



Department of Health

Request for Proposals

RFP No. 15917

Administration of New York's Nurse Aide Testing and Certification Program

Issued: March 6, 2017

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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1.0 CALENDAR OF EVENTS

RFP 15917 Administration of New York's Nurse Aide Testing and Certification Program	
<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals	March 6, 2017
Deadline for Submission of Written Questions	March 20, 2017 5:00 p.m. ET
Bidder's Conference (if applicable)	No Conference to be Held
Responses to Written Questions Posted by DOH	On or About March 31, 2017
Deadline for Submission of Proposals	April 27, 2017 4:00 p.m. ET
<i>Anticipated</i> Contract Start Date	January 1, 2018

2.0 OVERVIEW

The New York State Department of Health (hereafter referred to as DOH or Department) is issuing this Request for Proposal (RFP) to obtain the services of a contractor to:

1. Establish a standardized competency evaluation program (CEP), based on the Federal Omnibus Budget Reconciliation Act (OBRA 1987) and New York State Department of Health requirements and curriculum for nurse aides in residential health care facilities (RHCF), which reflects the knowledge, skills and competencies included in that curriculum.
2. Administer the CEP, i.e., the clinical skills examination (CSE), the written examination (WE) and oral examination (OE), to eligible candidates by qualified nurse aide evaluators (NAEs); score each examination; process and record the scores; distribute the score reports; protect the confidentiality and security of the examination; and process and issue New York State RHCF nurse aide certificates, pocket cards and re-certification cards to eligible individuals.
3. Establish and maintain an examination database containing descriptive information on each individual candidate and the performance of each nurse aide training program (NATP), nurse aide evaluator and individual candidates. Prepare and distribute reports as requested by DOH.
4. Establish, operate and maintain on its own (or a sub-contractor's) website the New York State RHCF Nurse Aide Registry (an interactive database), input information on each individual who has successfully achieved New York State RHCF nurse aide certification; update the information on each individual in the Registry as necessary, respond to verification requests about RHCF nurse aides from potential nurse aide employers, other State and local government agencies and the public; maintain high levels of prompt and accurate assistance to customers, stakeholders and other users; and respond to requests from CNAs for assistance with certification and recertification.

Through this Request for Proposals ("RFP"), the New York State ("State") Department of Health ("DOH") is seeking competitive proposals from bidders to provide services as further 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 Omnibus Budget Reconciliation Acts of 1987, 1989 and 1990 amending Sections 1819 and 1919 of the Social Security Act require the State to implement an RHCF nurse aide program with the following components:

1. Curriculum for training nurse aides working in Medicare- and Medicaid-approved nursing homes in New York State;
2. State-approved facility-based and non-facility-based nurse aide training programs;
3. Competency evaluations which include skills evaluation (demonstration) and written examination (with the availability of oral administration of the written examination);
4. A registry of all nurse aides who have successfully completed training and competency evaluations; and
5. A system for adding to and removing information from a nurse aide's record in the registry related to final findings of and/or criminal convictions for resident abuse, neglect and misappropriation of residents' personal belongings.

Federal rules and regulations regarding the nurse aide competency evaluation and registry may be found at 42 CFR Subpart D §§483.150 - 483.156. New York State rules and regulations may be found at 10 NYCRR 415.

As of December 31, 2016, there are 617 residential health care facilities in New York State with 112,788 beds. As of August 31, 2016 there were 431,913 certified nurse aides (CNAs) listed in the New York State RHCF Nurse Aide Registry. Of these, 91,407 are active.

The following data on testing, certification and nurse aide registry activity volume is provided for informational purposes only. It is not intended to be a guarantee of future nurse aide certification program volumes or activities. The Department makes no guarantees as to the volume of billable events, e.g., actual number certification tests, recertification applications, reciprocity requests, or duplicate certificate requests, etc. The exact number of test administrations, initial certifications, reciprocity requests, and recertification and NAR inquiries during the life of this contract may be more or less than the numbers reported below.

In calendar year 2015 there were the following billable events:

- 13,910 first time clinical skills exams;
- 13,758 first time written exams;
- 248 first time oral exams;
- 2,193 clinical skills exams retests;
- 1,840 written exams retests;
- 39 oral exams retests;
- 35,973 recertifications;
- 1,502 reciprocities;
- 2,217 "no show" exams associated with 1,278 "no show" candidates; and
- 559 duplicate certificates.

In a recent 12-month period, the New York State Nurse Aide Registry received 110,775 on-line verification requests and 9,231 verification requests through the automated phone registry. The contractor's customer service unit received, on average, about 7 calls per month.

Attachment L to this RFP is the Nurse Aide Training Program for Nursing Homes for New York State Nursing Home Nurse Aide Certification (i.e., New York's required nurse aide training program curriculum) which must be included in all State-approved nurse aide training programs. Nurse aide training programs may be offered by nursing homes, vocational training schools (BOCES), community colleges, nursing school programs, proprietary schools, high schools, community-based organizations, federal training programs and employment organizations. As of August 31, there were 427 approved NATPs in NYS. 117 were approved by the Department of Health and another 310 were approved by the Department of Education.

Glossary of Acronyms

The acronyms used throughout this RFP are as follows:

NAR: Nurse Aide Registry (also referred to as the Registry);
IBT: Internet-based testing;
NY: New York;
CNA: certified nurse aide;
NATP: nurse aide training program;
NAE: nurse aide evaluator;
CEP: competency evaluation program;
CSE: clinical skills examination;
WE: written examination;
OE: oral examination;
DOH: (New York State) Department of Health;
NYS: New York State;
RHCF: residential health care facility or nursing home;
SSN: Social Security Number; and
CISO: chief information security officer.

2.2 Important Information

The bidder is required to review, and is encouraged 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 DOH web site.

2.3 Term of the Agreement

This contract term is expected to be for a period of 5 years commencing on the date shown on the Calendar of Events in [Section 1.0](#)., subject to the availability of sufficient funding, successful contractor performance, and approvals from the New York State Attorney General (AG) and the Office of the State Comptroller (OSC).

The contract resulting from this RFP has an anticipated start date of January 1, 2018. The current contract for these services will expire on March 31, 2018. It is anticipated that these dates will provide a 12-week transition period from the current contractor to the contractor awarded the bid under this RFP. The new contractor, if other than the current contractor, *will not deliver any billable or reimbursable services during the transition period*. The new contractor, if other than the current contractor, will not deliver billable services until the day after the current contractor's contract expires. Thus it is anticipated that the new contractor will not deliver any billable services until April 1, 2018.

As the actual start date for the new contractor, and the length of the transition period, is not known at this time, all dates in this RFP that are dependent upon the start date of the contract may be shifted to take account of the actual start date once it has been determined.

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, unless otherwise noted.

PLEASE NOTE: Bidders will be required to provide responses that address all of the requirements of this RFP as part of its Technical Proposal.

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. The terms “bidders”, “vendors” and “proposers” are also used interchangeably.

3.1 General Requirements

- 3.1.1. All contractor activities to be performed and all materials to be produced under all parts of the contract will be accomplished in consultation with and under the direction of the Department through its Bureau of Professional Credentialing (BPC).
- 3.1.2. All data collected pertaining to the New York State nurse aide certification program, including but not limited to individual candidates, certified nurse aides, training programs, nurse aide employers, nurse aide evaluators and test performance remain the property of the Department. The contractor may neither release nor use the data in any manner not specified in this RFP without the prior written approval of DOH. All materials developed and distributed to the public under the terms of the contract, other than the test forms and materials documenting the development of the test forms, are the property of the Department of Health unless otherwise agreed to by the Department of Health in writing.
- 3.1.3. The contractor agrees to meet in person with DOH to discuss contractual and programmatic issues at least once each calendar quarter for the term of the contract, unless otherwise agreed to by DOH. Additional meetings and conference calls will be scheduled as required or needed. It is anticipated that all meetings between the contractor and DOH will be held at the offices of the Bureau of Professional Credentialing, New York State Department of Health or similar suitable space in the Albany area, unless otherwise agreed to in advance by the DOH.
- 3.1.4. The contractor must consider and allow for sufficient lead time for DOH review, and, if necessary, contractor revision and DOH re-review of materials to be made available to the public that reference Department of Health policies and procedures, such as the Nursing Home Nurse Aide Handbook, prior to DOH approval to assure contractual timeframes are met. While DOH will make every effort to review materials promptly, turnaround time for such review may require up to ten business days.
- 3.1.5. A contract manager will be appointed by the contractor and approved by DOH who will have the authority to speak for the contractor. The contract manager will be the single individual that DOH contacts concerning the day-to-day activities and performance of the activities under this agreement regardless of whether it is the contractor or its sub-contractors who are performing the activities. It is expected that the contract manager will have the authority to promptly resolve any problems or contractual failures that arise during the contract period regardless of whether it is the contractor or its sub-contractors whose performance is at issue.
- 3.1.6. Quality control of all printed and electronic materials, including those distributed to candidates, NATPs, nurse aide employers, NAEs and DOH, resides with the contractor. The contractor will establish systems to ensure quality control for all services, materials, customer services, information technology and deliverables specified in this RFP including without limitation materials and systems relating to administration, operation and maintenance of the competency evaluation program and the Nurse Aide Registry.

- 3.1.7. The contractor will be responsible for printing all materials and/or posting and maintaining them on its public website. The contractor will provide camera-ready versions of all material to DOH prior to publication or posting on its public website. The materials should be fully proofed, edited and error-free. Materials that do not contain all required material and/or are not professionally written, organized and displayed, e.g., materials that have spelling or grammatical errors, do not follow consistent rules for capitalization, titles, sub-titles, and emphasis (e.g., use of bolded, italicized or otherwise specially designated text), are poorly organized, are incomplete or missing required material, contain incorrect information, lay out of information is confusing, inaccurate Table of Contents, etc., will be returned to the contractor for correction.
- 3.1.8. The contractor agrees to assure the defensibility, job-relatedness, reliability and validity of its examinations and cut scores at all times. The contractor has sole responsibility to defend the merits of the examinations in the event of challenge, legal or otherwise by a candidate, NATP, nursing home, nurse aide employer, the State or other party.
- 3.1.9. The contractor is required to maintain a PDF version or copy of all New York State Nursing Home Nurse Aide Registry Applications, the New York State Nursing Home Nurse Aide Service Request Form, and test(s) completed by those taking the test(s) or, if internet-based testing (IBT) was used, test results, until its contract with the Department of Health expires. The contractor is required to develop and implement a plan to electronically file and efficiently retrieve specific records for specific individuals. The information technology used to create the data base and file these records must be approved in advance by the Department of Health. Upon expiration of its contract, the contractor will give this electronic database, data base documentation and retrieval requirements to the next contractor. The contractor will also inform the next contractor regarding all software requirements to manage and use the database.
- 3.1.10. The contractor is required to maintain the databases described in Sections 3.1.9., 3.7. Examination Data Base and 3.8. The New York State RHC Nurse Aide Registry (NAR) and all databases that support these two databases until its contract with the Department of Health expires, in accordance with Appendix F of its contract with the Department of Health.
- 3.1.11. If the bidder awarded the contract resulting from this RFP is not the current contractor, the bidder must accept from the current contractor the data bases that the current contractor created and maintained to meet the requirements of Sections 3.1.9., 3.7. and 3.8. The awarded contractor, must work with the current contractor to ensure that the Nurse Aide Registry maintained on its website and all supporting databases contain all of the information in the current NYS Registry for every currently certified and lapsed nurse aide, and aides with convictions or findings, without loss of current and historic data on individual aides. A three-month transition period ensures that both the current contractor and the new contractor have sufficient time to accomplish all transition tasks.
- 3.1.12. The contractor is required to develop a plan to securely and smoothly transfer the databases referenced in Section 3.1.10. to the next contractor upon expiration of its contract. The plan shall include documentation for each database detailing the software used and structure and format of all data in the databases, field definitions and identifiers, etc. The plan and documentation must be submitted to the Department of Health for approval no later than four months before the last day of its contract with the Department of Health, in accordance with Appendix F of its contract with the Department of Health.
- 3.1.13. The contractor must make every effort to ensure that the ongoing testing of new nurse aides, recertification of existing nurse aides, and the operation of the Nurse Aide Registry is not compromised or disrupted during either transition period.
- 3.1.14. The contractor is expected to work with the next contractor to ensure that the Registry continues to contain all of the information in the current NYS Registry for every currently certified and lapsed nurse aide without loss of current and historic data on individual nurse aides.
- 3.1.15. The contractor must collect and store the Social Security Number (SSN) of each tested candidate but is prohibited from using the SSNs or any portion of SSNs for any purpose whatsoever, including use as identifiers. The contractor must be able to retrieve the SSN of any candidate or any CNA upon demand by the Department of Health or other authorized government entity within two business days of receiving the request.

- 3.1.16. Anticipated contract start date is January 1, 2018. The current contractor's contract expires March 31, 2018. Thus there is a three-month overlap between the contracts of the current contractor and the next contractor. This overlap provides a three-month period during which the current contractor will transition all required data and databases to the new contractor and the new contractor can test and debug its own applications and systems. The current contractor will publicize to its customers and stakeholders the upcoming end of its contract and provide information on how to contact the new contractor. The new contractor will publicize to these customers and stakeholders its policies and procedures, handbooks and manuals, etc., as described in this RFP and conduct such other work as is necessary to ensure a smooth transition with no interruption of service from the current contractor to itself.
- 3.1.17. During this three-month transition period, January 1, 2018 – March 31, 2018, the new contractor will deliver no billable services to the public or to the Department of Health. No expenses incurred by the new contractor during this transition period may be billed to the Department of Health or any other party. The new contractor will deliver all billable services to the public and to the Department of Health as of April 1, 2018.

3.2 Establish a Standardized Competency Evaluation Program (CEP)

- 3.2.1. The nursing home nurse aide competency evaluation program (CEP) is comprised of the clinical skills examination (CSE) and the written examination (WE) which may be administered orally as the oral examination (OE).
- 3.2.2. No modification or substitution of the CEP may be made during the contract term without the prior written approval of the DOH.
- 3.2.3. The construction of each examination of the CEP proposed to be used in NY and each version of the examinations must meet the following requirements:
- a. Written in English at the 4th - 6th grade reading level.
 - b. Compliance with federal requirements for CEPs at 42 CFR §483.154(b)(1) – (2) and 42 CFR §483.152(b). Developed and constructed consistent with the professional standards and educational principles pertaining to test development and construction, including a job analysis and the development of clinical and written test items or questions and clinical and written test equating.
 - c. Acceptable standards for validity and reliability of the clinical and written tests used to identify those who possess the minimum competencies required of entry level nursing home nurse aides in New York.
 - d. Based on a curriculum that is analogous to the curriculum required to be used in New York.
- 3.2.4. The contractor agrees to determine pass cut scores specific to New York State, subject to the approval of the DOH, for all examinations of the CEP at the time of initial implementation and prior to the introduction of any changes to the NYS examination. By submitting a bid, the bidder attests to the fact that it retains the data (answers to test questions) required to compute such cut scores.
- 3.2.5. The contractor agrees to secure the participation of test question writers with current NYS nursing experience, especially the provision of resident care in NYS nursing homes, and will maintain a list of DOH-approved expert test question writers who have agreed to participate in the clinical skills and written examinations development process. Both nurses with current NYS nursing licenses and NYS-certified nursing home nurse aides shall participate in the development of new test questions.
- 3.2.6. The contractor agrees to provide editorial, measurement and computer services for test development to assure that test questions are generated, entered into the question pool, edited and reviewed.
- 3.2.7. The contractor agrees to develop and maintain a database enabling easy access and retrieval of clinical skills, written and oral examination test items.
- 3.2.8. The Department may, during the term of the contract, revise the current NYS nurse aide training program content outline. The contractor agrees that the CSE and WE/OE blueprints and examination skills/questions will be appropriately revised to the satisfaction of DOH to ensure that the subject areas covered in the

examinations reflect the skills, tasks and knowledge contained in the NYS NATP curriculum and taught to entry level nursing home nurse aides in the State. Any such changes to the competency examinations blueprint, test and/or test items, utilized by the contractor must be made to the satisfaction of the DOH and implemented statewide within 180 calendar days of the finalization of the new NATP curriculum.

- 3.2.9. The contractor agrees that it will assemble and maintain separate CSE and WE/OE tests, with at least four different examinations for each test available and in use at all times.
- 3.2.10. The contractor agrees, should the Department request it, to implement at least two new written examinations and one oral examination test, subject to DOH approval, every twelve months.
- 3.2.11. The contractor agrees to implement procedures to ensure quality control, confidentiality and security of candidates' personal identifying information, all test questions, examinations, and materials during all stages of examination development, administration, processing and delivery to and from examination sites.
- 3.2.12. The contractor agrees to investigate all breaches of security and take prompt corrective action(s) to prevent their reoccurrence. The contractor shall notify DOH immediately upon receipt of information suggesting a breach may have occurred and provide DOH with a full reporting of the incident periodically during the contractor's investigation and upon closure.
- 3.2.13. The contractor agrees that all CEP tests used in New York will be in compliance with all federal requirements for such tests. These requirements are found at 42 CFR §483.154(b). The Department will determine whether the bidder's tests are in compliance with all federal requirements.
- 3.2.14. If the bidder awarded the contract does not score 100% of the points available for the technical review criteria that evaluate the extent to which bidder's CEP tests are compliant with federal requirements at 42 CFR §483.154(b), it will develop and implement at least four new written tests (and oral versions of each) and four new clinical tests by the end of the transition period specified in Section C.1.16. These written and clinical tests shall, in the opinion of the Department meet the requirements of 42 CFR §483.154(b).
- 3.2.15. If the bidder awarded the contract does not score 100% of the points available for the technical review criterion that evaluates whether its CEP tests are based on a curriculum which is analogous to the curriculum required to be used in New York, using items from its test item bank (item test banks are a federal requirement found at 42 CFR 483.154(b)), the bidder agrees to improve the congruence between its tests and New York's nurse aide curriculum to the maximum extent possible in the test forms implemented after the anticipated 12-week transition period from current contractor to new contractor expires.

3.3 Administration of the CEP

- 3.3.1 The CEP will be completed in the manner described in this RFP. The contractor will have total responsibility for the administration of the CEP.
- 3.3.2 The contractor will comply with all existing and future federal and State statutes and regulations pertaining to the development and administration of standardized examinations in NYS including the provisions of the Americans with Disabilities Act.
- 3.3.3 The CEP will be managed in a manner that ensures compliance with all applicable federal and State statutes, regulations and requirements in the determination of each individual's competency to provide nursing and nursing-related services to nursing home residents. All competency testing is to be administered and conducted in English.
- 3.3.4 The contractor must implement a process for initial and periodic statewide training and ongoing supervision of qualified nurse aide evaluators (NAEs), to guarantee there will be a sufficient pool of NAE's available to administer, in a fair, consistent, uniform and timely manner, the NYS CEP to all qualified individuals. At a minimum, NAEs must be currently licensed NYS registered nurses with at least one year of nursing experience in an RHCF. Exceptions to the RHCF experience requirement may be made but only with Department of Health approval.

- 3.3.5 The contractor agrees to provide the initial, periodic and on-going training and performance evaluation and annual reorientation of each NAE to ensure the fair and uniform implementation and timely administration of all CEP rules and procedures across the State.
- 3.3.6 The contractor will notify all NAEs of record of the dates of upcoming NAE programs and supply all training materials, equipment and staff necessary for NAE training. Training must be scheduled in such a manner as to ensure that there are sufficient qualified NAEs as of January 1, 2018 and throughout the life of the contract, to meet all nurse aide trainee testing needs across NYS as specified in this RFP.
- 3.3.7 The contractor will maintain and make available to DOH by name, and county in which the NAE lives, and NAE identification number, the roster of approved, qualified NAEs. The roster will include the information required for securing the services of an approved NAE. The roster will be updated within 10 business days of the completion of each subsequent NAE training and/or reorientation program.
- 3.3.8 The contractor will retain sufficient administrative staff with the requisite education, training and experience in appropriate methods of statistical analysis and test development to provide psychometric and statistical consultation and specialized psychometric and/or statistical reports in timely manner upon demand by DOH.
- 3.3.9 The contractor must ensure that any individual who must retest for any reason does not receive a test that has already been administered to that individual.
- 3.3.10 The contractor must ensure that the CEP is administered in the same way at each test event across the State without variance. The contractor must ensure that candidates who qualify for accommodation under the Americans with Disabilities Act are accommodated.
- 3.3.11 The contractor must ensure that the quality of the test site environment is maintained for each test event regardless of test site location.
- 3.3.12 The clinical skills examination (CSE) shall consist of a demonstration of at least five randomly selected items drawn from a pool of tasks generally performed by entry-level nurse aides in NYS nursing homes, including personal care and other tasks as specified in the federal and State curriculum. The tasks shall vary in complexity.
- 3.3.13. DOH reserves the right to allow unlimited time or a different time limit for the CSE than the time limit proposed by the contractor, if the contractor proposes a limit.
- 3.3.14 All clinical skills must be actually performed by the candidate on living persons except as approved by DOH. No simulations of clinical skills tasks will be permitted during the examination process.
- 3.3.15 The contractor must have a policy and procedure for stopping a clinical exam and/or a written exam before the candidate has completed it with the result that the candidate fails or is likely to fail the exam.
- 3.3.16 The WE should be administered electronically.

The contractor must have procedures to ensure that any candidate who is unfamiliar with computers will not be disadvantaged by the computer-based testing. The contractor must provide a tutorial to candidates to instruct them on how to use the computer testing equipment, respond to the questions and change their answers.

The contractor must have procedures to ensure that the different characteristics of the testing site, for example the quality of the computer equipment, the speed of the internet connections, etc., will not affect the success of the candidate.

- 3.3.17 The OE must include each of the multiple choice type questions on the WE and additional questions designed to evaluate the test takers' ability to read and understand written job-related materials.
- 3.3.18 There is no order to the administration of the CSE and the WE/OE nor is there a requirement that a candidate pass one test before taking the other test.

Test administration should:

Be designed with sufficient flexibility to enable the NAE to administer and score the CSE, administer the WE/OE and provide real-time scoring.

Ensure that there are sufficient proctors at each WE/OE administration to assure the integrity and security of the testing process. Attachment M provides minimum acceptable ratio of proctors to candidates.

Occur at only approved training sites and approved regional test sites.

- 3.3.19 The contractor will notify in writing each nursing home, non-nursing home nurse aide employer (with facility employer code), and approved NATP prior to March 1, 2018 of the procedures (approved by DOH) for scheduling the administration of the CSE and/or WE/OE by an approved NAE. This notification can be accomplished by either emailing the manual described in 3.4.11. to the individual designated by the entity to receive the information, or by emailing information to the designated individual regarding how to access the manual on the contractor's website. The contractor is responsible for identifying the designated individual and his/her email address.
- 3.3.20 Within five business days of notification by DOH or SED of newly approved NATPs, new nursing homes and/or new nurse aide employers, the contractor shall provide to these entities, in writing, the procedures to schedule the administration of the three examinations by an approved NAE. This notification can be accomplished by either emailing the manual described in 3.4.11. to the individual designated by the entity to receive the information, or by emailing information to the designated individual regarding how to access the manual on the contractor's website. The contractor is responsible for identifying the designated individual and his/her email address.
- 3.3.21 No individual will wait more than 10 business days following a request for a test administration at a nursing home or approved NATP, or more than 20 business days following a request for test administration at a regional test site.

The contractor must maintain sufficient regional test site capacity to meet the 20-business-day requirement for test administration at a regional test site. Locations for regional test sites are specified in Attachment N.

The minimum number of candidates necessary for the NAE to schedule and/or administer the CSE and/or the WE/OE during any one test administration date or test session is four candidates. This minimum cannot be raised without Department of Health approval. However, it can be lower if necessary to meet the timeframes specified in this Section.

A sufficient number of appropriately trained NAEs must be recruited and retained to ensure timely testing consistent with contractually-required parameters.

- 3.3.22 At the Department's request, the contractor will develop and implement a plan, subject to Department approval, for live training seminars to orient NATP coordinators, primary instructors and nurse aide employers to the contractor's nurse aide certification process and procedures. The contractor may deliver training content via a webinar. At least five live seminars, scheduled for different times and days of the week, must be completed no later than March 18, 2018. The contractor may continue to offer live seminars after March 18, 2018 and/or may archive the webinar on its website so that customers and stakeholders can access it at their convenience.
- 3.3.23 The contractor shall assume the cost of initial and subsequent statewide training for the instruction and/or clarification of any changes or modifications to the NYS nurse aide certification program required for each nursing home, nurse aide employer, NAE and/or approved NATP, during the life of the contract.

3.4 Candidate Application and Eligibility Screening

- 3.4.1. Nurse Aide Certification Handbook. The contractor agrees that it will prepare, reproduce and distribute the nursing home nurse aide certification handbook according to the requirements of this RFP. The target

audience for the handbook includes individuals who are interested in becoming a certified nurse aide in New York, individuals who are currently certified nurse aides in New York and listed on the NAR, individuals whose New York certification has lapsed, and individuals listed with findings and/or convictions on the NAR. The handbook will contain all necessary information and application procedures specific to NYS nursing home nurse aides, including all information mandated for inclusion below. It will not include any information relevant solely to another state without prior written approval of the NYS Department of Health. The handbook must be in compliance with all federal and State requirements including but not limited to 42 CFR Part 483 and 10 NYCRR Part 415. The current handbook can be downloaded from https://www.prometric.com/en-us/clients/nurseaide/documents/new-york/NY_NA_CIB.pdf.

- 3.4.2. Information included in the nursing home nurse aide certification handbook will at a minimum:
- a. Describe CEP evaluation requirements, necessary qualifications and certification routes, role of the NAR and acceptable documentation of identity (i.e., candidate's legal name) that must be provided prior to testing.
 - b. Provide the testing and certification fee schedule and all other fees and charges as well as the fee refund policy and procedure in conformance with fee refund requirements specified in Section 5.4. Payment of this RFP.
 - c. Provide a general description of WE, CSE and OE content, and sample clinical skills and WE and OE questions.
 - d. Describe general nurse aide certification and recertification processes and requirements.
 - e. Describe the circumstances under which a certified nurse aide will no longer appear on the public NAR and the circumstances under which an aide whose certification has lapsed will never be removed from the public NAR.
 - f. Describe security measures.
 - g. Describe current New York State Criminal History Record Check requirements.
 - h. Include a self-administered reading level test for use by test candidates to assess their own ability to read the WE.
 - i. Include a section, updated at least annually, that lists each currently approved DOH and SED nurse aide training programs, including their addresses and phone numbers and, for each training program, the number of CNAs trained and the annualized first time and all attempts pass rates for the CSE and WE/OE in the most recent 12-month period for which such data are available.
- 3.4.3 The handbook, subject to prior review and approval by DOH, must be released to nursing homes, nurse aide employers and approved NATPs no later than March 1, 2018.
- 3.4.4 The contractor will prepare, print and distribute the official New York nursing home nurse aide application form.
- 3.4.5 The form must be applicable for certification by each method permitted in NYS (i.e., examination, reciprocity, lapsed and licensed nurse) and will be the source of data for the examination database and the NAR. This form must be approved by the DOH and released to nursing homes, nurse aide employers and approved training programs no later than March 1, 2018.
- 3.4.6 Information to be collected on the application form shall include but not be limited to:
- a. Candidate's full name as it appears on at least two of the following, one of which must include a photo of the candidate's face: birth certificate, driver's license, passport or other government-issued documentation of identity to be agreed upon by the contractor and the DOH (see Attachment Q: Documents That Establish Identity and Employment Eligibility). The DOH may also require that the identification number on the documents used to establish identity be included on the registration form. In this regard, bidders should be aware of the requirements of the NYS Information Security Breach and Notification Act, described in Section I.14. of this RFP.
 - b. Source documents for name;
 - c. Previous or other names known by, including maiden name;
 - d. Source document for each previous or other name known by;
 - e. Current complete home address;
 - f. Date of birth;
 - g. Source document for date of birth;

- h. Name of nurse aide training program, date of completion and the NY state-issued nurse aide training program seven digit identification number;
- i. Method of certification requested;
- j. Current nursing home employment (if applicable) including nursing home name (as it appears on the nursing home's operating certificate) and identification code number (if available);
- k. All previous New York State nurse aide certification numbers (if applicable);
- l. All current or previous states(s) in which the candidate has received nurse aide certification consistent with federal (OBRA) requirements;
- m. Gender, educational status, primary language spoken;
- n. Other demographic information as determined by DOH; and
- o. Social Security Number.

- 3.4.7 The contractor should implement policies and procedures to ensure that the official New York nursing home nurse aide application form is completed with true and accurate information, with special attention paid to the accuracy of candidate identifying information such as name(s), date of birth, Social Security Number. The contractor may allow candidates to document their true names with their Social Security cards.
- 3.4.8 The DOH reserves the right to require the contractor to modify its procedure to ensure that only true and accurate information is recorded on this form, at no additional cost to nurse aide employers, NATPs, test candidates or the DOH.
- 3.4.9 The contractor should implement quality assurance policies and procedures to verify that all data keyed into the database from the official New York nursing home nurse aide application form is accurate and true.
- 3.4.10 Organizational Manual. The contractor will prepare and distribute to a target audience that includes nursing homes, NATPs, organizations that employ CNAs and others approved by DOH a manual that includes all of the information, policies and procedures and forms these entities need to understand, access and use the contractor's NY NAR-related services, e.g., testing, recertification, verification, fee refund policy and procedure, etc. The manual must be error-free, approved by the DOH and released to all parties no later than March 1, 2018.
- 3.4.11 The contractor's mechanisms for distributing the organizational manual will ensure that all NATPs, nursing homes and other nurse aide employers have access to the manual. The manual must also be provided to each new nursing facility, nurse aide employer and NATP within five business days of receipt of written notification by mail, fax or e-mail from DOH or State Education Department (SED). The contractor must provide the manuals electronically by either emailing it to requesters or by making it easily accessible on its website to those who need a copy. Hard copy manuals may be provided by the contractor at no additional cost to the Department.
- 3.4.12 The contractor should implement policies and procedures to guarantee that only eligible candidates are permitted to take NYS competency examinations, including candidates for whom English is not a primary language. Eligible candidates include only those individuals who are eligible to work in the United States and have successfully completed, within two years of the test date, a State-approved NATP or who are otherwise approved by the DOH to take the competency examinations. See Attachment Q for a list of acceptable documents that establish employment eligibility. Approved NATPs have a valid seven-digit identification number issued by either DOH (facility-based and non-SED training programs) or SED (educational institutions under SED jurisdiction).
- 3.4.13 The contractor should implement policies and procedures to enable previously certified NYS nurse aides to take competency examinations to regain a lapsed competency determination and active NAR listing in accordance with State requirements. The record of each nurse aide must maintain and include his/her complete training and certification history, including certification number(s) and any documentation of findings or convictions previously entered into the NAR by DOH, in a single file. All relevant current and past information must be accessible and released during NAR verification.
- 3.4.14 The contractor will issue to each candidate who passes both the CSE and the WE a certificate that states that the candidate has successfully completed the New York State nursing home nurse aide competency evaluation program and is a certified nurse aide in New York. The contractor will also issue one pocket card to each successful candidate that contains information regarding the individual's status as a certified nurse

aide, certificate number, and other information that can be used to identify the individual on the NAR. The DOH will approve samples or mock-ups of these materials before they are reproduced for distribution to certified nurse aides.

- 3.4.15 The contractor will process all requests for NYS nursing home nurse aide certification from individuals certified in other states or licensed in NYS as a registered professional nurse or practical nurse, and will grant, in accordance with DOH regulations, nurse aide certification to qualified individuals. The contractor will issue and mail to such individuals their certificate and pocket cards, or notify the individual of the reason for denial of certification, within five days of determination.

3.5 Examination Administration and Security

- 3.5.1 The contractor retains total responsibility for the administration of the CEP at acceptable test site locations across the State in accordance with all applicable federal and State requirements.
- 3.5.2 The contractor will establish, inspect and approve test sites across the State, subject to DOH approval, that will provide suitable accommodations for the uniform and consistent administration of the CEP, including both the CSE and the WE/OE. The contractor will maintain a list of all approved test sites and provide this list to the Department. It will notify the Department of any changes to the list within five business days of making them.
- 3.5.3 The test sites must include each nursing home with or without an approved nurse aide training program and each non-nursing home facility-based state-approved NATP. All test sites must meet or exceed the criteria for suitable testing accommodations for both the clinical skills and written competency examinations under generally recognized standards. All regional sites must meet or exceed the criteria for suitable testing accommodations for both the CSE and the WE/OE as specified in Section 3.5.5. The DOH will notify the contractor of any change in status of approved training and/or test sites.
- 3.5.4 The contractor must also establish and maintain regional test sites in accordance with Attachment N that are available to test candidates regardless of the qualifying training program location. Multiple regional test sites are to be established in the more populated areas of NYS to ensure sufficient space is available to meet the volume of test takers and the requirements of this RFP. In no case should a test candidate be required to wait for more than 20 business days between the request for regional test site testing and the actual test administration at the candidate's first or second chosen test location.
- 3.5.5 The criteria for each test site include: a resident's room or laboratory set up with a sink and running water to simulate a complete nursing home resident's room, availability of a clinical skills test volunteer, adequate supplies and equipment required for the performance of the clinical skills examinations, good lighting and ventilation, sufficient room for spacing the test candidates for the written and/or oral examination, chairs and a flat self-supporting writing surface (no lap boards), accessibility to rest rooms, freedom from distractions that would affect the candidates' ability to perform optimally on either examination, and parking facilities and/or public transportation. Each test site and all testing supplies must be maintained in clean and working order at all times.
- 3.5.6 In the event that a test site does not meet these criteria, the contractor shall document the unmet criteria and immediately notify the DOH. If the site is a regional test site, the contractor shall also provide DOH with suitable alternative testing locations for the candidates assigned to that location.
- 3.5.7. The contractor must ensure that NAEs administer competency examinations only in facilities that meet or exceed these criteria.
- 3.5.8 The contractor will, within 10 business days of a request by the nurse aide training program or employing facility, or within 20 business days for a request for test at a regional test center, arrange for an NAE to administer the CSE and WE/OE to each qualified candidate.
- 3.5.9. There will be sufficient personnel at each examination site to both administer the CEP and closely monitor the candidates in order to maintain test integrity and security. Additional personnel as specified in Attachment M must be present to proctor the written examination.

- 3.5.10. All personnel will be trained by the contractor to ensure that the testing procedures utilized in each testing location are consistent to assure a uniform examination program throughout the State. The contractor will be responsible for the training and performance of all personnel administering or proctoring the examinations.
- 3.5.11. The contractor will provide to the DOH in writing on a quarterly basis the current updated list of contractor-approved NAEs.
- 3.5.12. The contractor will provide to each NATP and nursing home nurse aide employer, in writing, the means to request and schedule an NAE to administer the CEP.
- 3.5.13. The contractor will monitor the performance of each NAE to ensure compliance with testing procedures, validity of written test scores and clinical test item pass/fail determinations, and the integrity, security and confidentiality of all test materials. NAEs who are not in compliance or who violate the procedures and standards will be subject to remediation or removed from the list of approved NAEs, as appropriate to the situation.
- 3.5.14. The contractor will ensure that all personnel administering and scoring the examinations or proctoring the examinations are insured and bonded for an amount equal to at least the determined fee for the examination multiplied by the number of candidates being tested at the testing site.
- 3.5.15. The contractor accepts all liability for maintenance and security of the examination, examination booklets and the examination process.
- 3.5.16. No individual associated with an approved nurse aide training program in any capacity, including teachers, nurse aide training program personnel, nursing home employees or employees of the parent entity or associated ownership entity, shall participate in the administration or scoring of examinations for any individual who completed the nurse aide training program, or any other training program sharing common ownership or an ownership relationship.
- 3.5.17. The contractor will develop and implement procedures to verify the identity of the individual taking the CEP.
- 3.5.18. The contractor will provide DOH with a timely informational copy of all mailings to approved training programs, nursing homes, nurse aide evaluators and/or individuals.

3.6 Score Reports

- 3.6.1. The contractor assumes responsibility for the scoring in a timely and accurate manner, and guarantees the security and quality control for all testing materials.
- 3.6.2. All plans, procedures and any other arrangements concerning CEP scoring, analysis and reporting will be accomplished in consultation with, under the direction of, and subject to the prior approval of DOH.
- 3.6.3. The contractor will mail to each candidate who took the CSE and/or the WE/OE verification of his/her test result (pass/fail) within five business days of the examination administration date.
- 3.6.4. If the candidate has passed both the CSE and the WE/OE, the score report will notify the individual of his/her success and instruct the individual that the contractor will send, to his/her home address, his/her nurse aide certificate within five business days. If the examination verification notification also contains the

NYS nurse aide certification certificate, the certification notice must be sent to the individual aide within five business days of the examination administration date.

- 3.6.5 If the individual has failed either the CSE or the WE/OE, the score verification will notify the candidate of his/her test results and diagnostic information as well as procedures for retaking the examination within five business days.
- 3.6.6 The contractor will establish procedures to permit candidates to question the accuracy of the scoring of their tests. The DOH shall be notified of any such issues and their resolution
- 3.6.7 The contractor will mail to each sponsoring training program and/or nursing home nurse aide employer test score information pertaining to its students/employees within ten business days of the examination administration date, including the performance of individual students/employees.

3.7 Examination Data Base

- 3.7.1 The contractor will establish an examination database that meets the approval of DOH for the collection and maintenance of accurate information and demographic data on state-approved NATPs, NAEs, nurse aide employers and individual nurse aide candidates. Such data will include:
 - a. For NATPs, the name and full address of the organization providing the training program, name of the training program coordinator, phone number, the date of approval of the training program, unique 7-digit NATP identification number assigned by DOH or SED, and the date of termination or prohibition of the training program
 - b. For NAEs, the full name and county of residence of the NAE, date of NAE orientation and subsequent re-orientations, the date the NAE was eligible to administer the CEP, the unique NAE identification number, and, if appropriate, the 7-digit NATP and/or nurse aide employer identification number(s) of any conflict(s) of interest, and the date the evaluator left or was denied the ability to administer the CEP. SSNs in whole or in part may not be used in the unique NAE identification number.
 - c. For nurse aide employers, the full name and address of the organization, the name of the contact person, phone number, unique 7-digit nurse aide employer identification number assigned by DOH, date of opening or issuance of ID number, and if appropriate, the dates of prohibition of onsite nurse aide testing and training and the date of closure.
 - d. For nurse aide candidates, the individual's full name and address, all personal, training, employment and demographic information collected on the New York nurse aide application form and the sources of identifying information, the date(s) when the candidate passed the tests, and the ID of the NAE administering the tests. Upon certification, this information will be duplicated on the NAR. Social Security Numbers may not be maintained in the examination database but must be maintained in a separate database fully protected from unauthorized access.
- 3.7.2 The bidder should be capable and competent to develop and manage the examination database in conformance with all of the requirements specified in this RFP.
- 3.7.3 Among other functions, the examination database will enable the contractor to conduct periodic evaluations of components of New York's nurse aide certification program and to perform investigative and longitudinal analytical studies pertaining to the certification program and other studies as deemed necessary by the DOH.
 - a. The contractor should implement policies and procedures to ensure that the information for all previous and current CEP candidates contained and maintained in the current contractor's examination and SSN databases is transferred seamlessly and securely to its examination and SSN databases in its entirety, and that constituent data is complete without omission, revision or alteration. The contractor must ensure and document that there will be no loss of historical data on individual nurse aide candidates, certified nurse aides, NATPs, nurse aide employers and NAEs.
 - b. The contractor should implement policies and procedures to ensure that the demographic

information for all previous and current CEP candidates contained and maintained in its examination and SSN databases will be transferred seamlessly and securely at the expiration of the contract to the subsequent contractor's examination and SSN databases in its entirety, and that constituent data will be complete without omission, revision or alteration. The contractor should ensure and document that there will be no loss of historical data on individual nurse aide candidates, certified nurse aides, NATPs, nurse aide employers and NAEs.

- 3.7.4 The contractor will utilize, maintain, perpetuate and continue to use in the database and in the NAR the existing unique 7-digit identification number assigned by DOH or SED to each NATP and nurse aide employer, and the existing 13-digit alphanumeric certification number issued to each certified nurse aide, in a manner facilitating the continuation of a single compatible data system and Registry for the NYS nurse aide certification program, acceptable to DOH.
- 3.7.5 All data contained in the examination and SSN databases belongs to and remains the property of the DOH. No data from the examination or SSN databases may be released by the contractor without prior written approval from DOH.
- 3.7.6 The contractor shall not limit DOH access to or use of the data contained in the examination or SSN databases.
- 3.7.7 The contractor must ensure the security of all hard copy data that is keyed into the examination and SSN databases and the security of the examination and SSN databases themselves.

3.8 The New York State RHCF Nurse Aide Registry (NAR)

- 3.8.1 The bidder awarded the contract (or its sub-contractor(s)) must develop, operate and maintain the New York State Nurse Aide Registry (NAR). The bidder awarded the contract (or its sub-contractor(s)) must also host the New York State NAR on its own (or its subcontractor's) website. It may not use the Department's public website for this purpose. The Department's public website (www.health.ny.gov) will provide a link to the New York State NAR on the contractor's (or sub-contractor's) website. As an illustration, bidders may visit the Department's public website for the link to the current contractor's website that hosts the New York State RHCF Nurse Aide Registry:
http://www.health.ny.gov/health_care/consumer_information/nurse_aide_registry/.
- 3.8.2 The contractor guarantees the accuracy of all information in the NAR database.
- 3.8.3 All data contained in the NAR or used to support it belongs to and remains the property of the DOH. The source code for the NAR and all supporting systems and information technology belong to and remain the property of the contractor.
- 3.8.4 No data may be released by the contractor from the NAR and the databases that support it without prior written approval from the DOH.
- 3.8.5 The NAR interactive database and system must meet the following requirements:
 - a. The NAR must be implemented and fully operational, including beta testing, by 12:01 A.M, March 31, 2018.
 - b. The NAR must, at a minimum, have the following capabilities and characteristics:
 - i. Fully interactive.
 - ii. Integrate all existing information contained in the current New York State RHCF Nurse Aide Registry into the new Registry without loss of information or function excluding any SSNs that may be in the information.
 - iii. Direct access to live customer service representatives providing nurse aide certification verification for nurse aide employers and public inquiries.
 - iv. Dedicated customer service representatives assigned to New York State-specific inquiries.
 - v. Interactive voice response (IVR) access for 24 hours/7 days per week nurse aide verification.
 - vi. Fax capabilities for receipt of and response to nurse aide verification inquiries.
 - vii. Prompt data entry and error correction. The contractor will permanently enter into the NAR all

required information as specified in this RFP, in a manner acceptable to and determined by the DOH, for each successful candidate within five working days of the date on which the individual has passed both tests.

viii. High speed access to the registry by DOH staff via hardware and software to be fully compatible with existing DOH hardware and software.

- 3.8.6 The NAR will contain a file record for each lapsed, current and future individual who has successfully completed the RHCF nurse aide CSE and WE/OE or otherwise obtained DOH certification as a NYS nursing home nurse aide. The file record shall include, at a minimum, the following data fields:
- a. Candidate's full name as it appears on at least two of the following: birth certificate, driver's license, social security card, passport or other government-issued documentation to be agreed upon by the contractor and the DOH.
 - b. Source documents for this name.
 - c. Previous or other names known by, including maiden name.
 - d. Source document for each previous or other name known by.
 - e. Current complete home address.
 - f. A record of home and/or mailing address history including each subsequent address, including effective date, since initial certification.
 - g. Current telephone number including area code.
 - h. Gender.
 - i. Date of birth.
 - j. Source document for date of birth.
 - k. Date of original certification.
 - l. Method of certification.
 - m. Complete NYS DOH Nurse Aide (NA) certification number.
 - n. The complete record of the individual's nurse aide certification history including each nurse aide certification number issued to the individual, in the case of individuals who are assigned subsequent DOH nurse aide certification numbers.
 - o. The record of training history including the name, identification code number and the nurse aide's completion date for each completed State-approved RHCF nurse aide training program(s).
 - p. A record of all other states in which the individual has obtained or requested nurse aide certification, registration or Registry listing.
 - q. Most recent recertification and expiration dates.
 - r. Identification of all recertifying nurse aide employer(s) with recertification dates.
 - s. An indication of any DOH- or state-imposed hold on the aide's ability to become recertified and the reason for the hold.
 - t. An indication of one or more other types of health care paraprofessional or professional certification or licensure obtained in New York State. The types of certification and/or licensure must be identified, e.g., licensed practical nurse, registered nurse, home health aide, personal care aide, etc.
 - u. An indication and documentation of conviction for patient or resident abuse, neglect, mistreatment or misappropriation of resident property investigation (documentation of this information will be provided to the contractor by the Department).
 - v. Indication and documentation of investigations showing sustained findings of patient or resident abuse, neglect, mistreatment, or misappropriation of resident property including a summary of the findings, and where applicable, the date and results of the hearing or the date of the waiver of the hearing and a statement by the nurse aide disputing the findings of the investigation (documentation of this information will be provided to the contractor by the DOH).
 - w. The names and records of nurse aides who have not worked in a nursing home in twenty-four consecutive months shall not be made available to the public on the Registry, although this information must remain intact in the databases, except that the names and records of nurse aides subject to the provisions of Sections 3.8.25. and 3.8.26. shall continue to be available to the public on the Registry even after their certification has expired. The contractor must develop and implement systems to enable it to easily identify specific individuals in the databases whose records have been removed from the public Registry so as to restore to the Registry the name and record of any such individual who subsequently obtains certification or recertification.
 - x. Additional information may be required to be included in or removed from the NAR during the life of this contract due to changes in federal and State statute, regulation or policy. The contractor must be capable of promptly implementing such changes to the NAR without additional charge.

- 3.8.7 The contractor must provide high quality customer services to all of its customers, which include individuals who are interested in becoming certified nursing home nurse aides in New York, certified nursing home nurse aides listed on the Nurse Aide Registry, individuals whose certification has lapsed and who are no longer listed on the public view of the Nurse Aide Registry, nurse aide training program staff and educators, nursing homes, nursing home staffing agencies, other states, etc. Customer service must be provided in compliance with the following:
- a. Customer service staff must be thoroughly trained and conversant with: (a) contractor's policies and procedures for establishing eligibility to test or to be placed on New York's Nurse Aide Registry without passing the exams; (b) contractor's handbooks and manuals described in Section 3.4.; (c) contractor's policies and procedures for scheduling, canceling and re-scheduling exams for groups as well as individual candidates and payments for the same; (d) contractor's environmental requirements for testing sites and policies and procedures for obtaining and maintaining test site approval; (e) contractor's approved regional vs. facility-based or NATP-based test sites; (f) contractor's policies and procedures for verification of information in the Nurse Aide Registry pertaining to specific nurse aides; (g) contractor's intake procedures for customers who wish to file complaints about test sites, NAEs, the exams themselves, scheduling procedures, customer service staff; (h) confidentiality of information on the non-public NAR; and (i) how to verify, explain and resolve notification delays, payment policies and issues, information on the NAR that the customer claims is not correct, and any other problems or complaints brought to their attention.
 - b. Contractor should develop and implement policies and procedures for escalating difficult to understand and/or resolve questions, issues and complaints to supervisors and managers who are equipped to understand them and have the authority required to resolve them.
 - c. Customer service staff must have access to the appropriate sections of the contractor's examination, NAR, payment and other databases in order to respond to questions from and complaints filed by candidates for certification, nurse aides, NATPs, nursing homes, etc., with current and correct information.
 - d. Customer service must be provided via internet as well as toll-free telephone line(s) that are open with live coverage by trained customer service staff Monday through Friday between the hours of 8:00 AM and 5:00 PM New York time. The Department retains the right to require that the contractor maintain live coverage in conformance with the requirements of this section notwithstanding any exceptions proposed by the bidder awarded the contract.
 - e. At least 80% of telephone calls must be answered either by a live person or by an automated answering system no later than the fourth ring. The blockage rate (percent of calls that receive a busy signal) cannot exceed 10%. An automated answering system may be used but the option for a live person response must be available to all callers.
- 3.8.8 The toll free customer service phone line and email address must be activated and fully operational no later than 12:01 A.M. March 15, 2018. The contractor may activate its toll free customer service phone lines and email address before this date, however.
- 3.8.9 The contractor shall ensure that personal identifying information about each person listed in the NAR is not released or accessible to the public under any circumstance unless so directed by the DOH. Such personal identifying information includes but is not limited to Social Security Number, home address, home telephone number and date of birth. The contractor will ensure that the requirements of 42 CFR Part 483.156 are met.
- 3.8.10 The contractor shall ensure that its employees and the employees of any sub-contractor maintain the confidential nature of the information contained in the NAR and the databases that support it.
- 3.8.11 The contractor will provide a timely response (verbal and/or written) to inquiries from the public concerning individuals listed in the NAR. The information will be provided consistent with all limitations embodied in federal and State laws and regulations, including provisions to prevent the release of personal identifying information.

- 3.8.12 The contractor will provide DOH NAR staff with continuous on-line real-time access to the NAR to enable such staff to access and input directly into a nurse aide's NAR record any update or correction to the individual's information (such as name or address changes) and the appropriate information concerning sustained findings of resident abuse, neglect, mistreatment and misappropriation of resident property or convictions of the same or other information as required by federal or State statute, regulation or policy. The contractor will provide a mechanism to ensure that this information immediately becomes and remains a permanent part of the nurse aide's NAR record.
- 3.8.13. The contractor will develop systems and applications to enable non-information technology Department staff to generate ad hoc data and statistical reports from the examination and NAR databases.
- 3.8.14 The contractor will provide staff designated by the Department with read-only access to the NAR.
- 3.8.15 The contractor must establish and maintain a toll-free state-of-the-art interactive voice response (IVR) Nurse Aide Registry system that is operational 24 hours per day, seven days per week. The phone number for the IVR must be different from the toll free line(s) described in Section 3.8.7.d above. The IVR system must provide each inquirer with accurate Nurse Aide Registry information regarding each NYS nurse aide's certification status (lapsed or current) and sustained findings or convictions for resident abuse, neglect, mistreatment or misappropriation of resident property.
- 3.8.16 Individuals making inquiries via IVR Monday through Friday between 8:00 AM and 5:00 PM New York time must be given access to a live customer service representative if they wish to speak to one. The average wait time to transfer from the IVR to a live person must be no longer than 90 seconds.
- 3.8.17 The contractor must notify all NY nursing homes, other states and staffing agencies of its toll free phone and IVR numbers and email address (for internet inquiries) and hours of operation no later than March 1, 2018. The contractor should work with the current contractor to ensure the orderly transition from the old toll free numbers to the new toll free number(s).
- 3.8.18 The contractor must establish a system to monitor the operation of Nurse Aide Registry incoming and outgoing telephone lines as well as internet access to the Registry on an ongoing basis to ensure that access to the Registry is operational and functioning without delay or problems.
- 3.8.19 The contractor will notify the DOH of any problem(s) affecting the operation of the NAR telephone lines, systems, IVR or fax which inhibit the ability of callers to successfully connect with the IVR in a timely manner and obtain real time or written verification of an individual's certification status. In all such instances where a problem exists, particularly if there is potential to exceed 90 minutes duration, the contractor will provide identification of alternate means for nursing homes to obtain verification of an individual's nurse aide certification status when IVR verification is inaccessible for more than 90 minutes.
- 3.8.20 When requested, the contractor must respond to each telephone, fax, IVR or written inquiry from a federal or State governmental agency, a NYS or other nursing home, or any other NY state-approved nurse aide employer, by supplying a copy of the requested Registry certification and verification information. The copy must be faxed or mailed by U.S. first class mail to the requester within one business day of receipt of the request. At the requester's option, the copy may be emailed.
- 3.8.21 The contractor, upon DOH request, will provide a copy of each nurse aide's actual NAR listing to the nurse aide when any information has been entered into the NAR record for the nurse aide pertaining to a finding or conviction of resident abuse, neglect, mistreatment or misappropriation of resident property and allow the nurse aide 30 days to provide any correction or clarification.
- 3.8.22 The contractor will provide, upon request by the nurse aide or DOH, a copy of a nurse aide's NAR listing to the nurse aide whenever any information on the nurse aide's NAR record has been changed or updated. The nurse aide shall have the opportunity to correct errors or omissions in his/her NAR listing.
- 3.8.23 The contractor will ensure that all newly certified nurse aides are entered into the NAR within five business days of passing the both the CSE and the WE/OE or within five business days of notification of NYS nursing home nurse aide reciprocity certification or certification by the DOH.

- 3.8.24 Each nurse aide must be recertified every two years from the last date of paid nurse aide work, in accordance with State and federal regulations. The contractor will provide notice of the need for recertification to each nurse aide listed in the registry, in a form and manner approved by the DOH, no later than 45 calendar days prior to the expiration of his/her nurse aide certification. For each nurse aide eligible for recertification, the contractor will process such recertification, including updating, as appropriate, information in the NAR about the nurse aide and issuing a new updated wallet card.
- 3.8.25 The contractor must continue to make an indication and documentation of conviction for patient or resident abuse, neglect, mistreatment or misappropriation of resident property investigation (documentation of this information will be provided to the contractor by the Department) available to the public on the Registry even after the nurse aide certification has expired.
- 3.8.26 The contractor must continue to make an indication and documentation of investigations showing sustained findings of patient or resident abuse, neglect, mistreatment, or misappropriation of resident property including a summary of the findings, and where applicable, the date and results of the hearing or the date of the waiver of the hearing and a statement by the nurse aide disputing the findings of the investigation (documentation of this information will be provided to the contractor by the DOH) available to the public on the Registry even after the nurse aide certification has expired.

3.9. Reports and Reporting

Reporting requirements include but are not limited to the reports listed in this Section. While the reports described below are monthly, quarterly and annual, the Department will require multi-year reports as well. Multi-year reports will display data and percent change in the data from the monthly, quarterly and annual reports. Bidders should be aware that the Department may add to, delete from and/or modify the reports listed in this Section during the term of the contract. The contractor is required to produce the new and/or modified reports within 20 working days of the date on which the Department provides the contractor with the new or modified report specifications. Reports will be submitted in formats acceptable to DOH.

3.9.1 Monthly Reports. The contractor will prepare and provide the DOH with monthly reports transmitted electronically including those described below. (See Section 5.4 Payment for additional detail on monthly financial reports that enable the Department to reconcile: (a) services delivered to the public for which the contractor has been paid, to (b) fees deposited by the contractor into the State-owned bank account, to (c) services billed by the contractor to the Department.) Monthly reports described in this Section are due within 15 calendar days of the end of the month.

- a. **Pass Rates by Training Program Type.** This report displays, for each type of test, (i.e., clinical skills test, written test and oral test), by type of training program (e.g., nursing homes, secondary schools, employment organizations, post-secondary schools, proprietary schools, etc.), the following information:
 - i. total tests administered;
 - ii. number of “no shows”;
 - iii. number and percent passed;
 - iv. number and percent failed.

State totals for each of the above items, for each type of test, should also be shown in this report.

- b. **Pass Rates, All Attempts.** This report displays, for each type of training program (e.g., nursing homes, secondary schools, employment organizations, post-secondary schools, proprietary schools, etc.), by each type of test, (i.e., clinical skills test, written test and oral test), for each attempt and for all attempts, the following information:
 - i. total number of test administrations;
 - ii. number and percent passed;

- iii. number and percent failed.

Totals for each of the above items, for each type of test across all types of training programs, should also be shown in this report.

- c. **Nurse Aide Abuse Complaints.** This report displays by nurse aide name in alphabetical order, the following information:

- i. Certificate number;
- ii. Original certification date;
- iii. Certification end date;
- iv. Status;
- v. Route;
- vi. Complaint description and complaint code;
- vii. Record creation date.

- d. **In-Facility Testing Requests.** This report displays for each nursing home or nurse aide training program such information as the following:

- i. Training program number;
- ii. Nursing home or training program name;
- iii. Location;
- iv. Date request received;
- v. Requested testing date;
- vi. Confirmed testing date;
- vii. NAE name;
- viii. Whether test was administered on confirmed testing date;
- ix. Actual testing date;
- x. If testing date was cancelled, who cancelled it.

Additional data may be required in this report.

- e. **Recertification Activity.** This report displays for each employer that has submitted a recertification request during the month:

- i. employer code;
- ii. total number of recertification requests;
- iii. total number of aides for which recertification requests were received;
- iv. number approved;
- v. number denied;
- vi. number pending;
- vii. number held;
- viii. number of CNAs for which more than one recertification request was submitted during the same certification period, total number of requests, and, for each request, number of days remaining in the current certification period on the date that the request is received.

- f. **Reciprocity Activity.** This report displays, for each type of disposition of the reciprocity request (i.e., approved, denied – lapsed and denied – not found), by nurse aide name, the following information:

- i. certification route;
- ii. originating state or RN/LPN Number;
- iii. disposition of request;
- iv. date processed.

Total number of requests by disposition, and the total number of reciprocity requests by originating state, should also be shown in this report.

- g. **Verification Requests.** This report displays, for each inquiry route (i.e., website/internet, toll-free verification telephone number, IVR, faxed and written request), by source of inquiry, (i.e., nurse aide employer or general public) the following information:
 - i. total number of calls or requests, regardless of how many verifications are requested during the transaction;
 - ii. average number of verification requests per transaction;
 - iii. total number of verification requests;
 - iv. number of confirmations (i.e., the number of requests that result in the individual being found in the registry);
 - v. average wait time before call is answered;
 - vi. number of calls terminated prior to completion.

- h. **Certification Information Toll Free Inquiries.** This report displays the following information:
 - i. total number of calls, including both those handled by an operator and those handled by the automated system;
 - ii. number of calls handled by the automated system;
 - iii. average holding time before pick up by operator;
 - iv. number of calls resolved during call;
 - v. number of calls requiring follow-up;
 - vi. for calls requiring follow-up, the issues/questions involved;
 - vii. average talk time.

- i. **Recertification Applicant Listing.** This report displays, for each employer, the following information for each recertification applicant:
 - i. Name;
 - ii. Certification number;
 - iii. Status;
 - iv. Certification dates (start date and end date).

3.9.2 Quarterly Reports. The contractor will prepare and provide the DOH with quarterly (calendar quarters) reports transmitted electronically including but not limited to the following. Quarterly reports are due within 15 calendar days of the end of the quarter.

- a. **Pass Rates by Training Program Type.** This report displays, by test type (i.e., clinical examination, written examination and oral examination), by training program type, (e.g., nursing home, employment organization, adult secondary school, etc.), the following information:
 - i. Number of “no shows”;
 - ii. Number and percent passed;
 - iii. Number and percent failed;
 - iv. Total examinations administered.

State totals for the above are also displayed.

- b. **Training Program Summary Report.** This report displays, by training program type, by test type, for each attempt and for all attempts, the following information:
 - i. Number and percent passed;
 - ii. Number and percent failed;
 - iii. Total exams administered.

The above information for all training programs is also displayed.

- c. **Pass Rates by Training Program Code.** This report displays, by training program type, by individual training program code and name, by test type, the following information:

- i. Number of individuals tested;
- ii. Number and percent passed;
- iii. Number and percent failed;
- iv. Number passed and number failed by test content category.

State totals for the above information, by test type, is also displayed.

- d. **Pass Rates by Testing (Certification) Route.** This report displays, for each test type, by test route (i.e., Route 1, Route 3, Route 5, Route 6 and Route 7), the following information:
 - i. Number and percent passed;
 - ii. Number and percent failed;
 - iii. Total.

Totals for the above information, by test type, are also displayed.

- e. **Test Route Summary Report.** This report displays, by test route (i.e., Route 1, Route 3, Route 5, Route 6 and Route 7), by test type, for each attempt and for all attempts, the following information:
 - i. Number and percent passed;
 - ii. Number and percent failed;
 - iii. Total.

Totals for the above information, for all routes, by test type, are also displayed.

- f. **Strengths and Weaknesses Summary.** This report displays, for each training program type, for each test type and the Reading Comprehension Test, scoring statistics for each section of the test. It also displays the same statistics for all training programs. The scoring statistics may include but are not limited to the following:
 - i. Written test—Lowest, highest and average score;
 - ii. Clinical skills test--Number and percent passed, number and percent failed, lowest score highest score, average score.

- g. **Pass Rates by Form.** This report displays for each test type, by form code, the following information:
 - i. Form code;
 - ii. Date first used and date last used for quarter;
 - iii. Status (active, retiring, inactive);
 - iv. Number of administrations;
 - v. Number passed;
 - vi. Percent passed.

- h. **Poor Item Performance Report.** This report displays, by test form number and type, by item, by training program type, statistics for each item on the written test with unusual fail rates. The following information is displayed:
 - i. Number of candidates receiving the item;
 - ii. Number of candidates who respond correctly;
 - iii. Percent of candidates who respond correctly who pass the written examination;
 - iv. Number of candidates who respond incorrectly;
 - v. Percent of candidates who respond incorrectly who pass the written examination.

Totals for the above information for each item are also displayed. Additional information may be required on item performance.

- i. **Reciprocity Activity Summary.** This report displays by state of origin the following information for reciprocity requests:

- i. Number of applications processed;
- ii. Number of applications approved;
- iii. Number of applications denied by category of denial (i.e., lapsed, not found).

The total number of requests processed for all states is also displayed.

- j. **Verification Requests.** This report displays, for each inquiry route (i.e., website/internet, toll-free verification telephone number, IVR, faxed and written request), by source of inquiry, (i.e., nurse aide employer or general public) the following information:
 - i. total number of calls or requests, regardless of how many verifications are requested during the transaction;
 - ii. average number of verification requests per transaction;
 - iii. total number of verification requests;
 - iv. number of confirmations (i.e., the number of requests that result in the individual being found in the registry);
 - v. average wait time before call is answered;
 - vi. number of calls terminated prior to completion.
- k. **Certification Information Toll Free Inquiries.** This report displays the following information:
 - i. total number of calls, including both those handled by an operator and those handled by the automated system;
 - ii. number of calls handled by the automated system;
 - iii. average holding time before pick up by operator;
 - iv. number of calls resolved during call;
 - v. number of calls requiring follow-up;
 - vi. for calls requiring follow-up, the issues/questions involved;
 - vii. average talk time.
- l. **Employers with No Registry Verifications.** This report lists each employer and associated employer code with no registry verifications during the quarter.
- m. **Employers with No Applications Processed.** This report lists each employer and associated employer code with no nurse aide applications processed during the quarter.
- n. **Employers with No Registry Verifications or Applications Processed.** This report lists each employer and associated employer code with no registry verifications and no nurse aide applications processed during the quarter.
- o. **Nurse Aide Evaluator (NAE) Pass Rates Comparisons By Training Program.** This report lists, for each NAE, the NAEs name and the sites at which the NAE administered clinical exams during the quarter. It also displays, for each training program whose students took the clinical exams administered by the NAE, the following information:
 - i. Training program name and code;
 - ii. Number of candidates who took the exam;
 - iii. Number and percent passed;
 - iv. Number and percent failed.
 - v. Each NAE report also displays totals for the above information.
- p. **In-Facility Testing Request Tracking Report.** This report has a summary page and back-up detail. The summary page displays such information as:
 - i. Total in-facility requests received;
 - ii. Number of requests cancelled before being confirmed;
 - iii. Number of requests confirmed for requested date;
 - iv. Number of requests confirmed for a date other than that requested;

- v. Number of requests confirmed within 7 days of request date;
- vi. Number of requests confirmed 8 or more days after request date;
- vii. Number of test events administered on confirmed date;
- viii. Number of test events cancelled by facility;
- ix. Number of test events cancelled by contractor.

The back-up detail displays such information for each individual request as:

- i. Training program name and code;
 - ii. Location (city or town);
 - iii. Number of candidates;
 - iv. Date request received;
 - v. Requested date;
 - vi. Confirmed date;
 - vii. NAE name;
 - viii. Whether test date was cancelled and, if so, who cancelled it.
- q. The contractor will develop, subject to approval by the Department, a report to be known as the Quarterly Quality Assurance Monitoring Program (QAMP) Report. This report will be submitted to DOH in an electronic file by the contractor, on a (calendar) quarterly basis. The reports will be due no later than the 15th of the month following the end of the calendar quarter. Contractor should select data items which provide an objective and comprehensive picture of the overall quality provided by the contractor, including but not limited to the following:
- i. Results of candidate surveys regarding their test experience for the test event, for each test type;
 - ii. Results of facility surveys regarding their experience as a test site for the test event;
 - iii. Results of NAE surveys regarding their experience as the NAE for the test event;
 - iv. Results of CNA surveys regarding their recertification experience;
 - v. Reversals of clinical skills test scores by NAEs;
 - vi. Test site uniformity with regard to space, equipment, supplies, etc.;
 - vii. Monthly and quarterly registry summaries for recertification applications processed including number and percent of forms audited, number of field errors found, field error rate (%), forms with errors and form error rate (%);
 - viii. Monthly and quarterly registry summaries for all registry applications processed including number and percent of forms audited, number of field errors found, field error rate (%), forms with errors and form error rate (%);
 - ix. Required response timeframes vs. actual response times and other statistics for various performance areas including calls to certification information line, calls to registry, IVR, issuance of certificates, issuance of score reports; issuance of denial/disapproval letters for reciprocity and recertification, provision of materials to new training programs and employers and in-facility test scheduling.
 - x. The report will include analysis of all quality assurance data and recommendations for improvement as appropriate.

3.9.3 Annual Reports. The contractor will prepare and provide the DOH with annual (calendar annual) reports transmitted electronically including but not limited to the following. Annual reports are due by January 31.

- a. Pass Rates By Training Program Type. This report is described in Section 3.9.1.a.
- b. Pass Rates, All Attempts. This report is described in Section 3.9.1.b
- c. Strengths and Weaknesses Summary. This report displays, for each training program type, for each individual training program, for each test type and the Reading Comprehension Test, score statistics which include but may not be limited to the following:
 - i. reading comprehension test-number passed, number failed;
 - ii. written test—total number tested, total number and percent passed, total number and percent failed, number passed and number failed by each section/category of the test;
 - iii. clinical skills test-- number tested, number and percent passed, number and percent

failed.

State totals for the above information are also displayed.

- d. **Pass Rates By Testing Route.** This report displays, for each test type (CE, OE and WE) for each test/certification route (i.e., routes 1, 3, 5, 6 and 7), the following information:
 - i. Total tests administered;
 - ii. Number and percent passed;
 - iii. Number and percent failed;
 - iv. State totals for the above information for each test type.
- e. **Test Route Summary Report.** This report displays, by test route (i.e., Route 1, Route 3, Route 5, Route 6 and Route 7), by test type, for each attempt and for all attempts, the following information:
 - i. Number and percent passed;
 - ii. Number and percent failed;
 - iii. Total.

Totals for the above information, for all routes, by test type, are also displayed.

- f. **Strengths and Weaknesses Summary.** This report displays, for each training program type, for each test type, scoring statistics for each section of the test. It also displays the same statistics for all training programs. The scoring statistics may include but are not limited to the following:
 - i. Written test--lowest score, highest score, average score;
 - ii. Clinical skills test--number and percent passed, number and percent failed, lowest score, highest score, average score.
- g. **Pass Rates by Form.** This report displays for each test type, by form code, the following information:
 - i. Form code;
 - ii. Date first used and date last used for year;
 - iii. Status (active, retiring, inactive);
 - iv. Number of administrations;
 - v. Number passed;
 - vi. Percent passed.
- h. **List of Pre-Test Items.** This report displays, by test code, all pre-test items.
- i. **Item Analyses.** The contractor will develop reports that analyze each examination item used on each form of the written examination, updated for each revised examination question. The contractor will also gauge the reliability of the examination forms. Contractor will review with DOH any item that exceeds the normal deviation.
- j. **Reciprocity Activity Summary.** This report is described in Section 3.9.2.i.
- k. **Demographic Information for Test Candidates By Region.** This report displays for each region of New York (regions are aggregations of counties and are defined by the Department of Health), age ranges, gender, language, ethnic group, employment status and education level for all candidates tested in the year.
- l. **Demographic Information for Test Candidates by Test Route.** This report displays for each test/certification route (i.e., routes 1, 3, 5, 6 and 7) age ranges, gender, language, ethnic group, employment status and education level for all candidates tested in the year.
- m. **Demographic Information for Test Candidates by Training Program Type.** This report displays for each training program type (i.e., adult secondary schools, employment organizations, nursing homes, etc.) age ranges, gender, language, ethnic group, employment status and education level for

all candidates tested in the year.

- n. **Demographic Information for Non-Testing Candidates by Region.** This report displays for each region of New York (regions are aggregations of counties and are defined by the Department of Health), age ranges, gender, language, ethnic group, employment status and education level for all individuals who obtain NY State nurse aide certification via reciprocity or other non-examination methods, in the year.
- o. **Demographic Information for Non-Testing Candidates by Test Route.** This report displays for each test/certification route (i.e., routes 1, 3, 5, 6 and 7) age ranges, gender, language, ethnic group, employment status and education level for all individuals who obtain NY State nurse aide certification via reciprocity or other non-examination methods, in the year.
- p. **Demographic Information for Non-Testing Candidates By Training Program Type.** This report displays for each training program type (i.e., adult secondary schools, employment organizations, nursing homes, etc.) age ranges, gender, language, ethnic group, employment status and education level for all individuals who obtain NY State nurse aide certification via reciprocity or other non-examination methods, in the year.
- q. **Employers with No Registry Verifications.** This report is described in Section 3.9.2.l.
- r. **Employers With No Applications Processed.** This report is described in Section 3.9.2.m.
- s. **Employers With No Registry Verifications and No Applications Processed.** This report is described in Section 3.9.2.n.
- t. **Nurse Aide Abuse Complaints.** This report displays by nurse aide name, sorted by complaint description, the following information:
 - i. Nurse aide name;
 - ii. Certificate number;
 - iii. Original certification date;
 - iv. Certification end date;
 - v. Status;
 - vi. Route;
 - vii. Complaint description and complaint code;
 - viii. Record creation date.
- u. **Pass Rates Comparisons For Nurse Aide Evaluators (NAE) By Training Program.** This report lists the name of each NAE and the sites where the NAE administered clinical exams during the quarter. It also displays the following information for each training program in which the NAE administered clinical exams:
 - i. Training program name and code;
 - ii. Number of candidates who took the exam;
 - iii. Number and percent passed;
 - iv. Number and percent failed.

Each NAE report also displays totals for the above information.

- v. Summary and itemized information from the Quality Assurance Monitoring Program with recommendations as appropriate to improve the NY State nurse aide certification and NAR program.
- w. Information regarding the success or failure of all program improvements implemented during the reporting year.

3.9.4 Financial Reports. The contractor will prepare and provide the DOH with financial reports as described in Section 5.4 Payment as well as monthly, quarterly, annual and, if requested, year to date and year

to year charts and graphs that display service volumes and revenues. Years and quarters may be based on calendar year, state fiscal year, or contract year.

3.9.5 Reports to Nurse Aide Training Programs. The contractor will prepare and distribute the reports in Sections 3.9.5.a. - 3.9.5.b. to approved nurse aide training programs, subject to change as required by DOH. Distribution may be via email or other electronic means, e.g., the contractor's (or sub-contractor's) website. The contractor shall ensure that each NATP can access only its own data.

- a. **Weekly Test Summary.** This report is a weekly alphabetical listing and summary of the training program's clinical skills, written and/or oral nurse aide competency examination passing and failing candidates and test results for both clinical skills and written and oral examinations for passing and failing candidates who have been administered any NY State nurse aide competency examination during the previous week, and for comparison purposes, pass/fail percentages statewide and for each training program type. The report will also include diagnostic information regarding the test performance of the program's students. It must be generated and distributed to nurse aide training programs within three business days following the subject week.
- b. **Quarterly Test Summary.** This report is a quarterly summary of the pass/fail performance of the training program's candidates on the clinical skills, written and/or oral nurse aide competency examinations administered during the previous calendar quarter. Pass/fail percentages statewide and for each training program type will be included for comparative purposes. This report must be generated and distributed to nurse aide training programs within five business days following the subject quarter.

3.9.6. Reports to NYS nursing homes and nurse aide employers. The contractor will prepare and provide to each NY State nursing home and nurse aide employer, in hard copy, the following reports listed in Sections 3.9.6.a – 3.9.6.c, subject to change as approved by DOH.

- a. **Weekly Test Summary.** This report is a weekly alphabetical listing and summary by approved training program type (nursing home, non-profit training organization, secondary education institution, college, proprietary trade school) for nurse aide candidates completing the clinical skills, written and/or oral nurse aide competency examinations (pass or fail) and test results for both clinical skills and written/oral examinations for all candidates who have been administered any New York State nurse aide competency examination during the previous week. The date that the test was administered to each candidate should also be shown.
- b. **Monthly Recertification Summary.** This report is a monthly alphabetical listing and summary of the nurse aide recertification applications submitted by the nursing home or nurse aide employer which includes the name and certification number of each nurse aide and the status of the recertification application (i.e., granted or pending).
- c. **Monthly Reciprocity Summary.** This report is a monthly alphabetical listing and summary of the reciprocity applications submitted by the nursing home or nurse aide employer during the prior month, which includes the name of the individual, the original state of certification and the status of the reciprocity request for certification.

3.9.7 Nurse Aide Registry Databases. The contractor shall provide to DOH monthly and upon request a complete and accurate electronic copy of the New York State Nurse Aide Registry, subject to change, as required by DOH. The electronic copy of the NAR shall include all data and information residing in the New York State Nurse Aide Registry collected, assigned or maintained by the current and previous contractor for each individual who possesses one or more current or lapsed NY State nurse aide certification number(s). All databases that are collected, assigned or maintained by the contractor and linked to the NAR shall also be provided.

3.9.8 Revenue Reports. The contractor shall provide the DOH with monthly, quarterly, annual and multi-year revenue and service volume reports with comparisons to revenue levels and service volumes for previous months, quarters and years, as specified by the Department.

3.9.9 Error Reports. The contractor shall provide to DOH an error report as per Section 3. Detailed Specifications, Errors and Error Reports, on an as needed, per occurrence basis.

3.10 Liquidated Damages

The State acknowledges that the actual damages likely to result from breach of contractual requirements are difficult to estimate and may be difficult for the State to prove. The intention of the imposition of liquidated damages is to serve to compensate the State for breach by the contractor of its contractually established obligations. The imposition of liquidated damages is not intended to serve as punishment for any such breach by the contractor.

The schedule of liquidated damages to be deducted from any payments due the contractor is as follows:

RFP Section	Damages
3.1.7	Up to \$100 per hour for each hour of DOH staff time required to proof, correct, reformat, reorganize, rewrite, etc., any materials submitted by the contractor to the DOH for approval that do not contain all required material and/or are not professionally written, organized and displayed.
3.4.1 3.4.3	Up to \$500 per day for each calendar day the handbook is overdue.
3.4.4 3.4.5	Up to \$500 per day for each calendar day the application form is overdue.
3.4.10	Up to \$500 per day for each calendar day the manual is overdue.
3.5.4	\$100 per calendar day beyond a two-week period in which a regional test site is not in operation.
3.7.1	Up to \$500 per day for each calendar day beyond April 1, 2018 in which the examination database is not fully functional and operational.
3.8.1 3.8.5.a	Up to \$500 per day for each calendar day after 12:01 AM March 31, 2018 on which the NAR is not fully operational and in compliance with all requirements in this RFP.
3.8.7. 3.8.7.d 3.8.8.	Up to \$500 per day for each calendar day after 12:01 AM on March 15, 2018 that at least one toll free phone number and email address is not completely and accurately operational.
3.8.15	Up to \$500 per day for each calendar day after 12:01 AM on April 1, 2018 that the IVR phone is not completely and accurately operational.
3.9. 3.9.1 3.9.2 3.9.3	Up to \$100 per day for each calendar day the report is overdue.
5.4 5.4.1 5.4.2 5.4.3	The Department may, in its sole discretion, apply a 3% reduction to the total amount of the invoice and voucher upon resubmission of a correct invoice and voucher.

3.11 Information Technology Requirements

The Department acknowledges that eligible bidders or their sub-contractors own the NAR application they propose to use in New York and that this application is already used in one or more states to enable those states to meet federal requirements at 42 CFR Subpart D §§483.

The Nurse Aide Registry application and all systems and components supporting it, including but not limited to any forms and databases that include Social Security Numbers or other New York State information, must comply with all NYS security policies and standards listed at <http://its.ny.gov/tables/technologypolicyindex.htm>.

It is a federal requirement that each state maintain a nursing home nurse aide competency evaluation program and nurse aide registry. New York has chosen to contract with a private sector organization to provide the required services. In the event that the contractor is unable to provide nurse aide registry services at any time during contract term, (other than taking the application down for routine maintenance and other predictable purposes), the Department of Health must be able to maintain the nurse aide registry and its databases on a New York State-owned and operated website and server in order to maintain compliance with federal requirements. To this end, the contractor is required to maintain compliance With the provisions of Appendix F to its contract with the Department of Health. Appendix F may be found in Attachment E: DOH Agreement.

4.0 BIDDERS QUALIFICATIONS TO PROPOSE

4.1 Minimum Qualifications

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.

- Eligible bidders must, either themselves or in conjunction with their sub-contractors, own and possess unimpeded rights to the Competency Evaluation Program (CEP) that the bidder proposes to use in response to this RFP for New York State. Such CEP must currently be used in at least one state to satisfy federal CEP requirements incumbent upon the states (see SSA §1819(e)(1) and SSA §1919(e)(1)).

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: NAR-NATP@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 NAR-NATP@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: 3450467 Contract #: TBD

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

**NYS Department of Health
Unit ID 34530467
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.

5.4.1 Fee Structure Under this Contract

The Department makes no guarantees as to the value of this contract. The amount of remuneration to the contractor is dependent upon the volume of services delivered by the contractor to the public for which the Department has received full payment.

Each candidate is entitled to three opportunities to pass each test – the WE or OE, and the CE. If the candidate fails to pass the CEP after three attempts, s/he must successfully complete another State-approved NATP prior to sitting for the CEP again. A fee is charged to the public and billed to the Department each time the candidate takes the test. The fee charged to the public and billed to the Department for the test does not change regardless of whether it is the candidate's first, second or third attempt.

Candidates who qualify under the Americans With Disabilities Act (ADA) for oral administration of the written exam, must be charged the fee for the written exam. No additional fees may be charged to such candidates.

On behalf of the Department of Health, the contractor shall accept payments from the public, e.g., nursing homes, approved nurse aide training programs, students, certified nurse aides, etc., for services rendered according to a fee schedule established by the Department. These fees shall represent payment in full for the services regardless of who is paying the contractor. All money orders, checks and other payment instruments shall be made out to the New York State Department of Health unless otherwise determined by the Department.

The contractor shall deposit all fees, partial fees and finance charges into a bank account designated and owned by the State of New York within two business days of receipt. Day of receipt is day one. The next business day is day two. This requirement applies regardless of whether the service associated with the fee has been rendered. The Department reserves the option to require the contractor to use a bank lock box and/or to deposit all fees on the day of receipt.

The type of services for which fees may be charged to the public and to the Department are the same and are listed in Section 5.4.2 below. Under the contract resulting from this procurement, the contractor may not charge fees to the public, to the Department or to any other party for any service other than those listed in Section 5.4.2. Bidders on this contract are reminded to "fold" all expenses into these fees, as the services listed in Section 5.4.2 are the only services for which the bidder awarded the contract can bill the Department or any other entity.

Bidders should be aware that the Department may add a fee to one or more of the fees proposed by the bidder in its bid on this contract. The sum of such Department-added fee plus bidder's fee will be the fee charged to the public for services rendered under this contract. The revenue generated by the fee added by the Department to the bidder's proposed fee will be retained by the Department. Bidders should be aware that some candidates may schedule only one test, i.e., some testers may schedule and pay for only the written exam, or only the oral exam, or only the clinical exam. They may schedule and pay for the second exam on a later date.

The Department is not responsible for non-payment or partial payment of fees charged to the public, nor is it responsible for non-payment of finance charges assessed in accordance with the requirements of Article 55 of the State Finance Law. The contractor must be in compliance with the provisions of Article 55 of New York State Finance Law at all times. All finance charges must also be deposited into the designated State Bank account.

The contractor is responsible for all collection activities for any financial instrument that cannot be credited to the State-owned bank account for the full amount of the financial instrument. The contractor may not bill the Department for any collection activities. The contractor will ensure that the full amount due to the State is credited to the State-owned bank account prior to the contractor invoicing the State for services rendered.

5.4.2 Billable Fees

The successful bidder may not bill any party, including the public and the Department of Health, fees for any services until such time as the Nurse Aide Registry and verification systems are fully operational as specified in this RFP and approved by the Department of Health. Additionally, the successful bidder (unless the current contractor) may not deliver any billable services (billable to either the public or the Department of Health) until the current contractor's contract has expired. The successful bidder may accept payments for services it will render prior to rendering them. It is anticipated that the successful bidder's Nurse Aide Registry and verification systems will be operational and approved by the Department of Health on or before April 1, 2018.

The only services for which the contractor may bill the Department or any other entity or individual are:

- 1.1. Clinical skills test. The fee must be all inclusive and include all expenses associated with the administration and processing of one nurse aide clinical skills examination (CSE) including but not limited to expenses associated with employing and deploying nurse aide evaluators to administer the test; candidate registration, test and all other material required to administer the CSE; processing candidate registration information, fees and test results into the appropriate databases and NAR; test scoring; reporting the required information to the candidate, the training program, the employing nursing home and the Department; and issuing the CNA certificate and a wallet/pocket card.
- 1.2. Written test. The fee must be all inclusive and include all expenses associated with the administration and processing of one nurse aide written examination (WE) including but not limited to expenses associated with employing and deploying nurse aide evaluators to administer the test; candidate registration, test and all other material required to administer the WE; processing candidate registration information, fees and test results into the appropriate databases and NAR; test scoring; reporting the required information to the candidate, the training program, the employing nursing home and the Department; and issuing the CNA certificate and a wallet/pocket card.
- 1.3. Oral test. The fee must be all inclusive and include all expenses associated with the administration and processing of one nurse aide oral examination (OE) including but not limited to expenses associated with employing and deploying nurse aide evaluators to administer the OE; candidate registration, test and all other material required to administer the OE; processing candidate registration information, fees and test results into the appropriate databases and NAR; test scoring; and reporting the required information to the candidate, the training program, the employing nursing home and the Department; and issuing the CNA certificate and a wallet/pocket card.
- 1.4. Reciprocity/CNA from another state and RNs and LPNs licensed in New York State. The fee must be all inclusive and include all expenses associated with processing and fulfilling the reciprocity application (including routine verification checks and any special additional verification checks requested by the Department of Health such as requesting the reciprocity candidate to submit additional documentation of certification status in the other state), updating all databases, NAR and other records, and issuing the CNA certificate and a wallet/pocket card.
- 1.5. Recertification. The fee must be all inclusive and include all expenses associated with processing and fulfilling recertification applications submitted by or on behalf of a New York CNA, including updating all appropriate databases, NAR and other records, and issuing the CNA certificate and a

wallet/pocket card.

- 1.6. Duplicate certificate and/or wallet/pocket card. The fee must be all inclusive and include all expenses associated with processing requests for and providing nurse aides with a replacement or duplicate CNA certificate and/or wallet/pocket card. A single fee must be charged regardless of whether the aide requests just one or both documents.
- 1.7. No show. The fee includes all expenses associated with processing and fulfilling applications for the written, clinical and/or oral test submitted by or on behalf of candidates who are “no shows”, i.e., candidates who do not reschedule within the required timeframes or who are late for the test or who fail to appear for the test at the designated place, time and date.

5.4.3 Payment Terms

With the single exception noted below, in no case shall the contractor invoice the Department, and in no case shall the Department pay the contractor, **for services that the contractor has not rendered and for which the State has not received the total amount of the associated fees**. “Total amount of the associated fee” means that the check, money order, voucher or other financial instrument has been successfully credited to the State-owned bank account at the full amount of the fee for the service rendered. Additional exceptions to this requirement can be made only with the prior approval of the Department. The Department reserves the right to amend this practice at any time during the contract period.

The exception to this billing requirement, “no shows,” is as follows. If the contractor requires payment of test fees prior to the date of the test, the following shall apply. The contractor shall refund the full test fee when the contractor is informed at least five business days prior to the test date either that the candidate will not be tested and will not reschedule the test to another date, or that the candidate will not be tested and did not elect to transfer the paid fee to another candidate. The contractor may **not** bill the Department the fee for the service associated with the refund if the contractor merely returned the financial instrument to the candidate or entity that submitted it. The contractor may bill the Department only if the contractor deposited the fee paid by or on behalf of the candidate in the state-owned bank account and the total amount of the associated fee was successfully credited to the State-owned bank account at the full amount of the fee for the service. Each refund issued by the contractor and billed to the Department will be individually itemized on the voucher and invoiced at a level of detail acceptable to the Department. Documentation as determined by the Department may be requested to confirm the refund was obtained by the candidate. For “no shows” and for cancellations made less than five business days prior to the test date, which will be treated as “no shows” for purposes of the contractor’s invoices submitted to the Department, the fee is neither refundable nor transferable to another candidate. The contractor shall deposit these fees in the designated State-owned bank account and bill the Department its contractually established fee for “no shows.” An example of the five-day timeframe is: if scheduled test date is a Friday, the cancellation notification must be made no later than 5:00 PM Eastern Standard Time the previous Friday.

One of the services that the contractor will provide to the public is recertifying nurse aides. The regulatory requirements for recertification provide that the nurse aide’s most recent nursing home employer must submit the request for recertification on the nurse aide’s behalf and must pay the recertification fee even if the aide no longer works at that nursing home. Further, the certification period, which is 24 months, must include at least one day in which the nurse aide worked in a nursing home. These requirements produce a situation in which two or more recertification fees can be paid by different nursing homes for the same aide for the same period of time. The contractor shall implement the following policy and procedure to minimize the incidence of “duplicate” fees. The first recertification application received by the contractor will be processed according to the requirements in this RFP and the contractor’s policies and procedures. The fee shall be deposited in the State-owned bank account and invoiced to the Department. Any subsequent recertification applications and associated fees shall be returned to the entity that submitted them if they do not change the nurse aide’s certification period by at least one month. The contractor may bill the Department for neither the service associated with a fee that is returned to the entity that paid it nor the expenses it incurs to process the application and fee and return it to the entity that paid it. If application(s) subsequent to the first one the contractor receives change the certification period by at least one month, the contractor shall process the application(s), change the aide’s certification period, deposit the fee in the State-owned bank account and bill the Department for the recertification.

The contractor shall bill the Department on a monthly basis for all services as defined in Section F. that were delivered the previous month or earlier and for which the contractor has successfully deposited, as evidenced by related credits, to the State-designated bank account the total amount of the associated fee as defined above and for which the contractor has not already been paid by the Department. The invoice and voucher and reconciliation (as described below) for each month shall be submitted no later than 30 calendar days after the last day of the month to Accountspayable@ogs.ny.gov with a subject field completed as follows: Subject: Unit ID: 3450467 Contract #: TBD. The contractor's invoice and voucher and reconciliation will be reviewed for accuracy. If errors are identified, the invoice and voucher and reconciliation will be returned to the contractor for correction. The Department may, in its sole discretion, apply a 3% reduction to the total amount of the invoice and voucher and reconciliation upon resubmission of a correct invoice and voucher and reconciliation.

At the Department's option, the Department may require the contractor to submit its invoices and vouchers first to designated Department of Health staff for approval. The contractor's invoice and voucher and reconciliation will be reviewed for accuracy. If errors are identified, the invoice and voucher and reconciliation will be returned to the contractor for correction. The Department may, in its sole discretion, apply a 3% reduction to the total amount of the invoice and voucher upon resubmission of a correct invoice and voucher and reconciliation. If the Department implements this option, the contractor may submit the invoice and voucher to Accountspayable@ogs.ny.gov only after Department of Health staff approve them.

The contractor's reconciliation of (a) services billed to the Department to (b) services rendered to the public, including "no shows" described above to (c) service fees credited to the State-owned bank account, must accompany the related invoice and voucher. The reconciliation must include, at minimum, for each individual service, the name of the aide (and certification number) or candidate (and candidate ID number), the date the service was rendered, the type of service rendered, the fee for the service, and the date the fee was credited to the State-owned bank account as per the bank. The contractor's reconciliation must both integrate the entirety of each month's banking transactions at the individual payment level and agree to the month's ending balance per the State-owned bank account. This will require the contractor's reconciliation to provide details regarding financial instruments returned for insufficient funds and to incorporate the withdrawals made by NYS Office of the State Comptroller (OSC). The DOH may require additional information on each service if needed to verify this reconciliation. The contractor may propose but the Department has final approval authority regarding the specific information to be included in the reconciliation, reconciliation format, and the information technology used to produce the reconciliation.

A "transaction" for purposes of this section of the RFP is the delivery or planned delivery or attempted delivery of a single billable unit of service as defined above. The contractor will develop and maintain a single unified database or other single unified electronic tracking system that contains detailed transaction information. Every transaction must be recorded and tracked in this database or electronic tracking system. The detail for each transaction shall be sufficient to enable the Department and/or its designees to: (a) link each of the contractor's requests for reimbursement for a transaction to the associated credit to the State-owned bank account; and (b) verify that the contractor is billing the Department for only those services that it has in fact delivered and for which the State of New York has received the full value of the fee. The contractor may propose but the Department has final approval authority regarding the specific information to be included in the database or tracking system, database format and information technology

The Department, upon verification of the invoice, voucher and reconciliation will authorize payment to the contractor of the monies due to the contractor for services rendered minus the 3% reduction for inaccuracies, if applied, and minus any liquidated damages as detailed in Section 3.10. Payment by the Department to the contractor for these services will be based on the unit price billed to the Department of Health for each service. The reimbursement paid by the Department to the contractor based on such bills will represent the total remuneration due to the contractor from the Department for all services rendered and performed, and all expenses incurred, in connection with the contract.

5.4.4 Fidelity Bond

Within 15 days of contract approval by the Office of the State Comptroller (OSC) and prior to the start of work, the contractor shall procure at its own sole cost and expense, and shall maintain in full force and effect at all times during this contract, a third party fidelity bond in the amount equal to four times the estimated average monthly amount of revenue from fees charged to the public for services rendered, \$1.2 million. The People of the State of New York shall be named as the third party beneficiary of the fidelity bond. The fidelity bond shall be maintained by the contractor in a form satisfactory to the New York State Department of Health.

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 NAR-NATP@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

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 offeror; 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 offeror's proposal and/or to determine an offeror'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 offeror's 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 Report may be accessed electronically at: <http://www.osc.state.ny.gov/procurement>.

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 ten (10) 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/regs/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/purchase/snt/sflxi.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.

5.19 Diversity Practices Questionnaire

Diversity practices are the efforts of contractors to include New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) in their business practices. Diversity practices may include past, present, or future actions and policies, and include activities of contractors on contracts with private entities and governmental units other than the State of New York. Assessing the diversity practices of contractors enables contractors to engage in meaningful, capacity-building collaborations with MWBEs. All bidders should complete Attachment K, Diversity Practices Questionnaire.

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 may 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 requirements 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 <http://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 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. 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.
- H. Submit Attachment K, Diversity Practices Questionnaire. Submit Attachment K, Diversity Practices Questionnaire. The Department has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of respondents of this procurement is practical, feasible, and appropriate. Accordingly, respondents to this procurement should include as part of their response to this procurement, Attachment K "Diversity Practices Questionnaire". Responses will be formally evaluated and scored.

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 required information to be provided by bidders. The information requested should be provided in the prescribed format. Inclusion of a table of contents in the bid proposal is recommended. 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. Proposal responses should be organized in the same lettered/numbered format in which they are requested below. Your proposal should contain sufficient information to assure DOH of its accuracy. Failure to follow these instructions may result in disqualification.

- I. Brief Description of Bidder's Skills, Experience and Qualifications Relevant to RFP Requirements; Documentation of Eligibility to Bid on the Contract
 - A. Bidder must include documentation that the bidder or its sub-contractor meets all of the eligibility criterion as defined in **Section 4.0**. Specifically, if the bidder does not own and possess unimpeded rights to the CEP, name the subcontractor that does satisfy this requirement and provide documentation that the bidder will have unimpeded access to the subcontractor's CEP for the term of the contract. In addition, list the state(s) in which the CEP is currently in use.
 - B. Bidder should include a brief description of bidder's (and sub-contractors, if any) skills, experience and qualifications relevant to RFP requirements. Page limit: two pages.
- II. Proposal Content
 - A. Establish a Standardized Competency Evaluation Program (CEP)

1. Bidder must include at least one of the test forms for the CSE and WE that bidder proposes to use in New York if it is awarded the contract. Provide the points assigned to each item on the tests and the cut score for each test form for both the written and the clinical test. NOTE: This is a pass/fail criterion.
2. Bidder must include a written sample of OE that bidder proposes to use in NY and how it will be administered. NOTE: This is a pass/fail criterion.
3. Bidder should document ownership and copyright of this CSE, WE and OE. Document that the bidder (or sub-contractor) will continue to have the right to use such examinations for the entire term of the contract. *This is a pass/fail criterion.*
4. Bidder should document that the CEP is written in English at the 4th - 6th grade reading level. Include a detailed description of each and all methods used to determine the readability of all parts of the WE and the readability estimate produced by each method. The description of each method should be sufficient to enable reviewers to ascertain the soundness of the method.
5. Bidder should document compliance with federal requirements for CEPs at 42 CFR §483.154(b)(1) – (2) and FR §483.152(b). Each federal requirement should be addressed.
6. Bidder should document that the bidder's CEP was developed and constructed consistent with the professional standards and educational principles pertaining to test development and construction, including the development of clinical and written test items or questions and clinical and written test equating. The bidder's documentation that its CEP meets this requirement should include the following for both the clinical test and the written test:
 - i. Regarding the experts who developed the exams (i.e., the individuals who developed test items and decided which ones should be used in each test form), provide the following information. Experts need not be named. Codes can be used to refer to each expert, e.g., Nurse 1 or CNA 3:
 - ii.
 - iii. the criteria for selecting the experts;
 - iv. whether each expert actually used met each criterion;
 - v. if any expert actually used did not meet one or more criteria, the criteria not met should be specified for that specific expert;
 - vi. if any expert actually used did not meet one or more criteria, and explanation and justification of why the expert was used despite not meeting the criterion;
 - vii. the number of experts actually used; and
 - viii. for each expert actually used, describe that expert's training in writing test items.
 - ix.
 - x. The appropriate item types should be used to assess the necessary knowledge, skills, and understanding of a minimally competent nursing home nurse aide. Test items should be written according to accepted guidelines and by experts with the training to write such items. Describe in detail how, in the development of the CEP proposed to be used in NY, these expectations were met.
 - xi.
 - xii. Regarding equating: describe the test equating methodology that was used in sufficient detail to enable reviewers to ascertain its soundness and logic.
7. Bidder should describe the job analysis methodology and results used to develop the CEP. If the job analysis is not sufficient to demonstrate the job-relatedness of the CEP, i.e., relatedness to the duties and responsibilities of entry-level nursing home nurse aides, additional discussion should be included. In any event, the job analysis and discussion, if any is needed, should include the following:

- i. Regarding the experts used in the job analysis: the criteria for selecting the experts; whether each expert actually used met each criterion; if any expert actually used did not meet one or more criteria, the criteria not met should be specified for the expert; and the number of experts actually used.
- ii. The job analysis should have resulted in a detailed and comprehensive list of activities/tasks/skills and knowledge areas. The experts should have assigned ratings (e.g., frequency, importance/criticality) to each task/skill and knowledge item. Include the list of tasks/skills and the list of knowledge items that emerged from the job analysis and the importance/criticality (or comparable) ratings assigned to each. Rank order them from highest rating (in terms of importance/criticality) to lowest rating, and include the importance/criticality (or comparable) rating for each item. Make sure that two separate rank ordered lists are included in the bid proposal: one for tasks/skills, and one for knowledge items.

NOTE: These two lists will be scored by comparing them to the two lists that emerged from the most recent job analysis for New York nursing home nurse aides. However, the bidder's lists of activities/tasks/skills and knowledge areas do not have to be identical to New York's job analysis lists to receive 100% of the technical points available for these criteria.

- iii. The month(s) and year(s) in which the data regarding tasks/activities and knowledge areas was collected from the subject matter experts.
8. Bidder should discuss validity and reliability of the CEP. The CEP (i.e., clinical and written tests) should meet acceptable standards for validity and reliability in identifying those who possess the minimum competencies required of entry level nursing home nurse aides. The discussion for both the written and the clinical test should include the following:
- i. Regarding the experts used: the criteria for selecting the experts; whether each expert actually used met each criterion; if any expert actually used did not meet one or more criteria, the criteria not met should be specified for the expert; and the number of experts actually used.
 - ii. The methodology for ensuring test validity (i.e., relatedness to on-the-job functioning of nurse aides) and the validity evidence for all components of the test and the test as a whole. Any statistics that indicate low validity should be explained.
 - iii. The methodology for ensuring test reliability and the results of reliability analyses for all components of the test and the test as a whole. For the clinical test, address inter-rater reliability.
 - iv. The methodology for determining cut scores for each test and each test form and why that score identifies those who are minimally competent to be nurse.
9. Bidder should demonstrate the CEP is based on a curriculum that is analogous to the curriculum required to be used in New York. Include a cross-walk between New York's curriculum and the curriculum upon which the CEP proposed by the bidder to be used in NY, is based. For purposes of displaying or formatting the crosswalk, for New York's curriculum, use the chart in Section D of the Nurse Aide Training Program for Nursing Homes for New York State Nursing Home Nurse Aide Certification (Attachment L).
- i. For each unit (capital roman numeral), topic (capital letter), lesson (number), and sub-lesson (small roman numeral) in the New York curriculum, provide the title of the comparable unit, topic, lesson and sub-lesson (if any) as well as the classroom, laboratory and clinical minutes for each unit, topic, lesson

and sub-lesson from the curriculum upon which the CEP proposed by the bidder to be used in NY, is based.

- ii. Provide a description of the content of each unit, topic, lesson and sub-lesson included in the curriculum upon which the bidder's CEP is based.
- iii. State the number of items in the bidder's test item bank (this number should not include test items on test forms) that address each unit, topic, lesson and sub-lesson (if any).
- iv. Ensure that, when referring to NY's curriculum, the numbering, lettering and titles used in the crosswalk are identical to those used in NY's curriculum. The level of detail in the content description of the bidder's curriculum should be comparable to the level of detail in New York's curriculum. "Mapping" of the bidder's curriculum to NY's curriculum that is unclear and/or confusing to reviewers may result reviewers assigning a lower score on this criterion to the bid. Content descriptions that are vague or ambiguous may also result in a lower score.

NOTE: This "cross-walk" will be scored. However, the bidder's curriculum does not have to be identical to New York's curriculum to receive 100% of the technical points available for this criterion.

10. Provide a list of all the states that used the bidder's CEP in 2014. For each such state, provide:

- i. The number of years in the past five years (2010, 2011, 2012, 2013, 2014) that the state used the bidder's CEP;
- ii. Contact information (business address, business phone number and business email address) for someone at the relevant state agency who is still working there and is familiar with the bidder's CEP performance;
- iii. Customer satisfaction survey results (customer satisfaction with the tests themselves, not test registration or administration), if any, and the timeframe(s) for the survey(s). Customers include both test takers and NATP instructors.

B. Administration of the CEP

1. Bidder should describe the process for initial and periodic statewide training and ongoing supervision of qualified nurse aide evaluators (NAEs), to guarantee there will be a sufficient pool of NAE's available to administer, in a fair, consistent, uniform and timely manner, the NYS CEP to all qualified individuals. At a minimum, NAEs should be currently licensed NYS Registered Nurses with at least one year of nursing experience in an RHCF. Exceptions to the RHCF experience requirement may be made but only with Department of Health approval.
2. Bidder should provide a plan to ensure that the CEP is administered in the same way at each test event across the State without variance. This plan should also address how the bidder plans to accommodate candidates who qualify for accommodation under the Americans with Disabilities Act.
3. Bidder should provide a plan to ensure that the quality of the test site environment is maintained for each test event regardless of test site location.
4. Bidder should describe how it will administer the WE electronically. Include a detailed discussion of how a computer-based WE will be implemented statewide. The discussion should consider the following:

- i. Tutorial. The tutorial used to instruct candidates how to use the computer testing equipment; how the candidates will provide their responses to the questions, how candidates will change their answers; and the procedures used to ensure that any candidate who is unfamiliar with computers will not be disadvantaged by the computer-based testing; etc.
 - ii. Characteristics of the testing site. How will the bidder, if awarded the contract, ensure that the different characteristics of the testing site, e.g., quality of the computer equipment, speed of internet connections, etc., will not affect the success of the candidate.
- 5. Bidders' should provide a test administration plan. Include a plan for test administration that accounts for the following:
 - i. Testing program design. The testing program should be designed with sufficient flexibility to enable the NAE to administer and score the CSE, administer the WE/OE and provide real-time scoring.
 - ii. Integrity and security of the testing process. The contractor must have sufficient proctors at each WE/OE administration to ensure the integrity and security of the testing process. Attachment M provides minimum acceptable ratio of proctors to candidates.
 - iii. Administration of CSE and WE/OE on same vs. consecutive days. The CSE and WE/OE may be administered on consecutive days provided that the administration of the entire CEP takes place during a single testing session.
 - iv. Approved training sites and approved regional test sites. The examinations shall be administered only at approved training sites and approved regional test sites.
- 6. Bidders should provide a list of all the states for which bidder administered the CEP in 2014. For each such state, provide:
 - i. The number of years in the past five years (2010, 2011, 2012, 2013, 2014) that the bidder administered the CEP;
 - ii. Contact information (business address, business phone number and business email address) for someone at the relevant state agency who is still working there and is familiar with the bidder's CEP administration performance; and
 - iii. Customer satisfaction (with the process for test registration and test administration) survey results, if any, and the timeframe(s) for the survey(s). Customers include both test takers and NATP instructors.

C. Candidate Application and Eligibility Screening

- 1. Bidder should include a hard copy of the nursing home nurse aide certification handbook referenced in Section 3.4 of this RFP.
- 2. Bidder should include a hard copy of the organizational manual referenced in Section 3.4.10 of this RFP.

D. Examination Data Base

- 1. Bidder should document how the it is capable and competent to develop and manage the examination database in conformance with all of the requirements specified in this RFP.

2. Bidder should provide transition plan for contract start. Include a plan to ensure that the information for all previous and current CEP candidates contained and maintained in the current contractor's examination and SSN databases is transferred seamlessly and securely to the bidder's examination and SSN databases in its entirety, and that constituent data is complete without omission, revision or alteration. The plan must ensure and document that there will be no loss of historical data on individual nurse aide candidates, certified nurse aides, NATPs, nurse aide employers and NAEs.
3. Bidder should provide transition plan for contract end. Include a plan to ensure that the demographic information for all previous and current CEP candidates contained and maintained in its examination and SSN databases will be transferred seamlessly and securely at the expiration of the contract to the subsequent contractor's examination and SSN databases in its entirety, and that constituent data will be complete without omission, revision or alteration. The bidder's plan should ensure and document that there will be no loss of historical data on individual nurse aide candidates, certified nurse aides, NATPs, nurse aide employers and NAEs.

E. The New York State RHC Nurse Aide Registry (NAR)

1. Bidder should include an operational plan that states how the bidder will develop, operate, maintain and host the New York State NAR in accordance with each specific requirement in Sections 3.8.1. – 3.8.5.2.8:
 - i. Host the New York State NAR on its own (or its subcontractor's) website.
 - ii. Guarantee the accuracy of all information in the NAR database.
 - iii. Acknowledge that: (a) all data contained in the NAR or used to support it belongs to and remains the property of the DOH; and (b) the source code for the NAR and all supporting systems and information technology belong to and remain the property of the contractor.
 - iv. No data may be released by the contractor from the NAR and the databases that support it without prior written approval from the DOH.
 - v. The NAR database and system will meet the following requirements:
 - Be implemented and fully operational, including beta testing, by 12:01 A.M, March 31, 2018.
 - Be fully interactive.
 - Integrate all existing information contained in the current New York State RHC Nurse Aide Registry into the new Registry without loss of information or function excluding any SSNs that may be in the information.
 - Provide direct access to live customer service representatives providing nurse aide certification verification for nurse aide employers and public inquiries.
 - Provide dedicated customer service representatives assigned to New York State-specific inquiries.
 - Provide interactive voice response (IVR) access for 24 hours/7 days per week nurse aide verification.
 - Have fax capabilities for receipt of and response to nurse aide verification inquiries.
 - Prompt data entry and error correction. The contractor will permanently enter into the NAR all required information as specified in this RFP, in a manner acceptable to and determined by the DOH,

for each successful candidate within five working days of the date on which the individual has passed both tests.

2. Bidder should include a plan for providing DOH NAR staff with continuous on-line real-time access to the NAR via high speed internet connection to enable such staff to access and input directly into a nurse aide's Registry record any update or correction to the individual's Registry information concerning sustained findings of resident abuse, neglect, mistreatment and misappropriation of resident property or convictions of the same or other information as required by federal or State statute, regulation or policy. The plan should describe the mechanism by which the contractor ensures that this information immediately becomes and remains a part of the nurse aide's Registry record.
3. Bidder should describe the procedure to be used for Department of Health staff to generate ad hoc data and statistical reports from the information collected by or on the Registry.
4. Bidder should include a Customer Service Plan that states how the bidder will ensure that its customer service staff provide customer service in compliance with each specific New York State requirement in Section 3.8.7. – 3.8.7.5. NOTE: New York State requirements may differ from other states' requirements. If so, bidder's plan should acknowledge these differences and address how it will ensure that customer service and information provided to New York customers is accurate and compliant with the requirements of this RFP.
 - i. Customer service staff must be thoroughly trained and conversant with:
 - contractor's policies and procedures for establishing eligibility to test or to be placed on New York's Nurse Aide Registry without passing the exams;
 - contractor's handbooks and manuals for New York State described in Section 3.4.;
 - contractor's policies and procedures for scheduling, canceling and re-scheduling exams for groups as well as individual candidates and payments for the same in New York;
 - contractor's environmental requirements for testing sites and policies and procedures for obtaining and maintaining test site approval;
 - contractor's approved regional vs. facility-based or NATP-based test sites;
 - contractor's policies and procedures for verification of information in the Nurse Aide Registry pertaining to specific nurse aides;
 - contractor's intake procedures for customers who wish to file complaints about test sites, NAEs, the exams themselves, scheduling procedures, customer service staff; and
 - confidentiality of information on the non-public NAR, etc. Customer service staff must be able to verify, explain and resolve notification delays, payment policies and issues, information on the NAR that the customer claims is not correct, and any other problems or complaints brought to their attention.
 - ii. Contractor should develop and implement policies and procedures for escalating difficult to understand and/or resolve questions, issues and complaints to supervisors and managers who are equipped to understand them and have the authority required to resolve them.
 - iii. Customer service staff must have access to the appropriate sections of the contractor's examination, NAR, payment and other databases in order to respond to questions from and complaints filed by candidates for certification, nurse aides, NATPs, nursing homes, etc., with current and correct information.

- iv. Customer service must be provided via internet as well as toll-free telephone line(s) that are open with live coverage by trained customer service staff Monday through Friday between the hours of 8:00 AM and 5:00 PM New York time.
 - v. At least 80% of telephone calls must be answered either by a live person or by an automated answering system no later than the fourth ring. The blockage rate (percent of calls that receive a busy signal) cannot exceed 10%. An automated answering system may be used but the option for a live person response must be available to all callers.
5. List all states for which the bidder (or its sub-contractor) hosted and managed/maintained the state's NAR in 2016. For each state, provide the following:
- i. website address for the state's NAR;
 - ii. the specific months and years in the past five years (2012, 2013, 2014, 2015, 2016) during which the bidder's (or its sub-contractor's) employees managed/maintained the NAR on that website;
 - iii. contact information (business address, business phone number and business email address) for someone at the relevant state agency who is still working there and is familiar with the bidder's NAR performance;
 - iv. a description of the most recent user acceptance testing (UAT) conducted on the public NAR application; the times (month and year) at which this UAT was conducted, the results of this UAT and how the application was modified in response to those results; and
 - v. customer satisfaction (with the public NAR and contractor's customer service) survey results, if any, the timeframe(s) for the survey(s); and how the public NAR and customer service policies, procedures and staff training were modified in response to survey results.

III. Information Technology Requirements

A. SSN Security Plan

- 1. Include a detailed security plan for all hard copy, electronic forms and databases that contain Social Security Numbers (SSNs). The security plan for this data should address all requirements stated or referred to in the Security Attestation Form, Attachment O.
- 2. Include an attestation (use Attachment O) that the bidder, if awarded the contract, will attain and maintain compliance with the Department's security requirements for the Nurse Aide Registry application and all systems and components supporting it, including but not limited to any forms and databases that include Social Security Numbers or other New York State information.
- 3. Include an attestation (use Attachment P) that the bidder, if awarded the contract, will attain and maintain compliance with the Terms, Conditions, and Requirements as stated in Appendix F to Attachment E of RFP# 15917 for the Nurse Aide Registry application and all systems and components supporting it.

IV. Organization, Staffing and Management

- A. Describe how staff, including sub-contractor staff if any, will be organized and managed to

ensure appropriate communication, supervision and authority to complete all work in a timely fashion. Include brief profiles of key staff that state why each individual's skills and experience are key to effective performance and timely deliverables. Do **not** include vita, resumes, licenses and certifications in this section. Page limit is three pages.

V. Vita, Resumes, Licenses and Certifications

- A. Include legible copies of resumes, licenses and certifications for key project staff.

6.3 Cost Proposal

Submit a completed and signed **Attachment C – Cost Proposal**. The Cost Proposal shall 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 bidder in its financial proposal should submit the schedule of fees it proposes to bill the Department of Health in the period beginning on the contract start date and ending five years later for each of the seven billable services listed in Section 5.4.2.

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.

With its bid submission, the bidder should include a letter from its surety company stating that, in the event of contract award, a fidelity bond in the amount equal to four times the estimated average monthly amount of revenue from fees charged to the public for services rendered, \$1.2 million, will be provided to the New York State Department of Health within 15 days of a contract award. An award will not be made without this letter from the surety company.

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 5 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 5 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 5 Copies

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# (Name) – (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 No. 15917)
Attention: NYSDOH, Ms. Shelly Glock, Director, Division of Nursing Homes and ICF/IID
Surveillance
875 Central Avenue
Albany, New York 12206

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 offerors" 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 **70%** of a proposal's total score and the information contained in the Cost Proposal will be weighted **30%** 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) 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

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

Proposals will undergo a Preliminary Technical Evaluation to verify Minimum Qualifications to Propose (Section 4.0).

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 **70%** of the final score.

8.4 Cost Evaluation

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 30 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:

$$C = (A/B) * 30\%$$

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 **30%** 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 Department reserves the right to contact any state listed in the technical proposal of the bidder's bid as well as any state listed on the bidder's (or a sub-contractor's) website as a state to which the bidder (or sub-contractor) provides the CNA CEP, CNA testing and/or nurse aide registry application and maintenance services

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 Finalist with the highest composite score whose experience and qualifications have been verified.

The Department will notify the awarded Bidder and Bidders not awarded. The awarded Bidder(s) 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 Diversity Questionnaire
- L Nurse Aid Training Program Curriculum
- M Ratio of Proctors to Candidates
- N Regional (County) Test Sites
- O Security Attestation
- P Software as a Service Attestation
- Q Documents that Establish Employment Eligibility

**ATTACHMENT A
 BIDDER'S CERTIFIED STATEMENTS**

(To be completed and included in the Administrative Proposal documents)

RFP 15917 – Administration of New York’s Nurse Aide Testing and Certification Program
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.

Name:

Title:

Address:

City, State, ZIP Code:

Telephone Number (including area code):

Email Address:

C. Bidder's Taxpayer Identification Number:

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

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 15917 – Administration of New York’s Nurse Aide Testing and Certification Program		
FOR THE ADMINISTRATIVE PROPOSAL		
RFP §	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"/>
§ 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"/>
§ 6.1.H	Attachment K-Diversity Practices Questionnaire	<input type="checkbox"/>
FOR THE TECHNICAL PROPOSAL		
RFP §	REQUIREMENT	INCLUDED
§ 6.2. I	Documentation of Bidder’s Eligibility	<input type="checkbox"/>
§ 6.2. II	Technical Proposal Content	<input type="checkbox"/>
§ 6.2. III	Security Plan	<input type="checkbox"/>
§ 6.2. III	Attachment O Security Attestation	<input type="checkbox"/>
§ 6.2. III	Attachment P Software as Service Attestation	<input type="checkbox"/>
§ 6.2. IV	Organization, Staffing, Management	<input type="checkbox"/>
§ 6.2. V	Vita, Resumes, Licenses, Certifications	<input type="checkbox"/>
FOR THE COST PROPOSAL REQUIREMENT		
RFP §	REQUIREMENT	INCLUDED
§ 6.3	Attachment C- Cost Proposal	<input type="checkbox"/>

**ATTACHMENT C
COST PROPOSAL**

Procurement Title: A Request for Proposal for Assistance with Administration of New York’s Nurse Aide Testing and Certification Program

RFP#: 15917

Bidder Name: _____

Bidder should propose fees for each year and each service type in Columns B - F of this Bid Form. Bidders are reminded to include all contract related expenses into these fees, as these services are the only services for which the awarded bidder can bill the Department.

The annual service volumes are provided in Column G and are **estimates** of work to be performed based on the billable activities performed under the current contract in 2015. These estimates are **not a guarantee** of work to be performed under the new contract.

Fees bid for each service will be used to determine the total five year bid price. Each fee should be the fee that the bidder proposes to charge to the Department of Health for a single unit of service in that category of service in the specified year. For evaluation purposes, the bid’s total cost proposal will be calculated **by the Department** as follows:

- Apply the fee for each year to the annual service volume estimate for that service for annual fee.
- Sum each year’s annual fee per each service to calculate a five-year total per service.
- Sum the five-year total per service for service types a-g to calculate the total bid price.

A SERVICE	B Year 1 Fee	C Year 2 Fee	D Year 3 Fee	E Year 4 Fee	F Year 5 Fee	G ANNUAL SERVICE VOLUME ESTIMATES
a. Clinical skills test						13,910
b. Written test						13,758
c. Oral test						248
d. No show						2,217
e. Reciprocity/CNA from another state/NYS RNs and LPNs						1,502
f. Duplicate certificate or pocket/wallet card						559
g. Recertification						35,973

**ATTACHMENT D
REFERENCES**

Submit a total of **THREE** references (Section 6.0.F) using this form.
Expand fields and duplicate this page as necessary.

RFP 15917 – Administration of New York’s Nurse Aide Testing and Certification Program	
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.

- APPENDIX A Standard Clauses as required by the Attorney General for all State Contracts.
- APPENDIX X Modification Agreement Form (to accompany modified appendices for changes
in term or consideration on an existing period or for renewal periods)
- APPENDIX Q Modification of Standard Department of Health Contract Language
- STATE OF NEW YORK AGREEMENT
- APPENDIX D General Specifications
- APPENDIX B Request For Proposal (RFP)
- APPENDIX C Proposal
- APPENDIX E-1 Proof of Workers' Compensation Coverage
- APPENDIX E-2 Proof of Disability Insurance Coverage
- APPENDIX F Technology Provisions
- APPENDIX H Federal Health Insurance Portability and Accountability Act Business Associate
Agreement
- APPENDIX G Notices
- 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:
 - 1. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
 - 2. Unless otherwise required by law, the prices 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;
 - 3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

A bid shall not be considered for award nor shall any award be made where (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:

"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.

"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.
- 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:
 - 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 circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non-procurement Programs.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment

under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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.

FF. CONFLICTS OF INTEREST

1. The CONTRACTOR has provided a form (Exhibit A, Vendor Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the CONTRACTOR's performance of the services does not and will not create a conflict of interest with, nor position the CONTRACTOR to breach any other contract currently in force with the State of New York, that the CONTRACTOR will not act in any manner that is detrimental to any STATE project on which the CONTRACTOR is rendering services.
2. The CONTRACTOR hereby reaffirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the CONTRACTOR's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this AGREEMENT. The CONTRACTOR shall have a duty to notify the STATE immediately of any actual or potential conflicts of interest.
3. In conjunction with any subcontract under this AGREEMENT, the CONTRACTOR shall obtain and deliver to the STATE, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subcontractor. The CONTRACTOR shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the STATE a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.
4. The STATE and the CONTRACTOR recognize that conflicts may occur in the future because the CONTRACTOR may have existing, or establish new, relationships. The STATE will review the nature of any relationships and reserves the right to terminate this AGREEMENT for any reason, or for cause, if, in the judgment of the STATE, a real or potential conflict of interest cannot be cured.
5. The CONTRACTOR shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated CONTRACTOR, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Respondent or former officers and employees of the Agencies and their Affiliates, in connection with your rendering services enumerated in this Contract/RFP. If a conflict does or might exist, please describe how you would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the Agencies of, and resolve any such conflicts.
6. The CONTRACTOR shall disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics, or its predecessors or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

GG. PUBLIC OFFICERS LAW

1. Contractors, consultants, vendors, and subcontractors may hire former State Agency or Authority employees. However, for informational purposes, in accordance with New York Public Officers Law, former employees of the State Agency or Authority may neither appear nor practice before the State Agency or Authority, nor receive compensation for services rendered on a matter before the State Agency or Authority, for a period of two years following their separation from State Agency or Authority service. In addition, former State Agency or Authority employees are subject to a "lifetime bar" from appearing before the State Agency or Authority or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with the State Agency or Authority.

HH. SUBCONTRACTING

1. The CONTRACTOR agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the STATE. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.
2. The CONTRACTOR may arrange for a portion/s of its responsibilities under this AGREEMENT to be subcontracted to qualified, responsible subcontractors, subject to approval of the STATE. If the CONTRACTOR determines to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its

involvement in and/or proposed performance under this AGREEMENT must be fully explained by the CONTRACTOR to the STATE. As part of this explanation, the subcontractor must submit to the STATE a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the CONTRACTOR prior to execution of this AGREEMENT.

3. The CONTRACTOR retains ultimate responsibility for all services performed under the AGREEMENT.

4. All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this AGREEMENT including, but not limited to, the body of this AGREEMENT, Appendix A – Standard Clauses for New York State Contracts. Unless waived in writing by the STATE, all subcontracts between the CONTRACTOR and subcontractors shall expressly name the STATE, through the Department of Health, as the sole intended third party beneficiary of such subcontract. The STATE reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the Department of Health or the STATE a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the STATE.

5. The STATE reserves the right, at any time during the term of the AGREEMENT, to verify that the written subcontract between the CONTRACTOR and subcontractors is in compliance with all of the provisions of this Section and any subcontract provisions contained in this AGREEMENT.

6. The CONTRACTOR shall give the STATE immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the CONTRACTOR's duties under the AGREEMENT. Any subcontract shall not relieve the CONTRACTOR in any way of any responsibility, duty and/or obligation of the AGREEMENT.

7. If at any time during performance under this AGREEMENT total compensation to a subcontractor exceeds or is expected to exceed \$100,000, that subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.

**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.
-

- 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

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

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

- 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 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

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, 69

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 M/WBE-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
DIVERSITY PRACTICES QUESTIONNAIRE**

I, _____, as _____ (title) of _____ firm or company (hereafter referred to as the company), swear and/or affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. Does your company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? Yes or No

If Yes, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals.

2. What percentage of your company's gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company's clients or customers?

3. What percentage of your company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company's clients or customers from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?¹

4. Does your company provide technical training² to minority- and women-owned business enterprises? Yes or No

If Yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

5. Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program? Yes or No

If Yes, identify the governmental mentoring program in which your company participates and provide evidence demonstrating the extent of your company's commitment to the governmental mentoring program.

6. Does your company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? Yes or No

If Yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

7. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Yes or No

If Yes, provide documentation of program activities and a copy of policy or program materials.

¹ Do not include onsite project overhead.

² Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

8. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority- and women-owned business enterprises if selected as the successful respondent?
Yes or No

Signature of Owner/Official _____

Printed Name of Signatory _____

Title _____

Name of Business _____

Address _____

City, State, Zip _____

ATTACHMENT L
NURSE AID TRAINING PROGRAM CIRRICULUM

This document can be found at:

https://www.health.ny.gov/facilities/nursing/docs/nurse_aide_training_program_and_certification.pdf

ATTACHMENT M
RATIO OF PROCTORS TO CANDIDATES

Candidates Per Room	Required Number of Proctors In Addition to the Nurse Aide Evaluator
1 – 10	0
11 – 35	1
36 – 70	2
71 – 100	3
101 – 150	4
151 – 200	5
201 – 250	6

**ATTACHMENT N
REGIONAL (COUNTY) TEST SITES**

- | | | | |
|------|----------------------------|------|-------------------|
| (1) | New York (Manhattan) | (14) | Ulster/Sullivan |
| (2) | Bronx | (15) | Albany/Rensselaer |
| (3) | Kings (Brooklyn) | (16) | Warren |
| (4) | Richmond (Staten Island) | (17) | Franklin/Clinton |
| (5) | Queens | (18) | St. Lawrence |
| (6) | Nassau | (19) | Montgomery |
| (7) | Suffolk | (20) | Oneida |
| (8) | Westchester County - North | (21) | Onondaga |
| (9) | Westchester County - South | (22) | Jefferson |
| (10) | Dutchess | (23) | Broome |
| (11) | Orange | (24) | Monroe |
| (12) | Steuben/Yates/Schuyler | (25) | Erie |
| (13) | Otsego/Chenango | (26) | Chautauqua |

**ATTACHMENT O
SECURITY ATTESTATION**

My signature on this attestation signifies the following:

1. I am authorized by my employer, [name of bidder as shown on the Technical and Financial Proposal Face Sheet], to commit my employer to contractually binding requirements.
2. If my employer is awarded the contract resulting from RFP #15917, it will attain and maintain compliance with all NYS security policies and standards as stated in <http://its.ny.gov/tables/technologypolicyindex.htm> for the Nurse Aide Registry application and all systems and components supporting it, including but not limited to any forms and databases that include Social Security Numbers or other New York State information.
3. Such compliance will be attained by the 90th day of the contract and will be maintained for the term of the contract and any extensions of the contract.

Signature: _____ Date: _____

Print Name: _____

Title: _____

Phone Number: _____

Email Address: _____

ATTACHMENT P

SOFTWARE AS A SERVICE (SaaS) ATTESTATION

My signature on this attestation signifies the following:

1. I am authorized by my employer, [name of bidder], to commit my employer to contractually binding requirements.
2. If my employer is awarded the contract resulting from RFP #15917, it will attain and maintain compliance with all of the Terms, Conditions, and Requirements as stated in Attachment E, Appendix F of RFP #15917 for the Nurse Aide Registry application and all systems and components supporting it.
3. Such compliance will be attained by the 90th day of the contract and will be maintained for the rest of the term of the contract and any extensions of the contract.

Signature: _____ Date: _____

Print Name: _____

Title: _____

Phone Number: _____

Email Address: _____

ATTACHMENT Q
DOCUMENTS THAT ESTABLISH IDENTITY AND EMPLOYMENT ELIGIBILITY

List A: Documents that Establish both Identity and Employment Eligibility:

1. U.S. Passport (unexpired or expired)
2. Certificate of U.S. Citizenship (Form N-560 or N-561)
3. Certificate of Naturalization (Form N-550 or N-570)
4. Unexpired foreign passport, with 1-551 stamp or attached Form I-94 indicating unexpired employment authorization
5. Permanent Resident Card or Alien Registration Receipt Card with photograph (Form I-151 or I-551)
6. Unexpired Temporary Resident Card (Form I-688)
7. Unexpired Temporary Resident Card (Form I-688A)
8. Unexpired Reentry Permit (Form I-327)
9. Unexpired Refugee Travel Document (Form I-571)
10. Unexpired Employment Authorization Document issued by DHS that contains a photograph (Form I-688B)

List B: Documents that Establish Identity:

1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address
2. ID card issued by federal, state, or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address
3. School ID card with a photograph
4. Voter's registration card
5. U.S. Military card or draft card
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal documentation
9. Driver's license issued by a Canadian government authority
10. School record or report card
11. Clinic, doctor, or hospital record

List C: Documents that Establish Employment Eligibility:

1. U.S. social security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Native American tribal documentation
5. U.S. Citizen ID card (Form I-197)
6. ID Card for use of Resident Citizen in the United States (Form I-179)
7. Unexpired employment authorization document issued by DHS (other than those listed under List A)