBE Waiver Request

“Form#1 MWBE Utilization Plans” that commit to a goal % less than the stated MWBE goal percentage in procurement, must be accompanied by a “Form#2 MWBE Waiver Request”.

A Bidder/Contractor may qualify for a partial or total waiver of the MWBE goal requirements established on a State contract only upon the submission of a waiver form by a Bidder/Contractor, documenting good-faith efforts by the Contractor to meet the goal requirements of the state contract and a consideration of applicable factors. The ability to subcontract with M/WBEs and separately the ability to purchase with M/WBEs must be addressed in attachments on all waiver requests.

Fill out the header with the name of the Bidder/Contractor requesting the waiver under Offeror/Contractor Name, include your Federal Identification ID, Address, Solicitation/Contract Number, and M/WBE Goals.

Check off the appropriate box for the type of waiver that is being requested and whether it is a total or partial waiver. If the waiver is Pending ESD Certification, meaning the subcontractor has applied for certification with Empire State Development, check off that box and state the date that they applied for certification.

Next, and directly below the Pending ESD Certification area, please sign and date the waiver. Provide the name of the preparer as well as a telephone number and email address (Bidder/Contractor direct contact number of person authorized to discuss submission).

The following attachments should also be provided:

1. A statement setting forth your basis for requesting a partial or total waiver. The statement should at a minimum include the services being subcontracted out and why a portion of those services cannot be subcontracted to Certified MWBE(s). In addition, statement must also include what purchases of equipment and supplies are being made and why those purchases cannot be provided by certified MWBE(s).
2. The names of general circulation, trade association, and MWBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals related to this contract.
3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.
4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.

6. Provide copies of responses to your solicitations received by you from certified M/WBEs.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Offeror/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.

*** All attachments are created by the entity requesting the waiver. These are self-generated attachments and are not provided by the agency.**

ATTACHMENT G

BIDDER'S DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Procurement Title:[Type text]

RFP #: [Type text]

Bidder Name: [Type text]

Bidder Address: [Type text]

Bidder SFS Vendor ID #: [Type text]

Bidder Federal ID#: [Type text]

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

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

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

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 check):

No

Yes

If yes, please answer the next questions:

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

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: [Type text]

Date of Finding of Non-responsibility: [Type text]

Basis of Finding of Non-Responsibility: [Type text]

(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: [Type text]

Date of Termination or Withholding of Contract: [Type text]

Basis of Termination or Withholding: [Type text]

(Add additional pages as necessary)

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 H

ENCOURAGING USE OF NEW YORK BUSINESSES IN CONTRACT PERFORMANCE

I. Background

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing service and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law. Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

II. Required Identifying Information

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract?

YES **NO**

If yes, identify New York State businesses that will be used and attach identifying information. Information should include at a minimum: verifiable business name, New York address and business contact information.

New York Business Identifying Information Business Name	Business Address	Contact Name	Contact Phone	Contact Email Address

ATTACHMENT I

NO-BID FORM

PROCUREMENT TITLE: _____ RFP # _____

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

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

- Please retain our firm on your mailing list.

(Firm Name)

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(e-mail Address)

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

ATTACHMENT J

VENDOR RESPONSIBILITY ATTESTATION

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

Choose one:

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

Signature of Organization Official: _____

Print/type Name: _____

Title: _____

Organization: _____

Date Signed: _____

ATTACHMENT K

MONTHLY/ANNUAL REPORTING REQUIREMENTS

Reporting Area and Description	Data Required
General Compliance: physicians and overall compliance as of date of report	<ol style="list-style-type: none"> 1. Number of currently active physicians 2. Number of currently active physicians who have ever submitted a profile 3. Number of currently active physicians who have not submitted a profile to date 4. Number of new physicians in their 90 day grace period who have not submitted a profile to date
Initial Profile Survey data: physicians whose 90 day grace period ended in previous month	<ol style="list-style-type: none"> 1. The number of new physicians sent Initial Letters 2. The number of new physicians who completed their profile within 45 days <ol style="list-style-type: none"> a. Of those that completed, number that were completed via self-application website and number completed via hardcopy 3. The number of physicians sent a Reminder Letter 4. The number of physicians who completed their profile after the Reminder Letter prior to referral to OPMC <ol style="list-style-type: none"> a. Of those that completed, number that were completed via self-application website and number completed via hardcopy 5. The number physicians non-responsive 90 days after initial correspondence.
Physician Update data: physicians who re-registered their license in the previous month	<ol style="list-style-type: none"> 1. The total number of physicians who re-registered their license 2. The number of physicians who updated within the 6 months prior to re-registration 3. The number of physicians who failed to update within the 6 months prior to re-registration 4. The number of physicians who updated their profile on or after re-registration but prior to referral to OPMC 5. The number of physicians who re-registered and have never submitted their initial profile
Data files: file format and mandatory fields to be defined by the Department	<ol style="list-style-type: none"> 1. A list of all newly licensed and registered physicians (identified from SED files) 2. A list of all newly licensed physicians who were non-responsive ninety days after the date of the initial letter 3. A list of all physicians whose SED registration will expire in 6 months 4. A list of all physicians whose SED registration will expire in 3 months and have not updated their profile in the previous 3 months 5. A list of all physicians who re-registered in the current month and did not update their profile within 6 months of re-registration

Reporting Area and Description (Cont.)	Data Required
Correspondence data: the volume of mailing in the previous month by every type	<ol style="list-style-type: none"> 1. The number of Initial Letters sent 2. The number of Reminder letters sent 3. The number of hard copy surveys sent with Survey Letter 4. The number of Review Copies sent 5. The number of Medical Malpractice letters sent 6. The number of Severity letters sent 7. The number of Data Notification letters sent 8. The number of Data Verification letters sent
Data Verification data	<ol style="list-style-type: none"> 1. Number of Data Verification checks completed, by source used (i.e. NPDB, HIPDB) 2. Number of Data Verification checks resulting in identification of previously unreported information
Malpractice Reporting: Claim information received in prior month and total claim information to date	<ol style="list-style-type: none"> 1. The number of medical malpractice claims received from physicians (self-reported) 2. The number of medical malpractice claims received from OPMC 3. The number of active claims in the database 4. The number of claims meeting criteria for public disclosure 5. The number of appeals requested to date <ol style="list-style-type: none"> a. Number of appeals denied b. Number of appeals granted c. Number of appeals pending review
Call Center data: activity reported on for previous month	<ol style="list-style-type: none"> 1. Number of calls received for physician and consumer lines and number of outbound calls made 2. Percentage of calls by reason category for physician line. Categories will be agreed to by the Department and the Contractor 3. Average talk time for physician and consumer lines and outbound calls 4. Overall abandon rate for calls received
Website Report: activity reported on for previous month	<ol style="list-style-type: none"> 1. Number of unique visitors 2. Number of visits 3. Number of page views <ol style="list-style-type: none"> a. Breakdown by which pages are being visited (education, practice information, etc.) 4. Number of searches by individual physician name 5. Number of searches by Advanced Search option <ol style="list-style-type: none"> a. Breakdown of which fields are used in Advanced Search
Optional Field Completion Rates: overall activity for the profile	<ol style="list-style-type: none"> 1. Practice Info <ol style="list-style-type: none"> a. Practice Name b. Address, City, State, Zip, County, Phone c. Names of Associated Physicians 2. Publications 3. Professional and Community Services Activities and Awards 4. Health Plan Affiliations 5. Concise Physician Statement 6. HIV Services 7. Professional Memberships

ATTACHMENT L

PUBLIC HEALTH LAW AND REGULATIONS

Public Health Law

§ 2995-a. Physician profiles. 1. The department shall collect the following information and create individual profiles on licensees subject to the authority of the office of professional medical conduct, in a format that shall be available for dissemination to the public:

(a) a statement of any criminal convictions (as defined by section 1.20 of the criminal procedure law) within the most recent ten years, under the laws of New York state or any other jurisdiction, for offenses specified by regulations of the department;

(b) a statement of any action (other than an action that remains confidential) taken against the licensee pursuant to section two hundred thirty of this chapter or any similar action taken by any other state or licensing entity, within the most recent ten years;

(c) a statement of any current limitation of the licensee to a specified area, type, scope or condition of practice;

(d) a statement of any loss or involuntary restriction of hospital privileges or a failure to renew professional privileges at hospitals within the last ten years, for reasons related to the quality of patient care delivered or to be delivered by the physician where procedural due process has been afforded, exhausted, or waived, or the resignation from or removal of medical staff membership or restriction of privileges at a hospital taken in lieu of a pending disciplinary case related to the quality of patient care delivered or to be delivered by the physician (notwithstanding paragraph (a) of subdivision three of section twenty-eight hundred three-e of this chapter, as added by chapter eight hundred sixty-six of the laws of nineteen hundred eighty);

(e) (i) a statement indicating the number of medical malpractice court judgments and arbitration awards within the most recent ten years in which a payment is awarded to a complaining party (notwithstanding subsection (f) of section three hundred fifteen of the insurance law); and

(ii) a statement indicating all malpractice settlements within the most recent ten years in which payment is awarded to a complaining party (notwithstanding subsection (f) of section three hundred fifteen of the insurance law),

(A) if the total number of settlements exceeds two; or

(B) if the commissioner determines any such settlement could be relevant to patient decisionmaking concerning health care quality. The statement shall include the following: "Settlement payments will appear in this profile only if the total number of settlements made within the

past ten years exceeds two, or if the commissioner of health determines a settlement to be relevant to patient decisionmaking. Settlement of a claim may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim does not necessarily mean that a medical malpractice has occurred." The commissioner may supplement such statement as may be appropriate.

(iii) judgments, awards and settlements shall be reported in graduated categories indicating the level of significance, date and place of the judgment, award or settlement. Information concerning medical malpractice judgments, awards and settlements shall be put in context by comparing an individual licensee's medical malpractice settlements to the experience of other physicians in New York state within the same board specialty. Pending malpractice claims shall not be disclosed to the public under this section. Nothing herein shall be construed to prevent the board from investigating or disciplining a licensee on the basis of medical malpractice claims that are pending;

(f) name of medical schools attended and date of graduations;

(g) graduate medical education;

(h) current specialty board certification and date of certification;

(i) dates admitted to practice in New York state;

(j) names of hospitals where the licensee has practice privileges;

(k) appointments to medical school faculties and indication as to whether a licensee has had a responsibility for graduate medical education within the most recent ten years;

(l) information regarding publications in peer reviewed medical literature within the most recent ten years;

(m) information regarding professional or community service activities or awards;

(n) (i) the location of the licensee's primary practice setting identified as such; and

(ii) the names of any licensed physicians with whom the licensee shares a group practice, as defined in subdivision five of section two hundred thirty-eight of this chapter;

(o) the identification of any translating services that may be available at the licensee's primary practice location;

(p) whether the licensee participates in the medicaid or medicare program or any other state or federally financed health insurance program; and

(q) health care plans with which the licensee has contracts, employment, or other affiliation.

1-a. Each physician licensed and registered to practice in this state shall within thirty days of the transmittal of an initial profile survey and upon entering or updating his or her profile information:

(a) register and maintain an account with the department's health

provider network and any successor electronic system established to facilitate communications between the department and licensed health care providers; or

(b) provide an e-mail address to the department which shall be used by the department to communicate with the physician. Licensees shall provide notice to the department of changed e-mail addresses within thirty days of the change. Licensee e-mail addresses shall be confidential and shall not be published as part of the licensee's profile. The e-mail addresses may be used for department purposes only.

2. Nothing in this section shall limit the department's authority to collect, require reporting of, publish or otherwise disseminate information about licensees.

3. Each physician who is self-insured for professional medical malpractice shall periodically report to the department on forms and in the time and manner required by the commissioner the information specified in paragraph (e) of subdivision one of this section, except that the physician shall report the dollar amount (to the extent of the physician's information and belief) for each judgment, award and settlement and not a level of significance or context.

4. Each physician shall periodically report to the department on forms and in the time and manner required by the commissioner any other information as is required by the department for the development of profiles under this section which is not otherwise reasonably obtainable. In addition to such periodic reports and providing the same information, each physician shall update his or her profile information within the six months prior to the expiration date of such physician's registration period, as a condition of registration renewal under article one hundred thirty-one of the education law. Except for optional information provided, physicians shall notify the department of any change in the profile information within thirty days of such change.

5. The department shall provide each licensee with a copy of his or her profile prior to dissemination to the public. In the manner and time required by the commissioner, a licensee shall be provided the opportunity to correct factual inaccuracies that appear in the profile. The physician shall be permitted to file a concise statement concerning information contained in the profile, which shall be disseminated therewith.

6. A physician may elect to have his or her profile omit certain information provided pursuant to paragraphs (l), (m), (n) and (q) of subdivision one of this section. In collecting information for such profiles and disseminating the same, the department shall inform physicians that they may choose not to provide such information required pursuant to paragraphs (l), (m), (n) and (q) of subdivision one of this section.

7. A physician who knowingly provides materially inaccurate information under this section shall be guilty of professional

misconduct pursuant to section sixty-five hundred thirty of the education law.

8. The department shall establish a toll-free telephone number through which it shall answer inquiries about and accept orders for hard copy physician profiles established pursuant to this section and accept consumer complaints about suspected professional misconduct. The department may charge a nominal fee for producing and mailing a hard copy physician profile.

9. The department shall, in addition to hard copy physician profiles, provide for electronic access to and copying of physician profiles developed pursuant to this section through the system commonly known as the Internet. The department shall update a physician's online profile within thirty days of receipt of a completed physician profile survey or any change in profile information.

10. The commissioner shall require that:

(a) Practitioner organizations that are representative of the target group for profiling, and health care consumer organizations, be provided the opportunity to review and comment on the profiling methodology, including collection methods, analysis, formatting, and methods and means for release and dissemination.

(b) Comparisons of practitioner profiles shall be organized according to practitioner areas of practice.

11. The commissioner shall evaluate the utility and practicability of including in the profile a comparison of malpractice data by geographic area. However, the implementation of the profile shall not be delayed pending such evaluation.

12. The commissioner shall develop and distribute a notice suitable for posting that informs consumers of the availability of physician profiles and the telephone numbers and Internet addresses for accessing them.

13. Further study of physician profiles. After the initial dissemination of the data identified in subdivision one of this section, the department shall conduct a further study of physician profiles as follows:

(a) Data sources. The department shall identify the types of physician data to which the public has access, including all information available from federal, state or local agencies which is useful for making determinations concerning health care quality determinations. The department shall study all physician data reporting requirements and develop recommendations to consolidate data collection and eliminate duplicate and unnecessary reporting requirements, or to supplement existing reporting requirements in order to satisfy the requirements of this section. The department shall study the feasibility of incorporating health plan reporting requirements, without imposing any extra burden on the physician, regarding network participation into this section to ensure this information is available, accurate, up-to-date

and accessible to consumers.

(b) Supplemental information adjustment and security safeguards. The department shall develop a methodology for application to collected physician data that accounts for factors such as frequency, severity and geographic area which shall be used to provide context to reported data. Any such methodology shall not diminish the information reported pursuant to subdivision one of this section. In developing such methodology, the department may consult with physicians, including representatives of appropriate specialty societies. The department may also consult with organizations representing consumers, other health care providers, and health care plans. Any such methodology shall include adequate and appropriate safeguards to ensure the security, accuracy and integrity of health information created, received, maintained, used or transmitted in connection with the statewide health information system. Such safeguards shall be sufficient to meet any minimum standards set by state and federal laws and regulations.

(c) Public review. The department shall provide organizations which are representative of consumers, physicians, including representatives of appropriate specialty societies, other health care providers and health care plans the opportunity to review and comment on its determinations and recommendations. The department shall consider such comments, and may amend its determinations and recommendations to reflect them.

(d) Report. The department shall provide a report of its determinations and recommendations under this subdivision to the governor and legislature, and make such report publicly available, on or before January first, two thousand sixteen. The department shall report annually thereafter to the legislature on the status of the physician profiles and any recommendations for additions, consolidations or other changes deemed appropriate.

14. The physician data so disseminated shall be updated at regular intervals to be determined by the department.

15. (a) All physician data disseminated shall include the following statements: "THE DATA COLLECTED BY THE DEPARTMENT IS ACCURATE TO THE BEST OF THE KNOWLEDGE OF THE DEPARTMENT, BASED ON THE INFORMATION SUPPLIED BY THE PHYSICIAN WHO IS THE SUBJECT OF THE DATA. WHILE THE DEPARTMENT UTILIZES A VARIETY OF SOURCES OF INFORMATION IN CHECKING THE ACCURACY OF THE DATA REPORTED, WE CANNOT BE SURE THAT ALL OF THE INFORMATION ON THIS WEBSITE IS RIGHT, COMPLETE, OR UP-TO-DATE, AND

CANNOT BE RESPONSIBLE FOR ANY INFORMATION THAT IS WRONG OR HAS BEEN LEFT

OUT. CONSUMERS ARE ENCOURAGED TO CONSULT OTHER SOURCES TO VERIFY OR

OBTAIN ADDITIONAL INFORMATION ABOUT A PHYSICIAN. PENDING LEGAL ACTIONS

DO NOT IN ANY WAY INDICATE PARTIES' GUILT, LIABILITY OR CULPABILITY. CASES MAY BE DISMISSED, WITHDRAWN, OR SETTLED WITHOUT PAYMENTS TO

PLAINTIFFS. ANY DISPOSITION TO A CASE MAY BE SUBJECT TO APPEAL." The commissioner shall ensure that the full text of the statements appear on each web page of the physician profile in a manner that does not require the user of the site to click on a separate link in order to view the statements.

(b) The department shall provide on the physician profiles an active link to the website maintained by the unified court system containing information on active and disposed cases in the local and state courts in the state.

16. If, after initial dissemination of the physician data required by this section, the department determines that any such data is not useful for making quality determinations, the department shall recommend to the legislature the necessary statutory changes.

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 10. DEPARTMENT OF HEALTH CHAPTER IX. PHYSICIAN PROFILING PART 1000. PHYSICIAN PROFILES

1000.1 Definitions.

For purposes of making individual physician profiles available for dissemination to the public, pursuant to the provisions of section 2995-a of the Public Health Law, the following definitions shall apply:

(a) *Board certification* means a specialty or subspecialty in which a physician is certified by the American Board of Medical Specialties (ABMS), American Osteopathic Association (AOA), or Royal College of Physicians and Surgeons of Canada (RCPSC).

(b) *Concise statement* means a typewritten statement not exceeding 1,000 words which relates solely to information contained in the physician's profile. Statements which include the following prohibited language shall not be published with a physician's profile:

(1) potentially defamatory information that includes names of specific individuals or groups of individuals or any potentially defamatory information that could result in identification of an individual or individuals other than the physician who is making the concise statement;

(2) General statements relating to physician disciplinary or judicial processes; or

(3) Statements that do not relate to the factual information contained in the physician's profile.

(c) *Graduate medical education* means a graduate medical education program accredited by the Accreditation Council for Graduate Medical Education (ACGME), American Osteopathic Association (AOA), Royal College of Physicians and Surgeons of Canada

(RCPSC) or the College of Family Physicians of Canada (CFPC).

(d) *Loss or involuntary restriction of hospital privileges or failure to renew professional privileges at hospitals for reasons related to the quality of patient care delivered* means the loss or involuntary restriction of hospital privileges or failure to renew professional privileges at hospitals for reasons including, but not limited to:

(1) Incompetence in providing direct patient care;

(2) Sexual abuse or harassment of hospital staff or patients;

(3) Disciplinary actions taken because of professional misconduct in any state related to the quality of patient care delivered;

(4) Commission of crimes related to the quality of patient care delivered; and

(5) Lack of maintaining accurate medical records.

(e) *Physician profile* means information collected on physicians currently licensed and registered in New York State that shall be available for dissemination to the public in accordance with section 2995-a of the Public Health Law.

(f) *Place* means, for purposes of reporting malpractice award, judgment, and settlement information, the geographic location where the injury occurred as a result of the malpractice or alleged malpractice, office practice location of the particular physician at the time of the malpractice or alleged malpractice, or county in which the malpractice award or judgment is filed. The department shall specify which of such places shall be included on reports required to be submitted by medical malpractice insurance companies or hospitals self-insured for professional medical malpractice in accordance with section 315 of the Insurance Law.

(g) *Within the most recent 10 years* means:

(1) For purposes of physician self-reporting, the period beginning 10 years prior to January 1, 2002 or the date the department initially collects information from a licensed registered physician, whichever is later; and

(2) For purposes of public dissemination of physician profiles, the period beginning 10 years prior to the day a physician profile is being made available for dissemination to the public

1000.2 Criminal convictions.

(a) The department shall collect and make available to the public, and physicians shall submit, if applicable, information regarding criminal convictions within the most recent 10 years for any and all offenses under the laws of New York State or any other jurisdiction.

(1) *Offenses* shall include only felonies or misdemeanors, as defined under the laws of the jurisdiction within which such felonies or misdemeanors take place.

(2) *Conviction* means the entry of a plea of guilty to, or a verdict of guilty upon, an accusatory instrument other than a felony complaint, or to one or more counts of such instrument, as defined in section 1.20 of the Criminal Procedure Law.

(b) Physicians shall submit to the department, if applicable, information regarding criminal convictions within the most recent 10 years that includes:

(1) name of the offense;

(2) state, province or country in which the conviction occurred; and

(3) date of conviction.

1000.3 Malpractice awards, judgments and settlements

(a) Collection.

The department shall collect and physicians shall submit, if applicable, the following information regarding all medical malpractice court judgments, arbitration awards and malpractice settlements within the most recent 10 years in which a payment has been awarded or made to a complaining party:

(1) date of each award, judgment or settlement, determined as follows:

(i) for arbitration awards, the date the arbitrator issued the award;

(ii) for judgments, the date of entry of the judgment; and

(iii) for settlements, the date of entry of the stipulation or, if no entry, the last date on which any person signed the settlement document;

(2) date payment was made or date claim was closed. The date a claim was closed is the date entered by an insurance company or third party reporter that the claim is resolved;

(3) amount of each award, judgment or settlement;

(4) place(s) of each award, judgment or settlement as specified by the department in accordance with section 1000.1(f) of this

Part; and

(5) any other information deemed necessary by the department to implement the provisions of this subdivision.

(b) Public dissemination.

(1) The department shall make available to the public information collected in accordance with subdivision (a) of this section regarding:

- (i) all medical malpractice court judgments and arbitration awards within the most recent 10 years in which a payment has been awarded or made to a complaining party; and
- (ii) malpractice settlements which exceed two in number within the most recent 10 years in which a payment has been awarded or made to a complaining party.

(2) In the case where the total number of malpractice settlements is two or fewer, the department shall make available to the public information collected in accordance with subdivision (a) of this section in those cases where it is alleged that a malpractice event resulted in death or permanent injury, and where the department has considered any information submitted in accordance with subparagraph (ii) of this paragraph.

(i) *Permanent injury* shall include, but not be limited to, the following:

- (a) loss of finger or fingers;
- (b) loss or permanent damage to organ or organs;
- (c) deafness;
- (d) loss of any limb or limbs;
- (e) loss of eyes or eyesight;
- (f) loss of kidney or kidneys;
- (g) loss of lung or lungs;
- (h) paraplegia;
- (i) brain damage;
- (j) quadriplegia;
- (k) severe brain damage;
- (l) lifelong care;
- (m) fatal prognosis;
- (n) any permanent loss or impairment (unable to function at same level prior to occurrence) of body part;
- (o) any permanent loss or impairment of bodily function;
- (p) any permanent physical or mental impairment that substantially limits one or more of the major life activities of an individual; or
- (q) death.

For purposes of this subparagraph, the Department of Health may use information collected in accordance with section 315 of the Insurance Law, including information relating to death or the seriousness of injury, or self-reported by physicians as required by subdivision (3) of section 2995-a of the Public Health Law.

(ii)

(a) A physician may provide additional factual clinical information pertinent to the department's determination of whether settlement information is relevant to patient decisionmaking. Such information, if provided, will be reviewed by a panel appointed by the department to conduct such reviews. The panel is comprised of at least three persons, the majority of whom are physicians, at least one of whom is a physician of the same specialty as the physician whose settlement is under review. The panel shall

submit its recommendation to the Commissioner of Health regarding whether, based upon the information provided by the physician whose settlement is under review, the settlement is relevant to patient decisionmaking. The recommendation of the panel that a settlement is not relevant for patient decisionmaking shall be predicated upon a preponderance of clinical information indicating that, despite the awarding of a payment to a complaining party, appropriate provision of patient care was provided.

(b) Additional clinical information provided by a physician must be received by the department postmarked within 30 days of the date of the letter transmitting the physician's medical malpractice review copy as specified in section 1000.4

(c) of this Part. Requests for an extension of the 30-day period will be considered only if they:

(1) are in writing and received by the department or its agent within the 30-day period or received orally by the department or its agent within the 30-day period followed by a written request for the extension postmarked within five days of the department receiving the oral request or the expiration of the 30-day period, whichever is later;

(2) include the reason(s) why the extension is needed, which must be related to circumstances that are beyond the physician's control; and

(3) indicate the amount of additional time needed.

(b) This clause does not obligate the department to grant extensions. Further, the department may deny any request received beyond the required time frames or missing information required by subclauses (1)-(3) of this clause. Public dissemination of medical malpractice settlement information will be suspended while the department is reviewing the request for an extension. The department will notify the physician in writing of its decision to either grant or deny an extension.

(iii) Consumers shall be advised by the department on a physician profile to contact the physician for more information regarding malpractice awards, judgments and settlements in order to facilitate patient decisionmaking concerning health care quality.

(3) Public dissemination of information regarding medical malpractice judgments, arbitration awards, and settlements under this section shall be made in graduated categories indicating whether the payment award is average, above average or below average, as set forth in subparagraph (i) of this paragraph, in comparison to other payment awards made to complaining parties within the same specialty. For purposes of this paragraph, *specialty* shall mean a specified area of medical practice including, but not limited to, anesthesiology, family practice, internal medicine, obstetrics and gynecology, pediatrics, physical medicine and rehabilitation, psychiatry, radiology and general surgery. For purposes of comparing payment awards, the department may calculate average, above average and below average amounts, and periodically update them, at least annually, based upon the most recent malpractice payment award information submitted to the department by medical malpractice insurance companies or hospitals self-insured for professional medical malpractice in accordance with section 315 of the Insurance Law, consistent with geographic areas of the State used by the Insurance Department to establish medical malpractice insurance premiums, as set forth in subparagraph (ii) of this paragraph. Average, above average, and below average amounts are based upon quartiles.

Quartiles are developed by taking all claims for doctors within a certain specialty in a certain geographic region and dividing them, lowest to highest, into four groups (quartiles) of equal numbers.

(i)

(a) An *average payment award* means a payment award amount falling in the middle two quartiles of payment award amounts for a certain specialty in a certain geographic region.

(b) A *below average payment award* means a payment award amount falling in the lowest quartile of payment award amounts for a certain specialty in a certain geographic region.

(c) An *above average payment award* means a payment award amount in the highest quartile of payment award amounts for a certain specialty in a certain geographic region.

(ii)

(a) If there are at least eight claims in each of four regions, quartiles will be developed for each of four regions for a particular specialty as follows:

Region A = New York, Orange, Rockland, Sullivan, Westchester, Bronx, Kings, Queens, Richmond, Nassau and Suffolk Counties

Region B = Columbia, Dutchess, Greene, Putnam and Ulster Counties

Region C = Erie and Niagara Counties

Region D = All Other Counties

(b) If there are an insufficient number of claims to develop quartiles for each of four regions as specified in clause (a) of this subparagraph, then quartiles will be developed for each of two regions for a specialty if there are at least eight claims in each of two regions as follows:

Downstate = Region A

Upstate = Combined Regions B, C, and D

(c) If there is an insufficient number of claims to develop quartiles for downstate and upstate, quartiles will be developed on a statewide basis for a specialty

1000.4 Collection of initial profile information.

(a) The department shall send an initial profile survey to every currently or newly State licensed and registered physician in New York State which reflects all the data elements required by Public Health Law, section 2995-a(1), some elements of which shall be prepared by the department using data sources other than the physician. Such initial profile survey must be completed, signed and returned by each physician to the address designated by the department on the survey and postmarked within 30 days of the date of the letter transmitting such initial profile survey to the physician.

(b) Physicians shall be given the opportunity to correct factual inaccuracies that appear in the profile. Once the department receives a physician's completed and signed initial profile survey and enters the data into the physician profile database, the department will provide to the physician a copy of his or her profile in the form to be used for public dissemination, hereafter referred to as the review copy, prior to such public dissemination. The physician shall note any corrections on the review copy and return it

to the department signed and postmarked within 10 days of the date of the letter transmitting the review copy to the physician; otherwise, the department will publicly disseminate the physician's profile information as received on the physician's initial profile survey.

(c) Subsequent to receiving the physician's review copy, if returned within the time frame required by subdivision (b) of this section, the department will provide to the physician a copy of any medical malpractice information in the form to be used for public dissemination, hereafter referred to as the medical malpractice review copy. Physicians shall correct any factual inaccuracies on the medical malpractice review copy and return it to the department postmarked within 10 days of the date of the letter transmitting the medical malpractice review copy to the physician, or, in the instance where the physician has two or fewer medical malpractice settlements over the most recent 10-year period and opts to access the panel review process, shall provide additional factual clinical information pursuant to section 1000.3(b)(2)(ii) of this Part. If the physician does not respond in accordance with the timeframes set forth in this subdivision, the department will publicly disseminate the physician's medical malpractice information provided on the medical malpractice review copy.

1000.5 Updating self-reported information.

(a) Except for optional information provided on physician profiles, physicians shall notify the department of any change in profile information within 30 days of such change. Any change in optional information must be reported to the department within 365 days of such change.

(b) Physicians shall submit changes to physician profile information either electronically using the department's secure web site or on forms prescribed by the department. Physicians shall attest to the truthfulness, completeness and correctness of any changes submitted to the department.

ATTACHMENT M

PROFILE DATA SOURCES

The New York Physician Profile information is obtained from a number of external sources. These sources are combined into a master file known as the Central Repository (CR). The unique identifiers used in the file are (a) the physician's six digit medical license number and (b) an eight digit number assigned to each physician after they are added to the CR.

[Attachment N](#) contains the Physician Profile Survey Instrument used in the collection of data from Physicians. The below table provides the source of the data for each field collected in the profile. The sources of data are described below. Details about each file are contained in the Appendices of [Attachment S](#), the Operation Manual for the current Profile system.

Source #1: New York State Education Department (SED)

Description: Provides NYPP with physician's medical school, graduate medical education and board certification/sub-certification. Information provided by SED includes physician's name, license number, date of license and expiration date and updated mailing addresses. New physicians are added to the database; expiration date of license is changed for those who renew their license; and physicians whose license expiration dates are lapsed are removed from the public website.

Frequency: Weekly Transaction File & Quarterly Full data file

Size: 500K

Comment: Access Database

Record Length: See [Attachment S](#), Appendix A, SEDQuarterly.xls and Appendix B- SEDWeekly.xls

Source #2: American Medical Association (AMA)

Description: Provides NYPP with physician's medical school, graduate medical education and board certification/sub-certifications

Frequency: Monthly

Size: 600K

Comment: Eleven individual delimited text files

Record Length: See Attachment U, File "AMA Data Load.xls"

Source #3: New York State Department of Health, Office of Professional Medical Conduct (OPMC)

Description: All medical malpractice suits filed against New York Physicians that occurred within past 10 years.

Frequency: Monthly

Size: 20M

Comment: Access Database

Record Length: See [Attachment S](#) Appendix C, "Medmalpractice.xls"

Source #4: American Osteopathic Association (AOA)

Description: Provides NYPP with physician's medical school, graduate medical education and board certification/sub-certification.

Frequency: Monthly

Size: 250K

Comment: Access Database

Record Length: See Attachment V, file "AOA_File Layout.doc"

Source #5: Health Provider Network (HPN)

Description: HPN Application information rec'd from a physician. HCS sends a daily text file of all new accounts, which are loaded into the CR.

Frequency: On-Demand

Size: 10-50K

Comment: Delimited text file.

Record Length: See [Attachment S](#) Appendix D, "MOU.xls"

Source#6: OPMC website

Description: Actions found in OPMC site include:

- NY Licensee Actions

Frequency: See Scope of Work [3.1.2 \(k\)](#)

Source#7: National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIDBP)

Description:

- Current Limitation
- Out of State Licensee Actions
- Hospital Privileges
- Failure to Renew Hospital Privileges
- Criminal Convictions

Frequency: See Scope of Work [3.1.2 \(f\)](#)

NYS PHYSICIAN PROFILE DATA FIELDS

NYS Physician Profile Ques#	Data Field	Mandatory/Optional	Public/NonPublic	Primary Source
1	Name	Mandatory	Public	SED
	Mailing Address	Mandatory	NonPublic	SED
2	Signature	Mandatory	NonPublic	Physician
	Phone	Mandatory	NonPublic	Physician
	Fax	Mandatory	NonPublic	Physician
3	Email	Mandatory	NonPublic	Physician
	License Number	Mandatory	Public	SED
	Date of Licensure	Mandatory	Public	SED
4	National Provider ID	Mandatory	Public	AMA/AOA
	Primary Field of Practice	Mandatory	Public	Physician
4a	Secondary Field of Practice	Mandatory	Public	Physician
4b	HIV Services	Optional	Public	Physician
5	Medical School	Mandatory	Public	AMA/AOA
	Year of Graduation	Mandatory	Public	AMA/AOA
6a	Graduate Medical Education	Mandatory	Public	AMA/AOA
	Start Date	Mandatory	Public	AMA/AOA
	End Date	Mandatory	Public	AMA/AOA
6b	Completed in Full	Mandatory	Public	AMA/AOA
	Specialty	Mandatory	Public	AMA/AOA
	Board Certifications	Mandatory	Public	AMA/AOA
6c	Certification Date	Mandatory	Public	AMA/AOA
	Expiration Date	Mandatory	Public	AMA/AOA
	Sub Certifications	Mandatory	Public	AMA/AOA
6d	Certification Date	Mandatory	Public	AMA/AOA
	Expiration Date	Mandatory	Public	AMA/AOA
	Professional Memberships	Optional	Public	Physician
7A	Teaching Responsibilities	Mandatory	Public	Physician
	Institution Name	Mandatory	Public	Physician
	Start Date	Mandatory	Public	Physician
7B	End Date	Mandatory	Public	Physician
	Responsible for Teaching/Supervising Residents	Mandatory	Public	Physician
8	Hospital Privileges	Mandatory	Public	Physician
9	Participation in Medicaid	Mandatory	Public	Physician
	Participation in Medicare	Mandatory	Public	Physician

	Participation in Child Health Plus	Mandatory	Public	Physician
	Participation in Family Health Plus	Mandatory	Public	Physician
	Participation in Other State or Federal Health Ins. Plans	Mandatory	Public	Physician
10	Translation Services	Mandatory	Public	Physician
11	Medical Malpractice	Mandatory	Public	DOH/Physician
	Type	Mandatory	Public	DOH/Physician
	Claim Number	Mandatory	NonPublic	DOH/Physician
	Date	Mandatory	Public	DOH/Physician
	Amount	Mandatory	Public in graduated categories	DOH/Physician
	Facility Name	Mandatory	NonPublic	DOH/Physician
	County and State	Mandatory	Public	DOH/Physician
	Zip Code	Mandatory	Public	DOH/Physician
	Carrier Phone Number	Mandatory	NonPublic	DOH/Physician
	Insurance Company	Mandatory	NonPublic	DOH/Physician
12a	NY Licensee Actions	Mandatory	Public	DOH
	Date	Mandatory	Public	DOH
	Action	Mandatory	Public	DOH
	Summary	Mandatory	Public	DOH
12b	Out of State Licensee Actions	Mandatory	Public	Physician
	Date	Mandatory	Public	Physician
	State	Mandatory	Public	Physician
	Action	Mandatory	Public	Physician
	Summary	Mandatory	Public	Physician
13	Current Limitations	Mandatory	Public	Physician
	State	Mandatory	Public	Physician
	Description	Mandatory	Public	Physician
14	Hospital Privilege Loss/Restrictions	Mandatory	Public	Physician
	Action Taken	Mandatory	Public	Physician
	Facility	Mandatory	Public	Physician
	State	Mandatory	Public	Physician
	Date	Mandatory	Public	Physician
14	Failure to Renew Hospital Privileges	Mandatory	Public	Physician
	Action Taken	Mandatory	Public	Physician
	Facility	Mandatory	Public	Physician
	State	Mandatory	Public	Physician
	Date	Mandatory	Public	Physician

15	Criminal Convictions	Mandatory	Public	Physician
	Offense	Mandatory	Public	Physician
	Conviction Date	Mandatory	Public	Physician
16	Practice Location	Optional	Public	Physician
	Practice Name	Optional	Public	Physician
	Address	Optional	Public	Physician
	County/Borough	Optional	Public	Physician
	Phone	Optional	Public	Physician
	Accessible to Persons with Disabilities	Optional	Public	Physician
	Physicians Associated with Practice	Optional	Public	Physician
17	Publications	Optional	Public	Physician
	Article	Optional	Public	Physician
	Journal	Optional	Public	Physician
	Year	Optional	Public	Physician
18	Professional and Community Activities	Optional	Public	Physician
19	Health Plans	Optional	Public	Physician
20	Physician Statements	Optional	Public	Physician

ATTACHMENT N

PHYSICIAN PROFILE

<See Physician Profile Survey.pdf>

ATTACHMENT O

DATA DICTIONARY AND DATABASE MANUAL

See DATA DICTIONARY.xlsx and DATABASE MANUAL.docx

ATTACHMENT P

BIDDER'S PROPOSED TECHNOLOGY SOLUTION

(Please place on company letter head)

Date:	Bidder Phone No.:
Bidder Contact Name:	Bidder Fax No.:
Bidder Address:	Bidder Contact Email Address:

Bidders are required to provide information pertaining to the solution technology. Use as much space as necessary.

A.1 Solution Technical Design and Architecture

Describe in detail your proposed solution's design and technical architecture, including hardware (servers, network bandwidth, backup components, failover components, security components, UPS components) and software (interoperable components, frameworks, security, modules used, location of business logic and processes). Describe in detail middleware technology, 3rd party technology or components, application layers and interfaces.

<i>1. Project Plan</i>
<i>Project Schedule (Attach MS Project or equivalent high level Gantt chart)</i>
<i>Plan for requirements tracing:</i>
<i>Proposed issue tracking and reporting plans:</i>
<i>Performance goals: (refer to Section 3.1.1 for minimum Department standards and also include any vendor standards for performance)</i>

Reliability:

How System Evolution will be accommodated:

2. Proposed infrastructure (include system architecture diagram and component details)

Production Site:

Development and Test sites:

Backup/Recovery, Failover, Disaster Recovery

3. Application Platform

Database:

Development Language(s):

Licensed products, open source/freeware:

Software tools:

Accessibility compliance plan:

4. Disaster Recovery Plan

(Attach separate document if necessary)

5. Description of Registry Transition/Turnover

6. Proposed IT project team

Roles (i.e. Project Manager, Business Analyst, Application Developer)

1)

2)

3)

7. Documentation Plan

Describe/list artifacts that will be created and supported:

ATTACHMENT Q

DEPARTMENT OF HEALTH SECURITY REQUIREMENTS FOR **PHYSICIAN PROFILE**

Within the first 60 days of the contract start date, the contractor must provide to the Department a security plan that describes their security and compliance with all applicable NYS policies and standards (the list below highlights the most pertinent items):

- All policies and standards defined in the New York State ITS security policies and standards (<http://its.ny.gov/eiso/policies/security>), including, but not limited to:
 - NYS-P10-006 – Identity Assurance Policy,
 - NYS-S13-001 – Secure System Development Life Cycle Standard,
 - NYS-S13-002 – Secure Coding Standard (if applicable),
 - NYS-S13-004 – Identity Assurance Standard,
 - NYS-S14-003 – Information Security Controls Standard,
 - NYS-S14-005 – Security Logging Standard,
 - NYS-S14-007 – Encryption Standard,
 - NYS-S14-013 – Account Management / Access Control Standard
 - NYS-S15-001 – Patch Management Standard (if applicable) and
 - NYS-S15-002 – Vulnerability Scanning Standard

ATTACHMENT R

BIDDER'S SECURITY PROPOSAL

Bidder should describe how their proposed solution will comply with any applicable policies, standards, laws and rules, including but not limited to:

- All policies and standards defined in the New York State ITS security policies and standards (<http://its.ny.gov/eiso/policies/security>), including, but not limited to:
 - NYS-P10-006 – Identity Assurance Policy,
 - NYS-S13-001 – Secure System Development Life Cycle Standard,
 - NYS-S13-002 – Secure Coding Standard (if applicable),
 - NYS-S13-004 – Identity Assurance Standard,
 - NYS-S14-003 – Information Security Controls Standard,
 - NYS-S14-005 – Security Logging Standard,
 - NYS-S14-007 – Encryption Standard,
 - NYS-S14-013 – Account Management / Access Control Standard
 - NYS-S15-001 – Patch Management Standard (if applicable) and
 - NYS-S15-002 – Vulnerability Scanning Standard.

The proposal shall address the following:

1. Confidentiality, Integrity and Availability of data at rest and in motion, including how the NSY DOH requirements related to data and system security will be addressed.
2. Network security, including server management; network configuration; system and application vulnerability prevention, detection and management; secure data transmission but in the application and in support of the system; account management; incident handling; and logging and auditing of security events.
3. Application security, including application use auditing; secure coding practices and overall NYS Secure System Development Lifecycle (SSDLC) documentation and management, including any processes and tools used in the process.

ATTACHMENT S

NEW YORK STATE PHYSICIAN PROFILE OPERATION MANUAL

See Attachment S, Physician Profile Operation Manual.pdf