



Request for Proposal (RFP)

New York State Department of Health (NYSDOH)

Office of Primary Care and Health Systems Management (OPCHSM)

Center for Health Care Provider Services and Oversight

Bureau of Narcotic Enforcement (BNE)

Medical Marijuana Seed to Sale Tracking System

RFP Number 15978



Request for Proposal (RFP)
Medical Marijuana Seed to Sale Tracking System
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Schedule of Key Events

RFP Release Date	January 9, 2015
Written Questions Due Date	January 26, 2015
Response to Written Questions Due Date	February 6, 2015
Proposals Due Date	February 20, 2015 by 4:00 PM ET
Select and Notify Winning Bidder (Anticipated)	March 27, 2015
Contract Start Date (Anticipated)	June 15, 2015



DESIGNATED CONTACTS:

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Pursuant to State Finance Law §139-j(3)(a), the Department of Health also identifies the following allowable contact for communications related to subject matter pertinent to this solicitation:

- Submission of Written Questions**
- Submission of Written Proposals**
- Debriefings**
- Negotiation of Contract Terms after Award**

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



GLOSSARY OF TERMS AND LIST OF ACRONYMS	
Agile Approach	A group of software development methods based on iterative and incremental development, in which requirements and solutions evolve through collaboration between self-organizing, cross-functional teams. It promotes adaptive planning, evolutionary development and delivery, a time-boxed iterative approach, and encourages rapid and flexible response to change.
ANSI	American National Standards Institute
ASAP	American Society for Automation in Pharmacy
BNE	Bureau of Narcotic Enforcement
CSP	Cloud Service Provider
CST	Customization
FAQs	Frequently Asked Questions
FCCI	Federal Cloud Computing Initiative
FedRAMP	Federal Risk and Authorization Management Program
FOIL	Freedom of Information Law
GBL	General Business Law
GSA	US General Services Administration
HIPAA	Health Insurance Portability and Accountability Act
HITECH	Health Information Technology for Economic and Clinical Health Act
IEEE	Institute of Electrical and Electronics Engineers
INT	Integration with third-party application
ITIL	Information Technology Infrastructure Library (Referred to in Attachment 2)
ITS	New York State Office of Information Technology Services
M/WBE	Minority and Women Owned Business Enterprise
MBE	Minority-Owned Business Enterprise
MMP	Medical Marijuana Program
NAV	Not Available
NIST	National Institute of Standards and Technology
NYS	New York State
NYSDOH	New York State Department of Health
OSC	Office of the State Comptroller
PDF	Portable Document Format
PFF	Planned Future Functionality
PCI	Payment Card Industry
PHI	Personal Health Information



PII	Personal Identifying Information
PMBOK	Project Management Body of Knowledge
PMI	Project Management Institute
PMP	Prescription Monitoring Program
Prime Contractor	Contracts with the owner of a project or job and has full responsibility for its completion. Undertakes to perform a complete contract and may employ (and manage) one or more subcontractors to that end.
PPMO	ITS Health Cluster Program and Project Management Office
PWK	Process Workaround
QA	Quality Assurance
RFP	Request for Proposals
SOW	Statement of Work (Referred to in Attachment 2)
STL	State Technology Law
SWK	System Workaround
UAT	User Acceptance Test
WBE	Women-Owned Business Enterprise
WBS	Work Breakdown Structure



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I. Introduction

A. Overview of the New York State’s Medical Marijuana Program, New York State Department of Health (NYSDOH), and New York State Office of Information Technology Services (ITS)

1. New York State’s Medical Marijuana Program Overview

The purpose of this Request for Proposal (RFP) is to seek proposals from responsive and qualified contractors for technical services related to the acquisition, implementation and support of a cloud-hosted Seed to Sale Tracking Software System for New York State’s Medical Marijuana Program. This system will be utilized by organizations registered with the New York State Department of Health (NYSDOH) to cultivate, manufacture, distribute and dispense medical marijuana in New York State, as well as provide NYSDOH the ability to access the data of each registered organization.

New York’s Compassionate Care Act, signed into law on July 5, 2014, allows for the cultivation of marijuana and its use in the manufacture, sale and use of medical marijuana products in New York State. The following bullets summarize the Compassionate Care Act:

- NYS licensed practitioners in good standing who successfully complete a two to four hour training course approved by the NYSDOH will have the ability to register with NYSDOH.
- Such registered practitioners will be permitted to issue certifications to patients who have a serious condition, as defined in the law or as subsequently approved by the Commissioner, to receive marijuana for medical use.
- Patients must register their certification with NYSDOH to receive a registry identification card, which is required in order to purchase medical marijuana from an organization registered with NYSDOH.
- Registered organizations will be responsible for the growing, manufacturing, distribution and dispensing of medical marijuana. Additional information concerning registered organizations is provided in the project background section below.
- The dosage form of marijuana will be limited to those forms authorized by the commissioner. Smoking of marijuana is a prohibited method of administration for medical marijuana. Patients will be limited to a thirty day supply. No individual dose may contain more than 10 mg of tetrahydrocannabinol for ingestible or sublingual products.
- The Commissioner of Health and the Superintendent of State Police are required to certify that the system can be administered consistent with public health and safety interest.
- The Governor may immediately terminate all licenses issued to registered organizations if the Commissioner of Health and/or Superintendent of State Police identify that there is a risk to the public health or safety.

NYSDOH is aggressively moving forward to implement a comprehensive, safe and effective Medical Marijuana Program that meets the needs of New Yorkers. The Medical Marijuana program is expected to be operational within eighteen months from the date the Compassionate Care Act was signed. In order to meet this expectation, the contract resulting from this seed to sale solution procurement should occur no later than the anticipated contract start date shown on page i., within the Schedule of Key Events. This contract shall be effective upon approval of the NYS office of the State Comptroller (OSC), with configuration, training and rollout to be completed in a 120 calendar day timeframe thereafter.



2. New York State Department of Health, Bureau of Narcotic Enforcement and Wadsworth Center Laboratory Overview

The mission of NYSDOH is to protect, improve and promote the health, productivity and well-being of all New Yorkers. The NYSDOH Bureau of Narcotic Enforcement (BNE) is responsible for protecting public health by combating the illegal use of and trade in controlled substances and to allow for legitimate use of controlled substances as defined in Article 33 Public Health Law. The Medical Marijuana Program (MMP) will fall under the Department of Health’s Bureau of Narcotic Enforcement. The MMP will regulate practitioner registrations, patient certifications, provision of registry identification cards to patients and caregivers, and the activities of registered organizations. The NYSDOH Office of Public Health, Wadsworth Center Laboratory will provide testing services and will approve commercial laboratories for subsequent testing of medical marijuana products to provide quality assurance oversight.

3. New York State Office of Information Technology Services (ITS) Overview

The NYS Office of Information Technology Services (ITS) was established in November 2012, to provide centralized IT services to NYS and its governmental entities, with the awareness that NYS residents are reliant on those services. The ITS sets technology policy for all state government agencies and monitors all large technology expenditures, seeking efficiencies, lower costs, and innovative solutions.

For this project, ITS staff will provide oversight for information technology security policies, project management reporting, technical architecture, system implementation and support.

From here forth, where both NYSDOH and ITS are referenced, they will be referred to as “the State.”

B. Project Background

As defined by the Compassionate Care Act, a registered organization is a for-profit business entity or not-for-profit corporation organized for the purpose of acquiring, possessing, manufacturing, selling, delivering, transporting, distributing and dispensing marijuana for certified medical use. Manufacturing, including growing of medical marijuana, by a registered organization must be in an indoor, enclosed, secure facility located in New York State, and may include a greenhouse. Each registered organization may have up to four dispensing facilities located in New York State, separate from the manufacturing facility. The location of the dispensing facilities should take into account geographic availability of medical marijuana products to NYS patients.

Registered organizations will be required to adopt and maintain security, tracking, record keeping, record retention and surveillance systems for: the cultivation, possession, manufacture, sale, delivery, transportation, distribution, or dispensing of medical marijuana products by the registered organization, as defined in regulation by the commissioner of health.

Medical marijuana products manufactured by the registered organization must undergo laboratory testing by an NYSDOH approved independent laboratory/laboratories located in New York State that is/are contracted with the registered organization. Independent commercial laboratories will be required to report medical marijuana test results to the registered organization and to a central NYSDOH database. Until independent commercial laboratories are approved by NYSDOH, the NYSDOH Office of Public Health, Wadsworth Center Laboratory will serve as the laboratory that will test the medical marijuana products produced by the registered organization. The registered organization is responsible for determining the quality, safety, and clinical strength of medical marijuana that is manufactured and must be able to provide such documentation to the NYSDOH and to any person or entity to which the medical marijuana is sold or dispensed and/or to the patient’s practitioner.



A registered organization may dispense medical marijuana products to a certified patient or designated caregiver upon presentation to the registered organization of the patient's valid registry identification card. Only forms of medical marijuana approved by the Commissioner of Health may be dispensed. The registry identification card, through the barcode on the card that will be scanned by the registered organization's dispensing facility, will provide information concerning the form and route of administration of the medical marijuana product and any practitioner's dosing recommendations for the patient. When dispensing medical marijuana to a certified patient or designated caregiver, the registered organization's dispensing facility cannot dispense an amount greater than a thirty day supply to a certified patient until the certified patient has exhausted all but a seven day supply provided pursuant to a previously issued certification. The registered organization's dispensing facility will be required to verify medical marijuana dispensing history in the NYSDOH Prescription Monitoring Program (PMP) Registry prior to dispensing medical marijuana to the certified patient or designated caregiver.

The certified patient or designated caregiver must be provided the following when medical marijuana is dispensed by the registered organization:

- A sealed and properly labeled package that includes the packaging date, date by which the medical marijuana should be used, dosage, and all warnings defined in Article 33.
- A receipt containing registered organization information, patient and caregiver (if applicable) information, date sold, dosing recommendations, form and quantity of the medical marijuana. The registered organization is required to retain a copy of the registry identification card and the receipt for six years.
- A safety insert with additional information for the patient.

Registered organizations will be required to capture specific data elements upon the sale of medical marijuana and report such sale to the NYSDOH Bureau of Narcotic Enforcement Prescription Monitoring Program (PMP) using the American Society for Automation in Pharmacy (ASAP) Version 4.2 standard. The version of ASAP supported by NYSDOH for the PMP may change in the future as ASAP releases new versions.

Registered organizations will be required to pay an excise tax on the gross receipts from the sale of medical marijuana to a certified patient or designated caregiver. This is due to the Commissioner of Taxation and Finance on or before the twentieth of each month for the sales of medical marijuana during the preceding month. This tax is charged against and paid by the registered organization and is not added as a separate charge or line item on any sales slip, invoice, receipt or other statement to the certified patient or designated caregiver.

The activities described above for registered organizations require a mechanism for tracking production, testing, inventory, and chain of custody at each stage of the process, from seed to sale of medical marijuana. NYSDOH also requires the ability to view each registered organization's data concerning the growing of marijuana through the manufacturing, transport, distribution and dispensing of medical marijuana products and to effect a total recall of a lot(s) of medical marijuana product if necessary.

C. Eligibility of Bidders

Potential bidders must meet the following minimum requirements in order to be eligible to submit a proposal:

1. Currently own a Medical Marijuana Seed to Sale Tracking Software Solution, and have at least one client who has been utilizing this software for a period of at least 12 months,
2. Have the ability to operate the software as a service, and
3. Have the ability to configure the Seed to Sale Software Solution to meet the specific requirements of NYSDOH's Medical Marijuana Program to be in full production within 120 calendar days of contract approval by the Office of the State Comptroller (OSC).

D. Scope of Work Summary

The NYSDOH seeks a Contractor to provide a cloud-hosted seed to sale solution and support services to be utilized by organizations registered with NYSDOH to cultivate, manufacture, distribute and dispense medical marijuana in New York State. The Contractor will work under the direction of NYSDOH staff and perform the activities related to the deliverables and requirements of this RFP.

The scope of this RFP will not include hardware equipment such as computers, bar code scanners, label printers, and point-of-sale devices such as weighing scales, flatbed scanners, cash drawers and receipt printers that will be used by the registered organizations.

II. Overview of the Proposed Environment

This section is provided primarily for informational purposes as it provides an overview of the MMP, which includes components of the overall program that are not being procured under this RFP. Although the Seed to Sale Solution is mentioned within the context of the overall MMP, the specific requirements for this project are outlined in subsequent sections of this RFP.

MMP Technical Components

When fully developed, the MMP will be comprised of three main technical components:

1. The Medical Marijuana Tracking and Management Solution (*currently being developed*)
The Medical Marijuana Tracking and Management Solution (MMTMS) will support the registration of practitioners, certifications issued by practitioners for patients, registration of patients and caregivers, and registrations for entities that wish to become registered organizations. The MMTMS will integrate with the seed to sale solution in order to provide information concerning the production, distribution and sale of medical marijuana to registered practitioners and NYSDOH staff.
2. The Medical Marijuana Module in the existing NYS Clinical Laboratory Information Management System (CLIMS) (*currently being developed by the State*) and subsequently the LIMS of approved commercial laboratories.

NYSDOH Office of Public Health, Wadsworth Center Laboratory will serve as the laboratory that will test the medical marijuana produced by the registered organization. Once independent commercial laboratories are approved by NYSDOH, the NYSDOH Office of Public Health, Wadsworth Center Laboratory will continue to have a role in testing on behalf of the State. CLIMS/LIMS will have the



ability to send the medical marijuana testing results electronically to the registered organizations and their dispensing facilities via the Seed to Sale Solution.

3. The Seed to Sale Tracking Solution (*to be developed by the contractor resulting from this RFP*)

The Seed to Sale Solution will be used by the five registered organizations, including the four dispensing facilities operated by each registered organization. In addition, NYSDOH and designated NYS ITS staff will require access to the data for each registered organization and their dispensing facilities. A registered organization may only access their own data, including the data for the four dispensing facilities they operate. They may not access the data of another registered organization.

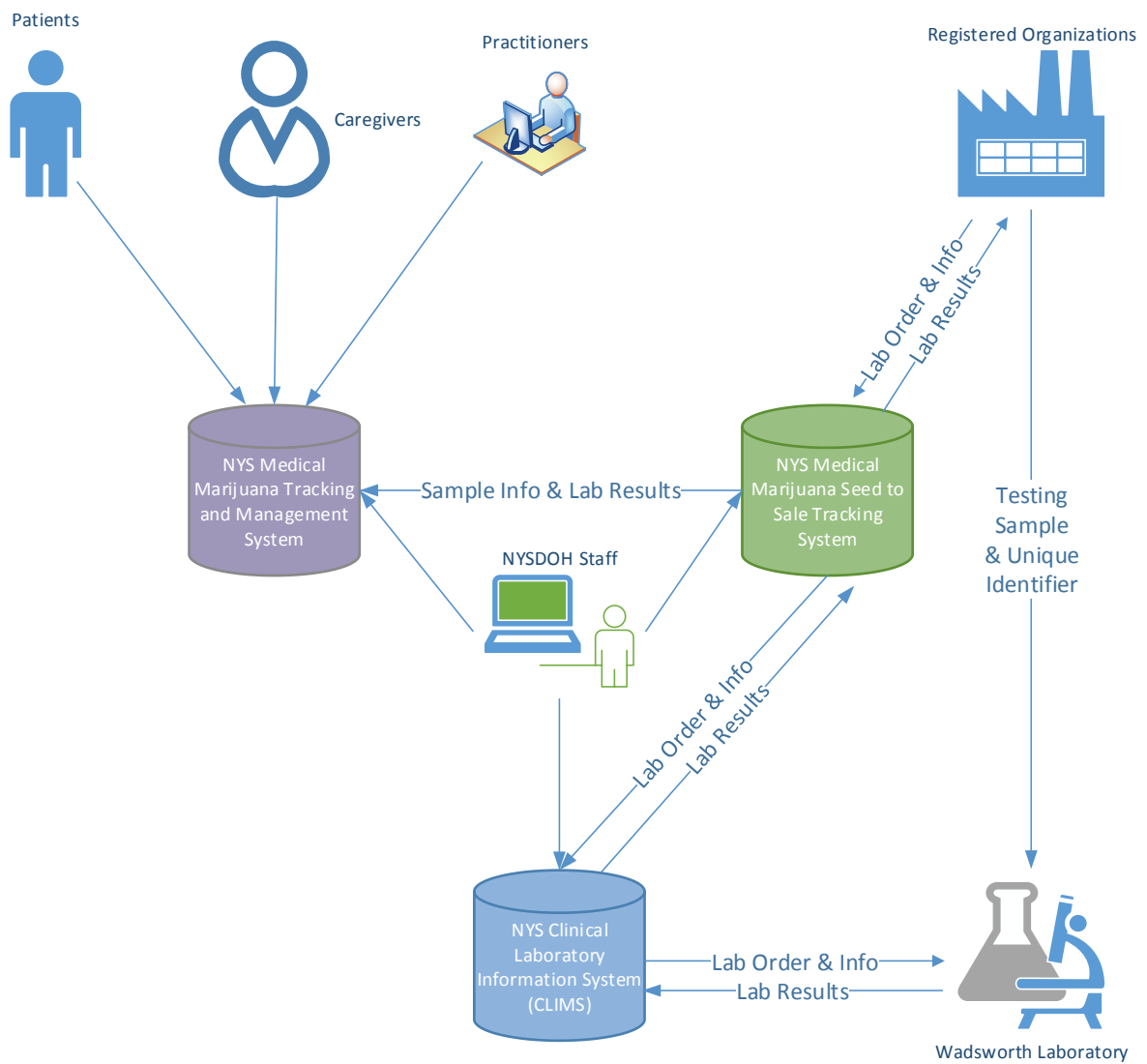
The list below highlights some of the capabilities that the seed to sale solution will provide.

- the ability to track marijuana, including weight and/or volume, at each stage of the process: growing, manufacturing, storage, laboratory testing, distribution, dispensing, and destruction.
- the ability for the system to integrate with hardware, such as scales, barcode scanners, and cash registers.
- the ability for the registered organization and NYSDOH to track the form of medical marijuana product produced, unique lot identifier (number or barcode), quantity, manufacture date, and expiration date.
- the ability for the system to create user security groups and for a security administrator to grant read-only access to some user security groups or to grant specific privileges to a user security group.
- the ability to produce reports electronically in a specified format (CSV, PDF, etc) including but not limited to growing, manufacture, laboratory testing, distribution, dispensing history, patient dispensing history, transport, medical marijuana product availability, medical marijuana product utilization, destruction, and production statistics.
- the ability to retain history of modifications to records, provide system backup and archiving.
- the ability to set up and maintain multiple locations for a given registered organization. The dispensing locations cannot co-reside with locations at which other functions (e.g. growing, manufacturing, storage) are performed.
- the ability to turn over data from NYSDOH to a registered organization upon NYSDOH's request.
- While the scope of this RFP will not include hardware equipment, the solution must integrate seamlessly with, and operate fully and accurately on all compatible user equipment.

The following diagrams illustrate the technical components described above. In phase 1 the Wadsworth Center Laboratory will perform all laboratory testing. In phase 2, approved laboratories with a LIMS system will be performing routine testing and reporting results.

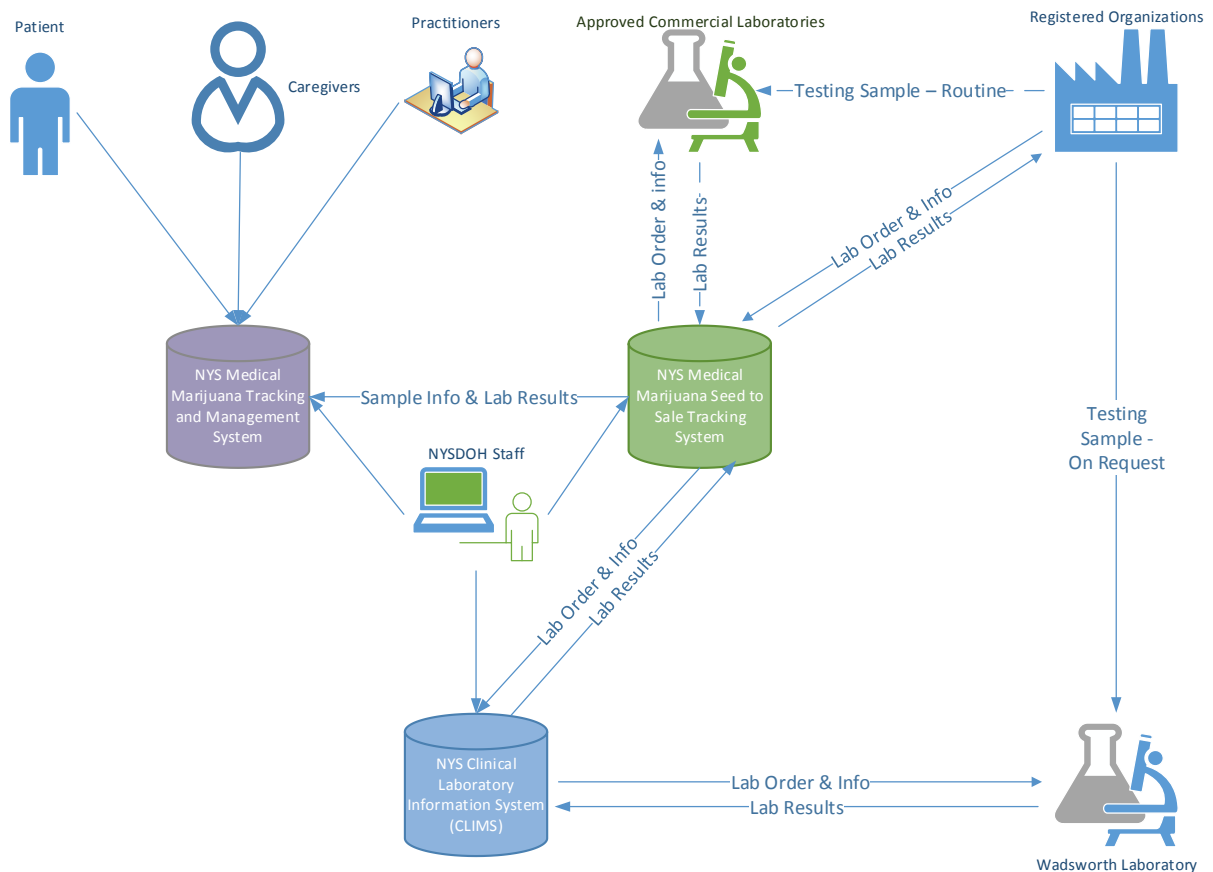
Phase 1 Diagram

NYSDOH Office of Public Health, Wadsworth Center Laboratory will serve as the laboratory that will test the medical marijuana produced by the registered organization during phase 1 of the program.



Phase 2 Diagram

During phase 2 of the program, approved commercial laboratories will perform laboratory testing for the registered organizations using their laboratory information management systems (LIMS) to track the life cycle of the laboratory testing performed by the commercial laboratory. A registered organization may use multiple approved commercial laboratories to perform testing. Office of Public Health, Wadsworth Center Laboratory will continue to have a role in phase 2 to perform further testing as required by the program.





III. Project Approach

The Medical Marijuana Seed to Sale Tracking System will provide a complete solution to meet all of NYSDOH’s needs regarding tracking activities related to medical marijuana, with seed to sale capability.

The Contractor will perform the required activities to implement the Seed to Sale Solution to be used by registered organizations in New York State as well as State staff. Upon contract approval by the OSC, the Contractor will assemble its core project staff in preparation for conducting the project tasks. An integrated project team will be assembled, consisting of the Contractor core project staff and the State staff designated for the project. The Contractor has full responsibility for the successful implementation of the seed to sale solution within the 120 calendar day timeframe after contract approval by OSC.

A project kick-off meeting will be held to formally announce Project Initiation. This meeting will focus specifically on the responsibilities of the Contractor and working relationships and interactions among the Contractor and the State staff.

IV. Seed to Sale Tracking Solution – Business Requirements

A. Overview

Within the Medical Marijuana Program, the Seed to Sale Tracking Solution is to be used by registered organizations in New York State for tracking and inventory management of marijuana from seed to sale; including growing, manufacturing, storage, laboratory testing, distribution, dispensing, and destruction. At a minimum, the Seed to Sale Tracking Solution must integrate with the Medical Marijuana Tracking and Management System. The solution must be able to exchange data with laboratory information management systems and the NYS Prescription Monitoring Program (PMP). Additional data exchange with the Department of Taxation and Finance may be required for the purpose of reporting excise tax from the sales of medical marijuana at the dispensing facility. The Seed to Sale Tracking Solution must have the ability to integrate with hardware/equipment needed for the inventory and point of sale management.

B. Requirements

The Seed to Sale Tracking Solution requirements are provided in the table below. Once under contract, the contractor will be expected to fulfill all requirements identified in this table. Changes to the application, including new features and upgrades released by the vendor, must be provided at no additional cost. The Contractor cannot, under any circumstances, diminish the functionality or capability of the service during the contract term, including any extensions agreed upon by both parties.

ID	Business Requirements
Global	
BR 1.1	The ability in real time to track marijuana, including weight and/or volume, at each stage of the process: growing, manufacturing, storage, laboratory testing, distribution, inventory, dispensing, and destruction.
BR 1.2	The ability for the system to integrate in real time with equipment that will capture the weight of marijuana.
BR 1.3	The ability for the system to track in real time the form of medical marijuana product produced, including a unique lot identifier (number or barcode), quantity, manufacture date, expiration dates (opened and unopened) and any other data elements deemed necessary to tie the product back to a batch in the event of a recall.



ID	Business Requirements
BR 1.4	The ability for the system to create user security groups and for a security administrator to grant read-only access to some user security groups or to grant specific privileges to a user security group.
BR 1.5	The ability for the system to send specified data elements on demand or as a scheduled job in a timeframe specified by the State, to an external system in a format determined by the State.
BR 1.6	The ability to retain an audit trail of modifications to records, provide system backup and archiving.
BR 1.7	The ability to utilize bar code scanning in inventory/chain of custody and point of sale.
BR 1.8	The ability to set up and maintain multiple locations for a given registered organization within the database and to restrict their access to the facilities that are a part of that registered organization, while allowing NYSDOH and designated NYS ITS staff to view the data of all registered organizations.
BR 1.9	The ability to transfer data from NYSDOH to the registered organization in the event that ownership of the data changes.
BR 1.10	The ability to meet the standard NYSDOH data retention requirement of five (5) years from the transaction date for any records generated in the Seed to Sale system, with the exception of receipts which are required to be maintained for six (6) years.
BR 1.11	The ability to integrate with hardware/equipment such as computers, bar code scanners, label printers, and point-of-sale devices such as weighing scale, flatbed scanner, cash drawer, or receipt printer.
BR 1.12	The proposed solution must integrate seamlessly with, and operate fully and accurately on all compatible user equipment.
Manufacturing	
BR 2.1	The ability for the registered organization to track all materials and ingredients used in the production of the medical marijuana product (e.g. marijuana, soil, growth regulators, pesticides).
BR 2.2	The ability to capture the extraction method used to produce the lot of medical marijuana product.
BR 2.3	<p>The ability to track and report any laboratory testing performed on any material used to produce the medical marijuana, any medical marijuana extract prior to packaging and the final medical marijuana product, including which approved laboratory performed the analysis, specific results and the pass/fail status of each lot. The registered organization must also have the ability to track and report the percentage of lots passing cannabinoid profile testing and contaminant testing.</p> <p>Note: A registered organization may use more than one approved laboratory to test different analytes (or components) within the product. For example, the sample may be sent to lab A to test for contaminants and to lab B to test for the cannabinoid profile.</p>
BR 2.4	The ability for each registered organization to create the active and inactive ingredient list for each medical marijuana product (cannabinoid content and excipients).
BR 2.5	The ability for the registered organization to specify information and content to be printed on the product label.



ID	Business Requirements
Laboratory Testing	
BR 3.1	The ability to track and account for each sample sent for required laboratory testing and to define the testing to be performed.
BR 3.2	The ability to exchange electronic data with Laboratory Information Management Systems used by the DOH Wadsworth Center Laboratory and by a list of NYSDOH approved laboratories (the list of approved laboratories may change over time and there should be a mechanism for NYSDOH to update the list as needed).
BR 3.3	The ability for the seed to sale system to electronically send sample information including the unique sample identifier and test requisitions and to receive test results from the approved laboratory LIMS in a standard message format defined by NYSDOH and NYS ITS.
BR 3.4	The ability to store detailed results of laboratory testing, not just a global pass/fail indicator.
BR 3.5	The ability to accommodate the addition of analytes (other components) to testing/results as required by NYSDOH.
BR 3.6	The ability to flag any medical marijuana product that failed any component of testing and flag which component failed.
BR 3.7	The ability to set thresholds of accepted values for laboratory testing.
BR 3.8	The ability for the system to indicate a list of NYSDOH approved independent laboratories and which approved laboratories the registered organization is contracted with.
BR 3.9	The ability for a registered organization to send samples of a given lot to multiple Approved Laboratories for testing and track in the seed to sale system.
Dispensing	
BR 4.1	The ability to set the dosing and day supply limitations and enforce the limitations set at the point of sale, including calculation of the next date of dispensing based upon the dosing and day supply limitations.
BR 4.2	The ability for the system to specify contents to be printed on the dispensing label.
BR 4.3	<p>The ability to capture sales of medical marijuana including, but not limited to, the following: dispensing facility data, patient data, caregiver data (if applicable), certifying practitioner, product dispensed (including lot), sale price, and any additional fields required by NYS for Prescription Monitoring Program (PMP) data reporting. The additional fields required for PMP reporting are defined in “Appendix A” of the NYS Electronic Data Transmission manual, which outlines NYS requirements for PMP reporting.</p> <p>https://www.health.ny.gov/professionals/narcotic/electronic_data_transmission/docs/submitter_guide.pdf</p> <p>Note: The Seed to Sale system will not track or store any information related to the sale of medical marijuana that is covered by the Payment Card Industry Data Security Standard (PCI DSS).</p>
BR 4.4	The ability to integrate with a barcode scanner to capture data from a patient or caregiver’s NYS Registry ID Card.
BR 4.5	The ability for the registered organization to set the price of the products.
BR 4.6	The ability to generate a receipt, in real time, at the point of sale and maintain the copy of the receipt and the sale transaction for at least six years.



ID	Business Requirements
BR 4.7	The ability to integrate with a flatbed scanner to retain a copy of the NYS Registry ID Card scanned at the dispensing facility.
BR 4.8	The ability for the registered organization to capture a reason for not dispensing to a patient.
BR 4.9	The ability to have a bidirectional interface with another system to capture any patient adverse event reporting recorded.
BR 4.10	The ability to integrate with external data sources, in real time, to verify that the caregiver is authorized to act on the behalf of the patient through the barcode that is scanned on the caregiver's NYS Registry ID Card.
BR 4.11	The ability to integrate with external data sources, in real time, to verify the validity of the patient's NYS Registry ID Card.
BR 4.12	The ability to track product returns to the dispensing facility or registered organization, including reason for return and fate of returned product.
BR 4.13	The ability to generate a unique serial number for each dispensing transaction.
Distribution	
BR 5.1	The ability to prevent products of an identified manufacturing lot that have failed laboratory testing from being released for transport to dispensing facilities of the registered organization. A transportation manifest cannot be created for a product where a sample failed any component of laboratory testing from one or more laboratories where samples were sent.
BR 5.2	The ability to split a given manufacturing lot for distribution to multiple dispensing facilities within the registered organization.
BR 5.3	The ability to generate a Transportation Manifest and/or Bill of Lading
BR 5.4	The ability to track a manufacturing lot to dispensing facilities and track backwards from the product dispensed to the patient in the event of a recall.
Reporting	
BR 6.1	The ability to track and report patient complaints or adverse events reported to the registered organization and to submit the data electronically in a format specified by the State to an external system, in a timeframe specified by NYSDOH.
BR 6.2	The ability to generate on demand a patient specific log of medical marijuana products (including the form, dosage, dates dispensed and any returns of the product) to the patient, the patient's designated caregiver (if applicable), the practitioner or to NYSDOH upon request.
BR 6.3	The ability to produce reports electronically in a specified format (CSV, PDF, etc) for a given timeframe including but not limited to growing, manufacture, laboratory testing, distribution, organization and dispensing facility level dispensing history, patient level dispensing history, transport, adverse events, medical marijuana product availability, medical marijuana product utilization, destruction, and production statistics.
BR 6.4	The ability to produce reports electronically in a timeframe and specified format (CSV, PDF, etc) as determined by the Department of Taxation and Finance and NYSDOH for the gross receipts from the sale of medical marijuana, including the location in which the medical marijuana was manufactured and dispensed, for the excise tax to be paid by the registered organization.
BR 6.5	The ability to generate a file of dispensing data on demand using the ASAP standard specific to version(s) mandated by NYSDOH so that the registered organization can report to the NYS PMP after a product has been sold to the patient or caregiver. The current ASAP version accepted by NYSDOH is Version 4.2 and is subject to change as future versions of ASAP are released. Appendix A of the NYS Electronic Data Transmission manual, which is posted on the NYS Bureau of Narcotic Enforcement



ID	Business Requirements
	Electronic Data Transmission Web page, outlines the ASAP 4.2 required fields by NYS. Dispensing data must be reported to the NYS Prescription Monitoring Program within 24 hours of dispensing.

V. Hosting Solution Requirements

A. Overview

The Hosting Solution Requirements are intended to address the software, hardware, and physical data center(s) that form the platform on which the Seed to Sale Tracking software applications and databases are implemented. The requirements are to assure the State of a reliable, scalable, secure, and properly performing system. No solution will be accepted that does not meet all of the requirements.

A shared, multi-tenant hosting solution is permissible. Such solutions will be expected to comply with the Federal Risk and Authorization Management Program (FedRAMP) requirements, as developed by the Federal Cloud Computing Initiative (FCCI) at the US General Services Administration (GSA) (<http://www.gsa.gov/portal/category/102371>). FedRAMP security controls and enhancements have been selected from the NIST SP 800-53 Revision 3 catalog of controls. FedRAMP requires that cloud computing services and systems offered by Cloud Service Providers (CSPs) meet specified security requirements. CSPs will be required to use qualified, accredited, Third-Party Assessment Organizations to perform independent assessments on their service and systems. Data shall be hosted within the continental US (government-only shared hosting is preferable). The Contractor may provide hosting services itself, or use an approved subcontractor; however, the Contractor is solely responsible for assuring that the requirements are met. The Contractor shall obtain prior written approval from NYSDOH before entering into an agreement for hosting services to be provided by another entity, including but not limited to a third party data center or other subcontractor, for purposes of this contract.

Within the requirements section, major features of an acceptable Hosting Solution are identified as:

- Hardware and Software
- Hosting Environment(s)
- Network
- Environmental Systems
- Physical Security
- Network, Server, and Application Security
- System Management and Monitoring
- Maintenance
- Business Continuity and Disaster Recovery.

B. Requirements

The Hosting Solution requirements are provided in the separate document: “Attachment 1 – Hosting Solution Requirements” Once under contract, the contractor will be expected to fulfill all requirements.



VI. Security and Privacy Requirements

A. Overview

All software and processes related to the solution must comply with all applicable federal and NYS laws and regulations, including but not limited to security and privacy requirements of the Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH) and NYS Public Health Law (PHL) Article 33. The Contractor shall secure information based on its classification as defined by NYSDOH in accordance with the NYS Information Classification Standard found at <http://its.ny.gov/tables/technologypolicyindex.htm>. The Contractor, and any associated subcontractors, may be required to have all employees with access to the STS Solution data center or data to sign a data confidentiality statement attesting that they will keep any STS Solution information viewed during the course of their employment, private and safe.

The solutions and processes developed must comply with all NYS technology policies and standards found at <http://its.ny.gov/tables/technologypolicyindex.htm> including all information, security policies and standards located at <http://its.ny.gov/tables/technologypolicyindex.htm/security>. A risk assessment and risk management plan for the proposed solutions must be included in the proposal and should follow an industry-standard format, such as those developed by the US National Institute of Standards and Technology (NIST).

The Contractor will be expected to perform risk assessments at least annually and prior to any proposed significant updates. The Contractor shall review risk management efforts with the NYS ITS Health Cluster Chief Information Security Officer (CISO) or designee at least monthly.

Where technically feasible, security solutions such as auditing; logging and continuous monitoring; and authentication systems should integrate with existing NYS solutions. Where the proposed solution does not or cannot leverage existing NYS solutions, the proposal must clearly indicate this limitation, its cause and the alternate solution. Alternate solutions will be expected to exceed the overall security of the available NYS solution.

As part of the contract, and during development and operations of the solution, the Contractor shall document items required by the current NYS Secure System Development Life Cycle standard located at <http://its.ny.gov/tables/technologypolicyindex.htm/security>. The Contractor will develop a change management process which supports controlled release of new and updated systems and solutions.

In the event of a security breach, the Contractor must follow the procedures outlined as part of Section XV.N Information Security Breach and Notification Act. Any costs associated with the resolution of such security breach, including all notifications that must be issued as required by law, must not be charged back to the State.

B. Requirements

The Security and Privacy requirements are provided in the table below. Once under contract, the contractor will be expected to fulfill all requirements.

Organization	
SP-1	The Contractor shall appoint a primary information security officer with recognized information security certification.
SP-2	The Contractor shall develop and provide to the NYS ITS Health Cluster CISO a comprehensive



	information security plan within (30) business days of contract approval by OSC.
SP-3	The Contractor shall schedule security review meetings which includes the NYS ITS Health Cluster CISO at least monthly.
SP-4	The Contractor shall provide to the NYS ITS Health Cluster CISO a comprehensive risk assessment at least annually.
Operations	
SP-5	The Contractor shall manage any and all systems in accordance with NYS policies found at http://its.ny.gov/tables/technologypolicyindex.htm/security .
SP-6	The Contractor shall support NYS logging standards and continuous monitoring of production systems.
SP-7	The Contractor shall ensure all system accesses are compliant with NYS Identity Assurance Policy found at http://its.ny.gov/tables/technologypolicyindex.htm/security .
SP-8	The Contractor shall support all necessary incident response efforts as outlined in the NYS Cyber Incident Response standard found at http://its.ny.gov/tables/technologypolicyindex.htm/security .
SP-9	The Contractor shall document and manage all system implementation and develop in compliance with NYS Secure System Development Life Cycle standards found at http://its.ny.gov/tables/technologypolicyindex.htm/security .
SP-10	The Contractor shall provide to NYS evidence of security testing of solutions prior to their release for use.

VII. Testing Requirements

A. Overview

Testing will play an integral part in the overall success of the implementation of the Seed to Sale Solution. The overarching responsibility for testing resides with the Contractor. Testing activities will include, but not be limited to: production problem research and resolution; development testing; application vulnerability analysis and testing; validation of software vendor patches and fixes before promoting in production; testing the validation of edits and updates; support for system and user acceptance testing; business continuity testing.

The development testing must include: Unit Testing, System Integration Testing, Regression Testing, Parallel Testing, and User Acceptance Testing as appropriate to the project. The State will review, modify and approve the testing plan to make sure all NYSDOH concerns are addressed under the contract. Below is a summary of each type of testing.

1. Unit Tests

Testing must include bench or unit tests to ensure that changes meet the intended purpose, do not cause unintended consequences, and do not cause system errors upon execution of changed programs.

2. System Integration Tests

Integration testing is required to verify that any proposed changes being tested will be able to successfully interact with other existing system components. This testing must uncover any potential issues with the interfacing between system components.



3. **Regression Tests**
 Regression testing is required to verify that previous functionality has not been adversely impacted by the changes being tested.
4. **Parallel Tests**
 The Contractor must plan, support and execute parallel tests as required when functionality is transferred from the Seed to Sale Solution to other solutions. The State will determine the length of the parallel testing required to ensure that all functions are working properly.
5. **User Acceptance Tests (UAT)**
 System acceptance depends on a final, disciplined set of tests by State for User Acceptance Testing. The Contractor will develop a plan and schedule for User Acceptance Tests.
6. **Business Continuity Testing**
 The Contractor must collaborate with State staff on the Seed to Sale Solution business continuity testing. This testing will include:
 1. Failover/Fallback functionality for the Seed to Sale Solution. This testing must be scheduled monthly or at the discretion of the State;
 2. Back up/Recovery functionality for the Seed to Sale Solution. This testing must be scheduled quarterly or at the discretion of the State; and
 3. Business Continuity Plan for the Seed to Sale Solution. This testing must be scheduled for every two years or at the discretion of the State.
7. **Software Patching and Fix Testing**
 The Contractor is responsible for the validation of software vendor patches and fixes before promoting any software into the production environment.

B. Requirements

For all development activities, a testing plan must be in place before technical design is complete. The Contractor will create test scenarios or use cases before construction including the anticipated outcome for each scenario. When structured data tests are run, the Contractor must present a report on the structured data test to the State, including the anticipated and actual outcomes. The Contractor must include any scenarios submitted by the State. All discrepancies must be identified and explained.

The following testing requirements must be met:

ID	Requirement
TE-1	Design, implement, and manage Test and Training environments.
TE-2	Design, implement, and manage from a detailed testing work plan that is integrated into the overall project management plan.
TE-3	Design testing documentation to include at a minimum - testing approach, detailed test plans, expected results, testing schedules, automated test scripts wherever applicable, and defect tracking.
TE-4	Lead and conduct all testing efforts.
TE-5	Ensure the appropriate staff are assigned and scheduled to the testing effort along with roles and responsibilities.
TE-6	Document and report all test results.



TE-7	Identify, prioritize, based on risk and business need, and resolve all defects.
TE-8	Utilize the Requirements Traceability Matrix to ensure that all functionality is tested and traceable to approved requirements for the solution.
TE-9	Support independent QA Contractor for the State in the development of QA Test Plan.
TE-10	Support the State in the development of User Acceptance Test Plan.
TE-11	Conduct or lead the following types of tests: <ul style="list-style-type: none"> ▪ Unit; ▪ Integration; ▪ System; ▪ Regression; ▪ Interfaces; ▪ Performance; ▪ Stress; ▪ Security; ▪ Browser (where applicable); ▪ User acceptance; ▪ End-to-end; and ▪ Disaster Recovery.

VIII. Project Management and Staffing Requirements

A. Project Management

1. Overview

Project Management is defined as the communication mechanisms, controls, tasks, and procedures that the Contractor will use to manage all the tasks identified in the RFP. It is the discipline that employs the Contractor’s knowledge, skills, and abilities to achieve project goals.

NYSDOH requires the Contractor to use NYSDOH’s Project Management Methodology (<http://pmoweb.health.state.ny.us/>) The Contractor will work closely with the Medical Marijuana Project Manager (MMPM) and the ITS Health Cluster Program and Project Management Office (PMO), and produce project-management related documentation as requested.

NYSDOH’s expectation is that, irrespective of the Contractor office location that this contract is managed out of, the Contractor should be prepared to make its staff available for in-person meetings with the State project team members, as needed, when given five (5) business days notice.

2. Requirements

ID	Project Management Requirements
Project Management	
PM-1	The Contractor shall be responsible for management of the project to ensure successful completion of the scope of services.
Project Management Methodology	
PM-2	The Contractor shall utilize NYSDOH’s project management methodology in this project and follow best practices established in the New York State Project Management Guidebook, Release 2



ID	Project Management Requirements
	<p>(http://pmoweb.health.state.ny.us/resources.php?p_id=templates) and by the Project Management Institute (PMI), as codified in the Project Management Body of Knowledge (PMBOK) - Fifth Edition or subsequent editions (American National Standards Institute (ANSI)/PMI 99-001-2008) and the ISO/IEEE 12207-2008, System and Software Engineering - Software Lifecycle Processes where applicable.</p>
PM-3	<p>The Contractor's approach shall include:</p> <ul style="list-style-type: none"> • Use of a Project Lead • A kick-off meeting and initial working session • Project Scope Statement • Project Schedule, to integrate with the master schedule for the overall program • Project Budget • Quality Management Plan • Risk Management Plan • Change Control Process • Acceptance Management Process • Issue Management and Escalation Process • Communication Management Process • Organizational Change Management Process • Development and Management Plan for Project Resources • Go-Live and Transition Plan • Regular project management meetings, and status reporting
PM-4	<p>The Contractor shall ensure that the configuration, implementation and transition plan for their solution and its seamless integration with other components of the Medical Marijuana program are such that the overall project objectives are achieved on time and on budget.</p>
PM-5	<p>All Project Plan documents will be submitted for review and must be approved by the State.</p>
<p>Project Schedule Requirements</p>	
PM-6	<p>Unless otherwise directed or approved by the State the Contractor shall maintain a Project Schedule using Microsoft Project.</p>
PM-7	<p>The Project Schedule must include a relevant and sufficiently detailed work breakdown structure (WBS).</p>
PM-8	<p>Task duration shall be manageable and meaningful. No task will exceed 80 hours, and no task will be less than 8 hours.</p>
PM-9	<p>The Project Schedule shall identify predecessor and successor activities, task dependencies, and critical path.</p>
PM-10	<p>The Project Schedule shall clearly identify deliverables, milestones, and key milestones.</p>
PM-11	<p>The Project Schedule shall be base-lined. Actuals will be tracked, and variance from baseline measured and reported on the weekly reporting cycle. Any significant variance from baseline, or re-baselining of the schedule, must be submitted for review and approval.</p>
<p>Project Tracking and Status Reporting</p>	
PM-12	<p>The Contractor shall track progress against Project Schedule and report status in a format approved by the State. The contractor Project Lead or designee will also work closely and collaboratively with the MMPM or designee to provide status and other related updates specific to the Seed-to-Sale solution implementation, on a monthly schedule to be finalized, in a timely and comprehensive manner, to support the generation of the overall Project Status Report.</p>



ID	Project Management Requirements
PM-13	During Go-Live, the Contractor shall provide daily status briefings on production operations. Beyond immediate Go-Live for the first one (1) month of the system being in production, the Contractor shall provide weekly status briefings of production operations.
PM-14	The daily and weekly status briefings shall include, at a minimum, an assessment of progress against plan, any slipped or slipping tasks, risks and issues, mitigation plans, and changes needed to the Go-Live Plan or Transition Plan.
PM-15	The Contractor Project Lead will collaborate with the MMPM for the production of a high-level project dashboard on a periodic basis to be determined, for the Project Steering Committee.
Risk, Issue, Decision, and Action Tracking	
PM-16	The Contractor shall document and manage project risks, issues, decisions, and action items as directed and consistent with the State’s project management methodology.
PM-17	The Contractor shall encourage team members, management, and stakeholders to be open about informing the team of potential risks.
PM-18	The Contractor shall reinforce that all project team members are in a position to identify and bring forth risks that may affect this project.
PM-19	The Contractor shall confer with the Project Director (or his/her designee), as necessary, to assess the impact and likelihood of occurrence of identified risks.
PM-20	The Contractor shall develop risk mitigation plans for identified risks based on risk rating, as directed by the State.
PM-21	The Contractor shall effectively collaborate with the MMPM to utilize the Risk Log they maintain and identify the most critical project-level risks that need to be reported on the overall Project Status Report and potentially escalated to the Steering Committee.
General Project Requirements	
Meetings	
PM-22	Unless otherwise designated or approved, all project meetings shall take place at State Offices in Albany, NY.
Reports and Information Access	
PM-23	The Contractor shall provide ad hoc progress reports, data, and information as requested by the State.
PM-24	Upon request by the State, the Contractor shall provide detailed documentation on any and all aspects of the Seed-to-Sale solution implementation to ensure complete transparency of the processes used for the configuration, and quality assurance testing, including results of Contractor's testing of their solution.
Project Documents and Artifacts	
PM-25	All user, technical, and system documentation, as well as project plans, schedule, status reports, and correspondence, shall be developed and maintained in document templates and types specified by the State.
PM-26	The Contractor shall maintain a repository, accessible to State staff, of all project documents and artifacts and maintain a version history of all project documents and artifacts.
Ownership of Information	
PM-27	Data, information, and reports collected or prepared by the Contractor as part of the project shall be deemed to be owned by the State.



ID	Project Management Requirements
Acceptance Criteria	
PM-28	The acceptance criteria for deliverables and services associated with this implementation shall be approved by the State and shall be subject to the acceptance process as stated in RFP Section XV. Administrative Requirements, F. Review of Deliverables.
Contract Transition	
PM-29	The Contractor shall develop and submit, three (3) months prior to conclusion of the Contract, a detailed Transition Plan to facilitate the seamless transition of the responsibility of the system operations to another entity. The transition plan should at a minimum include, procedures for data erasure, documentation, cooperation in moving system to a different entity, while maintaining all agreed service levels at all times.
PM-30	The Contractor shall cooperate with any new Contractor or with NYS staff to ensure that all existing data is supplied and that any code and documentation needed to provide continuity of the project is supplied to the State and de-identification and consolidation methods are fully transferred.
PM-31	Data shall be transmitted or supplied as directed by the State. Any transfer media shall become the property of the State.
PM-32	At the end of the contract, and following approval by the State, the Contractor shall securely destroy all program data held or stored by the Contractor.
Staffing	
PM-33	The Contractor Project Lead will be responsible for maintaining and managing a current Resource Plan at all times, and reporting on any related significant issues or changes.
PM-34	Should it become necessary to replace key staff, the Contractor will notify the State as soon as the need arises, shall provide replacement staff members with equal or superior skills and qualifications, and ensure sufficient time to complete knowledge transfer before the replaced staff is off-boarded, when possible.
PM-35	The Contractor shall obtain the State's approval of the replacement key staff.
Quality Assurance	
PM-36	Throughout the scope of the project, the Contractor shall perform routine quality assurance measures as planned on the Quality Management Plan to ensure that the software, data, and all other supporting processes to accomplish daily operation tasks, adhere to a set of quality checks to assist in proactively identifying potential risks associated with the project and any project lags.
Correction of Deficiencies	
PM-37	Any corrections of deficiencies relating to the Contract Scope of Services requirements or deliverables, and any investigation necessary to determine the source of such deficiencies, shall be completed by the Contractor at no cost to the State.



B. Staffing Requirements

1. Overview

The State recognizes that a highly skilled staff with a breadth and depth of seed-to-sale knowledge and experience is essential for the successful implementation, ongoing service, and maintenance of the New York State Medical Marijuana Seed to Sale solution. The staffing requirements in the RFP have been developed to ensure that the contractor understands the State’s expectations for the project staff in terms of qualifications, roles and responsibilities, and contract constraints.

2. Requirements

The staffing requirements for the implementation are outlined below:

- a. *Key Staff Bios* - Key staff roles are to include:
 - i. Engagement Manager (Senior Executive)
 - ii. Project Lead (primary point of contact for the MMPM)
 - iii. Configuration Lead (responsible for architecting all technical aspects of the solution, leading the configuration and initial setup of the Software as a Service to meet the specific needs of the NYS Medical Marijuana Program, and unit/integration/system testing of the same)
 - iv. Implementation Lead (responsible for leading the User Acceptance Testing, Go-Live, User Training, Rollout, and Post Go-Live Support)
 - v. Security Officer

IX. Training Requirements

A. Overview

NYSDOH, NYS ITS staff, as well as representatives from each registered organization will require training for use of the Seed-to-Sale Solution. Training will be ongoing until all registered organizations and all their dispensing facilities are operational during the implementation period. Additional on-site training would be required in the event that additional registered organizations are added in the future.

B. Requirements

T-1	The Contractor shall provide on-site training for NYSDOH, NYS ITS, and registered organization staff.
T-2	<p>The Contractor shall provide qualified personnel necessary to support Training. This will include a Trainer at a minimum who will possess the following qualifications:</p> <ul style="list-style-type: none"> - an expert in the out-of-the-box solution - fully conversant with the specific configurations to support the needs of the NYS Medical Marijuana Program - at least 3 years of training management and delivery experience. <p>Additional resources may be necessary for administrative support.</p>
T-3	The Contractor shall provide webinar trainings that can accommodate a class that could contain up to 100 individuals. The webinar would include live instruction by way of an audio stream or telephone with the opportunity for questions and answers. This training must include each of the topics as specified in this section, and any other materials identified by the State or the Contractor, that would aid



	the registered organization or the State in their utilization of this software solution. The schedule for these trainings should be planned in consultation with the State and provided to the State with sufficient notice which will allow for at least 10 business days for coordinating attendance.
T-4	The Contractor shall provide archived webinar training to the State that can be used to help train new State staff and registered organization staff in the future.
T-5	Training must include the following topics: <ul style="list-style-type: none"> • Software Configuration • User Administration • Security Features • Password Reset Instructions • Functionality related to the inventory and chain of custody management for the manufacture, transportation, laboratory testing, transport, distribution, recall tracking, dispensing, sale and reporting, including PMP reporting, of medical marijuana • Reporting Features • Interfaces with other systems such as the MMTMS and CLIMS/LIMS.
T-6	The Contractor shall track training enrollment and completion status for NYSDOH, ITS, registered organization (including dispensing facility) staff as stipulated by NYSDOH, and produce daily status reports for the duration of the training.
T-7	The Contractor shall develop and deliver training material in electronic and paper format for classroom training.
T-8	The Contractor shall incorporate an evaluation mechanism at the end of the training to help with its continuous improvement.
T-9	Contractors must provide a separate and distinct system training environment dedicated for training purposes.

X. Maintenance and Support Requirements

A. Overview

1. Software Maintenance

The industry standard for Software maintenance, as adopted by NYS ITS for IT Service Management, is defined in the Institute of Electrical and Electronics Engineers (IEEE) Standard for Software Maintenance, IEEE 1219, as the modification of a software product after delivery to correct faults, improve performance or other attributes, or adapt the product to a modified environment.

Maintenance is needed to ensure that the software continues to satisfy user requirements. The system changes due to corrective and non-corrective software actions. Maintenance must be performed in order to:

- Correct faults
- Improve the design
- Implement enhancements
- Interface with other systems



- Adapt programs so that different hardware, software, system features, and telecommunications facilities can be used
- Migrate legacy software
- Retire software

2. Technical Support and Help Desk Services

The Contractor shall provide overall help desk and technical support, including developing a help desk strategy and protocols across the entire solution, subject to State approval.

B. Requirements

The Maintenance and Support requirements are provided in the separate document: “Attachment 2 – Maintenance and Support Requirements.” Once under contract, the winning contractor will be expected to fulfill all requirements.

XI. Systems Change Management

A. Overview

The Contractor will be responsible for implementing modifications or enhancements on the Seed-to-Sale system throughout the term of the contract. System Change Management is the process whereby core system enhancements, as determined by the State (or by the Contractor, with State approval) are made. This may include, additional functions or requirements resulting from regulatory changes impacting the program.

All approved System Change Requests (SCRs) will result in the establishment of deliverable-based projects.

The State will initiate modifications to the system through the submission of a SCR form. The Contractor must respond, in writing, to the requests submitted by the State within five (5) business days of receipt. The response shall consist of an acknowledgment of the request and a preliminary assessment of the effort (e.g., number of hours) required for completing the modification.

System Change Management Projects may fall into one of two major categories:

1. **Small System Change Management Projects:** These represent small projects (fewer than two-hundred (200) hours) that may not require the application of detailed project management methodology.
2. **All Other System Change Management Projects:** These are projects estimated to require two-hundred (200) or more staff hours to complete. These tasks require the application of detailed project management methodology, including status reporting.

B. Requirements

Costs for Systems Change Management projects will be based on the hourly blended rate in Fee A-3 within RFP Attachment 9.



XII. Onboarding and Off-Boarding of Registered Organizations

A. Overview

After the initial set-up period, the Contractor will be responsible for the onboarding and off-boarding of registered organizations for the duration of the contract. If any additional registered organizations are approved for operation after the initial set-up period, the Contractor will need to provide support to onboard the registered organization, which would include up to four dispensing facilities, on to the seed-to-sale system. If a registered organization ceases operations at any of their facilities across the registered organization, the Contractor will also need to assist in off boarding the facilities or registered organization from the systems. The data associated with the specified facility or registered organization will also need to be transitioned to another facility if applicable, or turned over to the State, in a mutually agreed upon format.

B. Requirements

ID	Requirements
OO-1	The Contractor must provide support to bring any additional registered organizations on board after the initial set-up period.
OO-2	The Contractor must work with the State to provide all data and reports from a registered organization which is no longer approved to operate, in a mutually agreed upon format.
OO-3	The Contractor must provide support for the dispensing or manufacturing facility to complete any necessary documentation in the system.

XIII. Deliverables

List of Deliverables

All deliverables must be reviewed and approved by the State.

ID	Deliverable Requirements
Deliv-1	Requirements Management Plan, Requirements Repository, Traceability Matrix
Deliv-2	Business Design Plan
Deliv-3	Configured Seed-to-Sale Software or Service
Deliv-4	Role-Based User Manuals
Deliv-5	List of hardware/equipment, such as computers, bar code scanners, label printers, and point-of-sale devices such as weighing scale, flatbed scanner, cash drawer, or receipt printer, that the proposed solution is compatible with
Hosting Solution Deliverables	
Deliv-6	Hosting Services as defined in Attachment 1
Deliv-7	System Architecture and Infrastructure Plan
Deliv-8	Business Continuity & Disaster Recovery Plan



ID	Deliverable Requirements
Security and Privacy Deliverables	
Deliv-9	Information Security, Privacy and Confidentiality Plan
Deliv-10	Independent Vulnerability Testing Plan
Deliv-11	Annual Security Risk Assessment
Deliv-12	System Access Reports
Testing Deliverables	
Deliv-13	User Acceptance Test Environment
Deliv-14	Comprehensive Test Plan including Test Data (Unit, Integration, System), Test Results
Deliv-15	Stress, Regression, Performance Test Plan, Test Results
Deliv-16	User Acceptance Test Support Plan
Project Management Deliverables	
Deliv-17	The Contractor shall deliver a Project Plan to include: <ul style="list-style-type: none"> • Project Scope Statement; • Work Breakdown Structure (WBS); • Project Schedule (Baseline & Ongoing); • Project Budget; • Quality Management Plan; • Risk Management Plan; • Change Control Process; • Issue Management and Escalation Process; • Communications Management Process; • Organizational Change Management Process; • Project Team Development Plan; • Project Go-Live and Transition Plan.
Deliv-18	The Contractor shall deliver Status Reports to include: <ul style="list-style-type: none"> • Monthly status report • Project dashboard for Steering Committee frequency to be determined • Daily and Weekly briefings during Go-Live and first month of production operations
Deliv-19	Operational Readiness Review Plan, Go-Live Contingency Plan
Training Deliverables	
Deliv-20	Seed-to-Sale Solution Training Environment
Deliv-21	Training Needs Analysis
Deliv-22	Training Plan
Deliv-23	Role-based Training Materials
Deliv-24	Classroom-based Training



ID	Deliverable Requirements
Deliv-25	Webinar-based Training
Deliv-26	Archived Webinar-based Training for additional training
Deliv-27	UAT Training
Deliv-28	Training Material Updates
Deliv-29	Training Evaluation Results

XIV. Proposal Requirements

A. Introduction

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

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

The Bidder’s Proposal consists of a Technical Proposal, Software-as-a-Service Demonstration and a separate Cost Proposal. The points available are 70 points for the Technical Proposal (60 points for the Technical Proposal and 10 points for the Software-as-a-Service Demonstration) and 30 points for the Cost Evaluation.

B. Proposal Requirements

The following must be included in the Bidder’s Proposal Response:

- Technical and Price Proposal (Attachment 9) packages received by the date and time specified in the Schedule of Key Events.
- Evidence of how the Bidder meets the Eligibility of Bidders criteria (See RFP Section I.C. Eligibility of Bidders).
- A risk assessment plan and a risk management plan must be included in the Technical Proposal.
- A signed Transmittal Letter must be included in the Technical Proposal.

The Bidder shall attest within the Transmittal Letter, and submit evidence to the satisfaction of the State, that it possesses the necessary experience and qualifications to as specified in RFP Section I.C. Eligibility of Bidders. The Transmittal Letter should be included in Tab 2 and the evidence should be included in Tab 6.

A risk assessment and risk management plans (See RFP Section VI. Security and Privacy Requirements) for the proposed solutions must be included in the technical proposal and should follow an industry-standard format, such as those developed by the US National Institute of Standards and Technology (NIST). These plans should be clearly labeled and included in Tab 5 of the Technical Proposal.



C. Technical Proposal (60 Points)

No cost information can be included in the Technical Proposal.

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

Tab	Proposal Contents
1	Table of Contents
2	Transmittal Letter
3	Executive Summary and Introduction
4	Project Management and Staffing
5	Proposal Requirements
6	Corporate Organization, Experience and Qualifications

1. Table of Contents (TAB 1)

A Table of Contents of the Technical Proposal should be inserted in Tab 1. The Table of Contents will identify all sections (identified here as Tabs), all subsections contained therein, and the corresponding page numbers. The Table of Contents should include all sections and subsections present under each Tab.

2. Transmittal Letter (TAB 2)

An individual authorized to legally bind the Contractor must produce a signed Transmittal Letter in Tab 2. The Transmittal Letter(s) will be reviewed as part of the screening for Proposal Mandatory Submission Requirements and shall include:

- a. The complete name and address of the company and the name, mailing address, email address, fax number and telephone number for both the authorized signer and the person the NYSDOH should contact regarding the proposal;
- b. A statement indicating the legal structure of the entity submitting the offer;
- c. A statement that the Vendor accepts the contract terms and conditions contained in this RFP including attachments;
- d. A statement confirming that the Vendor has received and acknowledged all NYSDOH amendments to the RFP (if any), as may be amended;
- e. A statement confirming that the Vendor is authorized to do business in New York State and it is prepared, if requested by NYSDOH, to present evidence of legal authority to do business in NYS, subject to the sole satisfaction of NYSDOH;
- f. A statement that the Vendor does not qualify its proposal or include any exceptions from the RFP;
- g. A statement that the Vendor attests to currently owning a Medical Marijuana Seed-to-Sale Tracking Software Solution, and the Vendor has at least one client who has been utilizing this software for a period of at least 12 months;



- h. A statement that the Vendor attests to having the ability to operate the Seed-to-Sale Software Service as a service;
- i. A statement that the Vendor attests to having the ability to configure the Seed-to-Sale Solution to meet the specific requirements of NYSDOH's Medical Marijuana Program to be in full production within 120 calendar days of contract approval by the Office for the State Comptroller (OSC);
- j. A statement that the Vendor will comply with the security requirements in Section VI – Security and Privacy Requirements;
- k. A statement that acknowledges, should any alternative proposals or extraneous terms be submitted with the proposal, such alternate proposals or extraneous terms will not be evaluated by the State;
- l. The proposal will remain valid for a minimum of 365 calendar days from the closing date for submission of proposals; and
- m. If a proposal with subcontractors is submitted, the Vendor should provide, in an appendix to the Transmittal Letter, one subcontractor summary for each listed subcontractor that contains the following information:
 - i. Complete name of the subcontractor;
 - ii. Complete address of the subcontractor; and
 - iii. Type of work the subcontractor will be performing.

3. Executive Summary and Introduction (TAB 3)

Tab 3 should be labeled Executive Summary and Introduction and should contain a narrative prepared by the Vendor that provides the NYSDOH with a collective understanding of the contents of the entire Proposal. The Executive Summary/Introduction should briefly summarize the strengths of the Vendor and the key features of its proposed approach to meet the requirements of the RFP and is limited to four (4) pages in length (any submitted text beyond this length will be disregarded by evaluators). The Executive Summary should summarize the Vendor's proposed role with the State and describe the major benefits offered by this proposal.

4. Project Management and Staffing Requirements (TAB 4)

Tab 4 should be labeled Project Management and Staffing Requirements. In this section, the Vendor should document its approach to requirements described in Section VIII Project Management and Staffing Requirements by responding to each requirement presented in that section.

The staffing requirements for the implementation are outlined below:

- a. *Key Staff Bios* - Bidders should provide profile information for each of the key staff proposed for this project, including subcontracted staff:
 - i. Engagement Manager (Senior Executive)
 - ii. Project Lead (primary point of contact for the MPPM)
 - iii. Configuration Lead (responsible for architecting all technical aspects of the solution, leading the configuration and initial setup of the Software as a Service to meet the specific needs of the NYS Medical Marijuana Program, and unit/integration/system testing of the same)



- iv. Implementation Lead (responsible for leading the User Acceptance Testing, Go-Live, User Training, Rollout, and Post Go-Live Support)
 - v. Security Officer
- b. Profile information should include:
- i. Name
 - ii. Proposed role on this project and planned time to be spent on this project
 - iii. Years of relevant experience
 - iv. Description of relevant experience
 - v. Educational qualifications and professional certifications
 - vi. Indication as to which referenced projects this individual worked on
- c. *Staffing Plan* - The Bidder should have a staffing plan for the project. The Bidder should describe how staffing will be provided to meet the project, business, and technical obligations over the entire lifecycle of this engagement. The plan should:
- i. Identify individual resources assigned to each of the project activities, including but not limited to Growing/Manufacturing/Distribution/Dispensing (Point of Sale) Subject Matter Expertise, Requirements Analysis, Configuration, Testing, and Training
 - ii. Describe the strategy that will be used to acquire human resources with the appropriate skills to staff the project
 - iii. Provide a description of how the Bidder proposes to utilize the proposed key staff members and additional staffing to meet the obligations of this engagement as described in this RFP
 - iv. Include an estimate of total effort hours contributed by each of the key personnel to each task and an estimate of total effort hours for each task
 - v. Describe the specific need for the expertise and a description of the arrangements if sub-consultants are to be used
 - vi. Describe the Bidder's plan for phasing project personnel into the project and the level of interaction contemplated with the State

Staffing requirements for the ongoing Software as a Service are addressed on “Attachment 2 – Maintenance& Support Requirements.”

5. Proposal Requirements (TAB 5)

Tab 5 should be labeled Proposal Requirements. In this section, Vendors will document their approach to meeting the Business, Hosting, Security and Privacy, Training, Testing, Maintenance and Support, Systems Change Management and On-boarding and Off-boarding of Registered Organizations requirements, by responding to each requirement set forth in Sections IV through XII, excluding Section VIII as this is included in TAB 4, and Attachments 1 and 2.

The NYSDOH requests Vendors to use where possible a one-to-one match between the numbering utilized for sections in the RFP and the numbering of their corresponding responses in Tab 5.

Proposals should be fully responsive to the requirements; however Vendors are given wide latitude in the degree of detail they offer or the extent to which they reveal plans, designs, examples, processes, and procedures. Simply repeating a requirement statement may be considered nonresponsive.

For **Section IV** – using the table for Seed-to-Sale Tracking Solution Business Requirements in Section IV.B., the Bidder should add a “Bidder Compliance” column to provide an indication as to

whether their solution can fulfill the business needs expressed in the system requirements using one of the following responses:

- 2 - Meets the requirement “out of the box.”
- 1 - Meeting the requirement is conditional. Bidders should use one of the "Approach Codes" indicated and defined below to designate how the requirement can be met.
- 0 - Does not meet the requirement.

Approach Codes

- **CNF** – special configuration. Special configuration is the scenario where the product does not include standard features built specifically to address the requirement in question, but the desired results can be achieved by configuring the system in a specific way. With respect to reporting, special configuration is the scenario where no single standard report satisfies the requirement in question, but where an existing standard report can be modified solely by means of configuration, such as modifying existing, or adding new fields to the report.
- **SWK** – system workaround. This is the scenario where the standard product does not include features built specifically to address the requirement in question, but where other features exist that can be used to achieve the same result.
- **PWK** – process workaround. This is the scenario where the standard product does not have features built specifically to address the requirement in question, but where it is possible to alter the underlying business process to achieve the same result.
- **CST** – customization. This is the scenario where the standard product does not include features built specifically to address the requirement in question, and where custom development effort is needed to achieve the desired result. With respect to reporting, customization is the scenario where no single standard report satisfies the requirement in question, but where an existing standard report can be modified, or a new report can be created through additional development effort requiring coding changes.
- **INT** – integration with third-party applications. This is the scenario where the standard product does not have features built specifically to address the requirement in question, but where integration with a third-party product could be used to achieve the same result. An example of integration would be the use of a third-party product to satisfy the requirements.
- **PFF** – planned future functionality. This is the scenario where the standard product does not have features built specifically to address the requirement in question, and where such features have been identified, specified, prioritized, and scheduled for a known specific future release. Note that only features that have passed the detailed functional specification stage in the product lifecycle and have a known future release date qualify as planned future functionality.
- **NAV** – the required functionality is not available and cannot be provided. This is the scenario where the standard product does not have features built specifically to address the requirement in question, and where the Bidder recommends that NYSDOH does not pursue the requirement for a specific well-described reason.

For **Section V** - Hosting, the State has listed the ITIL support levels for the purpose of this proposal evaluation. The bidder should provide the support level definitions used and describe them within their proposal.

For **Section VI** - Security and Privacy, where the proposed solution does not or cannot leverage existing NYS solutions, the bidder should clearly indicate this limitation, its cause and the alternate solution. Alternate solutions will be expected to exceed the overall security of the available NYS solution.



As part of the proposal and during development and operations of the solution, the bidder should document items required by the current NYS Secure System Development Life Cycle standard located at <http://its.ny.gov/tables/technologypolicyindex.htm/security>. The Vendor should develop a change management process which supports controlled release of new and updated systems and solutions.

For **Section X** - Maintenance and Support, the State has listed the ITIL support levels for the purpose of this Contract evaluation in Attachment 2. Maintenance and Support Requirements. The bidder should provide their support level definitions within their proposals, describing their first level support and second level support duties. The proposal should also outline and document applicable Service Level that the proposed system will meet for each requirement.

A risk assessment and risk management plan (see RFP Section VI. Security and Privacy Requirements) for the proposed solutions must be included in the proposal and should follow an industry-standard format, such as those developed by the US National Institute of Standards and Technology (NIST). The risk assessment and risk management plan should be clearly labeled and located in Tab 5.

6. Corporate Organization, Experience and Qualifications Requirements (TAB 6)

Tab 6 shall be labeled Corporate Organization, Experience, and Qualifications.

a. Corporate Organization

In this section the Vendor should provide an organization chart of its company. If the company is a subsidiary of a parent company, the organization chart should be that of the subsidiary company. The chart should display the company's structure and the organizational placement of the oversight for the Medical Marijuana Seed to Sale Tracking Solution. The Vendor should identify the level of the person who will be responsible for signing the contract and indicate the signing person's relationship with the company. The Proposal should document the legal structure of the company, including the date established and the state in which the company is registered, licensed, and incorporated, as applicable. The Proposal should describe the history of the company.

b. Vendor's Experience Levels & Qualifications

The Vendor should discuss all relevant Corporate Experience, including projects providing technical services support for a medical marijuana seed to sale tracking solution;

The Vendor should provide project summaries that meet the requirements of Section I.C. Eligibility of Bidders. Vendors should provide the following items in the Project Summaries:

- i. Title of the project;
- ii. Name of customer's organization;
- iii. Customer reference, title, and current telephone number;
- iv. Start and end dates of the original contract;
- v. Total contract value (to the Vendor's organization; e.g., if Vendor was a subcontractor, specify subcontract dollar amount);
- vi. Average staff hours in FTEs during operations; and
- vii. Brief description of scope of work (stress relevance to this contract).



c. References

- i. The Bidder should provide at least one (1) reference, external to the Bidder or subcontractor organizations (see definition above) and at least one reference for each proposed subcontractor. The purpose is to provide the state the ability to verify the information contained in the Bidder’s proposal.
- ii. Each of the references provided should meet all of the criteria below. The reference criteria are as follows:
 - (i) The services provided should have included technical services relevant to those being requested in this RFP; and
 - (ii) At least one reference should be for a project on which the Bidder was the prime contractor; and
 - (iii) At least one of the references should be for providing a solution for a medical marijuana dispensing entity regulated by state government.

D. Price Proposal (30 Points)

The Price proposal should consist of the following sections separated by tabs. Documents and responses should be presented in this order:

Tab	Proposal Contents
1	Fee Schedules (See Attachment 9)
2	Minority and Women Owned Business Enterprise (M/WBE)/EEO Form 4 and Form 5

1. Fee Schedules (TAB 1)

Fee Schedule A

Fee Schedule A (Attachment 9) compiles the costs for all Contractor activities.

Fee Schedule A-1 – Fixed Initial Setup Fee

In Fee Schedule A-1, the Vendor must specify a fixed price to provide initial setup services for the Seed-to-Sale Software-as-a-Service (SaaS). This will include Requirements Analysis, Solution Design, Configuration, Integration with other Systems, Testing, Training, Go-Live and Post-Go-Live Support Services.

Fee Schedule A-2 - SaaS Subscription Fee

In Fee Schedule A-2, the Vendor must specify a monthly subscription fee for the SaaS based on number of users. The monthly subscription fee must be specified and remain fixed for months five (5) through thirty six (36). At the end of month thirty six (36), contract prices will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U). See RFP Section XV. E. 3. Contract Pricing Increase and RFP Section XV. E. 4. Contract Extension Pricing. The State does not make any guarantees regarding the volume of users.



Fee Schedule A-3 - System Change Management Project Staff Fee

In Fee Schedule A-3, the Vendor must specify the blended hourly rate. This blended rate should, at a minimum, include: a Project Lead, Subject Matter Expert, Business Analyst, Configuration Specialist which includes system integration, and a Tester. The hourly rate is a fully loaded rate and includes all personnel, overhead, indirect, travel, profit, equipment usage, and other miscellaneous costs. The proposed rate must be specified and remain fixed for month five (5) through thirty six (36). At the end of month thirty six (36), contract prices will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U). See RFP Section XV. E. 3. Contract Pricing Increase and RFP Section XV. E. 4. Contract Extension Pricing. The State does not make any guarantees regarding the use of System Change Project hours over the term of the contract. The anticipated numbers/quantities provided do not represent a commitment or guarantee to utilize a specific quantity of hours or level of services.

Fee Schedule A-4 – Onboarding and/or Off-Boarding Registered Organization (RO) Fee

In Fee Schedule A-4, the Vendor must specify the cost to onboard an additional RO, including the four dispensing facilities of an RO that need to be brought on after the initial launch of the program. This price will also be used to off-board any registered organizations or registered organization facilities that cease operation. The State does not make any guarantees regarding the Onboarding of Additional/Replacement RO price over the term of the contract. The anticipated numbers/quantities provided do not represent a commitment or guarantee to utilize a specific quantity of hours or level of services. The proposed rate must be specified and remain fixed for months five (5) through thirty six (36). At the end of month thirty six (36), contract prices will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U). See RFP Section XV. E. 3. Contract Pricing Increase and RFP Section XV. E. 4. Contract Extension Pricing.

Fee Schedule A-5 – Fixed Transition Fee

In Fee Schedule A-5, the Vendor must specify the fixed price to provide the transition services for the Seed-to-Sale SaaS as outlined in their Technical Proposal. This blended rate price should, at a minimum, include access to the system for appropriate staff and data exporting capabilities. This price will remain fixed for the first thirty six (36) months of the contract. At the end of month thirty six (36), contract prices will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U). See RFP Section XV. E. 3. Contract Pricing Increase and RFP Section XV. E. 4. Contract Extension Pricing.

2. Minority and Women Owned Business Enterprise (M/WBE)/EEO Form 4 and Form 5 (Tab 2)

E. Software-as-a-Service Demonstration (10 Points)

Software-as-a-Service (SaaS) Demonstrations will take place in Albany, New York, and bidders are expected to provide a demonstration of their SaaS product to State staff. Bidders should be able to demonstrate the following:

- How the system tracks the growing, manufacturing, laboratory testing, distribution, transport, and dispensing;
- How to trace a product dispensed back to a manufacturing lot or batch of marijuana in the event of a product recall;

- How the system integrates with hardware such as barcode scanners, cash drawers, etc.
- How the system integrates with other systems;
- How the system handles application administration;
- Overall performance of the SaaS;
- How reporting is handled in the system; and
- Security features of the SaaS.

The invited bidders will be given up to two hours to deliver the demonstration and allow for a question and answer period. Each bidder will be responsible for any travel expenses or other costs involved in making its demonstration.

F. Method of Award

Evaluation Process

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

At the discretion of NYSDOH, all bids may be rejected.

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

- Lowest cost
- Past experience
- References

The evaluation process will ensure the selection of the best overall solution for the NYSDOH on a “best value” basis. Scoring will be split 70 points for the Technical Evaluation (60 points for the Technical Proposal and 10 points for the Software-as-a-Service Demonstration) and 30 points for the Cost Evaluation. The evaluation process will include the following components:

- Review Proposal Mandatory Requirements;
- Evaluate and Score Technical Proposals;
- Evaluate and Score Price Proposals;
- Technical and Price Proposals Combined;
- Identify Bidders susceptible to award for Software-as-a-Service Demonstrations;
- Conduct Software-as-a-Service Demonstration(s);
- Proposal Ranking and Evaluation Committee Recommendation; and
- NYSDOH Contract Award Decision.

1. Pass/Fail Assessment (Mandatory Requirements)

All proposals will be reviewed to ensure that minimum criteria are met. Proposals that do not meet the following minimum criteria will not be forwarded to the review panel for evaluation and rating:

- Technical and Price Proposal (Attachment 9) packages must be received at the address stated in Section XV, C.1 Submission of Proposals, by the date and time specified in the Schedule of Key Events.



- Bidder must meet Eligibility of Bidders criteria (See RFP Section I.C. Eligibility of Bidders).
- A risk assessment plan and a risk management plan must be included in the technical proposal.
- A signed Transmittal Letter must be included in the technical proposal.

2. Scoring of Technical Proposals (60 points)

Evaluation Criteria and Assigned Point Totals

The evaluation of the Vendor's technical approach will be based on the responses provided in the proposal.

3. Scoring of Bidder Price Proposals (30 points)

Evaluation Criteria and Assigned Point Totals

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

The Price Proposal will be evaluated based on the costs proposed in Attachment 9 Fee Schedules.

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

The financial raw scores will be normalized as follows:

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

A is Total Price of lowest Price Proposal;

B is Total Price of Price Proposal being scored; and

C is the Price score.

4. Combined Score

The Bidder's Technical and Price Proposal points will be combined to establish a total combined score for each proposal (out of 90 points). The proposals will then be ranked based on each Bidder's combined score. Bidders susceptible to award will be eligible to provide a Software-as-a-Service Demonstration to the Committee.

The Committee will conduct the Software-as-a Service Demonstration at a NYSDOH facility in Albany, NY. Bidders should be prepared to travel to Albany to conduct their presentation in approximately two (2) to three (3) weeks after proposals are due.

5. Final Scores

The combined score and Software-as-a-Service Demonstration scores (10 points) will be combined to establish the Final Score for each proposal. The proposals will then be ranked based on each Bidder's Final Score. The highest scoring proposal will be considered eligible for contract award.

6. Notice of Intent to Award

A Notice of Intent to Award for the contract will be sent by mail to all Vendors who have submitted a timely Proposal. The Notice of Intent to Award is subject to execution of a written contract, approval of the New York State Attorney General and the New York State Office of the State Comptroller.



Accordingly, the Notice will not constitute the formation of a contract between the NYSDOH and the apparent successful Vendor.

XV. Administrative Requirements

A. Issuing Agency

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

B. Inquiries

Prospective Bidders should note that all requests for clarification and exceptions, including those relating to the terms and conditions of the contract, are to be raised during the question and answer period prior to the submission of a proposal. Questions must be submitted in writing using electronic mail (e-mail) to NYSDOH on or before the date specified in the Schedule of Key Events on the cover page of the RFP. Each question should cite the particular RFP part and section to which it refers. Any questions concerning this solicitation must be sent electronically via e-mail to:

Amanda Wilson
New York State Department of Health
Bureau of Narcotic Enforcement
Riverview Center, 6th Floor
Albany, NY 12204
Phone: 1-866-811-7957; option #1
Email: mmp@health.ny.gov

Questions and answers, as well as any RFP updates and/or modifications, will be posted on NYSDOH's website at <http://www.health.ny.gov/funding/>, on or around the date listed in the Schedule of Key Events. Questions received by NYSDOH after the Written Questions Due Date specified on page i will not be answered. Bidders should clearly understand that the only official answers or positions of the NYSDOH are those stated in writing and posted on the NYSDOH's website.

C. Submission of Proposals

The Bidder should submit its proposal in two separate, clearly labeled parts: a Technical Proposal and a Price Proposal, prepared in accordance with the requirements stated in this RFP. The hardcopy sets and CDs of the Technical Proposal should be packaged, labeled, and sealed separately from the hardcopy sets and CD of the Cost Proposal. Each package should be clearly labeled "**Medical Marijuana Seed to Sale Tracking System Project RFP #15978**" and labeled as to the type of contents "Technical Proposal" or "Price Proposal."



	CD ROM, DVD, or thumb drive	Original	Copies
Technical Proposal	1 copy in Adobe PDF; 1 copy in MS Word version 2007 or later	2 Original Hard Copy	12 Hard Copies
Price Proposal – Fee Schedules	1 copy in Adobe PDF (complete); 1 MS Office copy consisting of: • Narrative in MS Word version 2007 or later; and • Worksheets in MS Excel version 2007 or later	2 Original Hard Copy	5 Hard Copies

1. The complete proposal must be received by the NYSDOH, no later than the time on the day specified on page i of this RFP in the Schedule of Key Events, and at the address specified in Section XV.C.1 Administrative Requirements, Submission of Proposals, Two-part Proposals of this RFP;
2. It is the bidders' responsibility to see that bids are delivered to the address specified below in this section, prior to the bid due date/time as specified in the Schedule of Key Events. Late bids will not be considered;
3. The Bidder should be as specific as possible in its responses to provide the NYSDOH with an adequate understanding of the intent of the proposal;
4. 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 State to evaluate proposals fairly and completely, proposals should follow the format set out below to provide all requested information. The use of tabs to identify sections and/or subsections is required. 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; and
5. Audio and/or videotapes are not allowed. Any submitted audio or videotapes will be ignored by the evaluation team.

1. Two-Part Proposals (Technical & Price)

Please follow the submission and formatting requirements defined below when preparing and submitting proposals.

Technical Proposal:

Each Technical Proposal (including all copies thereof) should meet the following general format requirements:

1. Printed on letter size (8.5" x 11") paper; double-sided;
2. Prepared using 11 pt. font or larger;
3. Submitted in separate three-ring binders with tab dividers between major sections; and

4. Clearly paginated proposal.

Price Proposal

The Price Proposal should consist of:

1. Two (2) originals in separate three-ring binders; and
2. Five (5) copies in hardcopy format in separate three-ring binders.

Original proposals should be marked as such. Where signatures are required, the original of the proposal should be signed in ink. E-mail submissions will not be accepted. All copies must be received by NYSDOH no later than the date and time specified on the cover sheet of this RFP. In case of any discrepancy between the electronic and hard copy documents, the hard copy shall supersede.

Responses to this RFP should be clearly marked “*Medical Marijuana Seed to Sale Tracking System Project RFP# 15978*” and directed to:

Amanda Wilson
New York State Department of Health
Bureau of Narcotic Enforcement
Riverview Center, 6th Floor
Albany, NY 12204
Phone: 1-866-811-7957; option #1
Email: mmp@health.ny.gov

It is the responsibility of the Bidder to see that bids are delivered to the address above prior to bids due date/time as specified in the Schedule of Key Events. Late bids will not be considered.

1. The Fee Schedule should (Attachment 9) be filled out in its entirety.
2. All evidence and documentation requested under Section XIV, Proposal Requirements should be provided at the time the proposal is submitted.

Bidders choosing not to bid are requested to complete the No-Bid Form (Attachment 3).

D. RESERVED RIGHTS

The NYSDOH 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 Offeror whose conduct and/or proposal fails to conform to the requirements of the RFP;
5. Seek clarifications and revisions of proposals;
6. Use proposal information obtained through site visits, management interviews and the state’s investigation of an Offeror’s qualifications, experience, ability or financial standing, and any material or information submitted by the Offeror 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 Offerors to submit proposal modifications addressing subsequent RFP amendments;
9. Change any of the scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
11. Waive any requirements that are not material;
12. Negotiate with the successful Offeror within the scope of the RFP in the best interests of the state;
13. Conduct contract negotiations with the next responsible Offer or, should the agency be unsuccessful in negotiating with the selected Offer or;
14. Utilize any and all ideas submitted in the proposals received;
15. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 365 days from the bid opening; and,
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offeror's proposal and/or to determine an Offeror's compliance with the requirements of the solicitation. NYSDOH reserves the right, prior to the proposal due date, to amend the RFP specifications to correct errors or oversights or to supply additional information as it becomes available. All written addenda to the RFP, along with the RFP itself, will become part of the contract.

The RFP and any subsequent amendments will be posted on the NYSDOH website at <http://www.health.ny.gov/funding>. Vendors are responsible for regularly checking the website for updates to information and any changes.

E. Payment

If awarded a contract, the Contractor shall submit invoices and/or vouchers to the State's designated payment office:

1. Preferred Method: E-mail a PDF copy of the signed voucher to the BSC at: DOHaccounts payable@ogs.ny.gov with a subject field as follows: Subject: **Unit ID: 3450356 <<Contract ##TBD>>**
2. Alternate Method: Mail vouchers to BSC at the following U.S. postal address:

**NYS Department of Health
Unit ID 3450356, Contract #TBD
PO Box 2093
Albany, NY 12220-0093**

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by Email at epunit@osc.state.ny.us or by telephone at 518-474-6019. 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. Payment terms will be:

1. Fixed Price Deliverable-based Payments

The Contractor shall be paid the fixed price amount, at the completion of the deliverables associated with the specified task (Initial Set-Up, Onboarding of Registered Organization, or Transition).

The Initial Set-Up Fee will be paid once all deliverables are met for Section XIII. Payment for Onboarding of Registered Organization or Transition will occur once the specified task has been completed.

2. Software-as-a-Service (SaaS) Subscription Fee

The Contractor shall be paid these fees on a monthly basis with one fixed monthly rate throughout the Contract year, with an annual reconciliation in the last month of the Contract year. During a Contract Year, the State will have the ability to let the number of users go above the high end of the User Volume Band being currently billed if needed; the price impact of such events will be handled as part of the last invoice of the Contract Year as a true-up. The State will have the ability, at the end of each Contract Year, to review the actual monthly usage over the Contract year, and appropriately reallocate the utilized User Volume Band. The per user true-up cost will be prorated based on the number of days between when the account was created and the end of the calendar year times the annual per user cost as established for the, then current, User Volume Band. The State will not be subjected to any penalty for this adjustment.

3. Contract Pricing Increase

At the end of contract year three (3), contract prices will be subject to a price increase or decrease, of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C., 2012 for the 12 month-period, ending three (3) calendar months prior to the end date of the third year of the contract. Revised contract prices will be in effect for contract years four (4) and five (5).

4. Contract Extension Pricing

Should NYSDOH elect to renew the term of the contract beyond the initial five (5) year period, the pricing for the optional contract extension will be subject to a price increase or decrease of the lesser of three



percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C., 20212 for the 12 month-period ending three (3) calendar months prior to the end date of the fifth year of the contract. Revised contract prices will be in effect for entire contract extension period.

5. Limitation of Contractor Liability

Contractor's liability for any claim, loss, or liability arising out of, or connected with, the products or services provided, and whether based upon default or other liability such as breach of contract or warranty, negligence, misrepresentation, or otherwise, shall, unless otherwise set forth in the contract as being without limitation, in no case exceed damages in an amount equal to fifty percent (50%) of the contract value, excluding any amendments or extensions. Notwithstanding the foregoing, the Contractor remains liable, without monetary limitation, for direct damages for personal injury, death, damage to real property or tangible personal property, or to intellectual property attributable to the negligence or other tort of the Contractor, its officers, employees, or agents.

F. Review of Deliverables

The State will attempt to review deliverables submitted by the Contractor to the State, accept or reject those deliverables, and provide written comments and notice of deficiencies, if any, to the Contractor, within ten (10) business days of receipt and will use all reasonable efforts to complete the review in less than the allotted time. The Contractor shall correct the deficiencies cited by the State and resubmit the deliverable for approval within five (5) business days of receipt of the State's comments, unless an extension is requested in writing by the Contractor and approved in writing by the State. The Contractor shall respond to all State comments and incorporate such response into its resubmission of the deliverable. Full response by the Contractor to the State's comments within five (5) business days will constitute fulfillment of that deliverable unless the State provides, within five (5) business days of receipt of the resubmitted deliverable, notice of a continuing deficiency. If notice of a continuing deficiency is given, the State will provide to the Contractor a detailed description of the deficiencies that continue. If the Contractor fails to meet all criteria within the timeframes mentioned above, the State reserves the right to withhold payment until the State is satisfied that all the deliverables have been achieved as set forth in this Agreement.

As used in this section, the term "continuing deficiency" shall be limited to:

1. Inadequate resolution, in the reasonable judgment of the State, of the items raised during the previous State review;
2. Related issues which were tied to or created by the method of resolving the previous State comments;
3. Items which could not be thoroughly tested or reviewed by the State because of an inadequate, incorrect or incomplete deliverable, previously submitted, which was identified as inadequate, incorrect or incomplete by the State's previous written comments; and
4. Omissions of parts of a deliverable.

Such reviews and resubmissions shall not be construed as a waiver of any deliverable or obligation to be performed under this Agreement, nor of any scheduled deliverable date, nor any rights or remedies provided by law or under this Agreement, nor State comment on any deliverable, relieve the Contractor from any obligation or requirement of this Agreement.

In the event the State fails to review and accept or reject a deliverable within ten (10) business days of receipt, the Contractor shall notify the State of the late response and proceed with performance as if acceptance had been received from the State. However, such failure by the State to respond shall not constitute acceptance of the deliverable by the State. If, in such circumstances, the State subsequently

requires material changes to the deliverable, the parties shall fairly consider and mutually agree as to the effect of the untimely rejection or acceptance on the delivery or implementation schedules. In no event shall the Contractor be entitled to any price increase due to the need to correct deficient deliverables.

The Contractor should deliver drafts of deliverables to the State to facilitate the State's review process. Nothing set forth herein with regard to the formal review process for deliverables shall preclude verbal comments by the State to the Contractor or its representatives during that process, and those verbal comments may be provided in addition to the formal process set forth herein.

G. Term of Contract

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

The term of the contract will be five (5) years, with the option of up to a two (2) year extension.

This agreement may be canceled at any time by NYSDOH after giving 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.

H. Debriefing

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

I. 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 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/>

J. Vendor Responsibility Questionnaire

New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of Health or the Office of the State Comptroller for a copy of the paper form. The winning bidder must also complete and submit the Vendor Responsibility Attestation (**Attachment 8**).

K. State Consultant Services Reporting

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

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

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

State Consultant Services Form A

<http://www.osc.state.ny.us/agencies/forms/ac3271s.doc>

State Consultant Services Form B

<http://www.osc.state.ny.us/agencies/forms/ac3272s.doc>

L. Lobbying Statute

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, provides, among other things, the following as pertains to development of procurement contracts with governmental entities:

- Makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies, and local benefit corporations;
- Requires the above-mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- Requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- Authorizes the New York State Commission on Public Integrity to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement, and provides for the debarment of repeat violators;
- Directs the Office of General Services to disclose and maintain a list of non-responsible Contractors pursuant to this new law, and those who have been debarred, and publish such list on its website;
- Requires the timely disclosure of accurate and complete information from Contractors with respect to determinations of non-responsibility and debarment;
- Expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal-State Agreements, and procurement contracts;
- Modifies the governance of the New York State Commission on Public Integrity;
- Provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
- Increases the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
- Establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii)

activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new Section 1-t was added to the Legislative Law establishing an Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York State Commission on Public Integrity regarding procurement lobbying, the Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Commission on Public Integrity.

M. Accessibility of State Agency Web-Based Intranet and Internet Information and Applications

Any web-based intranet and internet information and applications development, or programming delivered pursuant to the contract or procurement will comply with New York State Enterprise IT Policy NYS-P08-005, “Accessibility Web-based Information and Applications”, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that state agency web-based intranet and internet information and applications are accessible to persons with disabilities. Web content must conform to New York State Enterprise IT Standard NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing will be conducted by Department of Health (DOH), contractor or other, and the results of such testing must be satisfactory to Department of Health (DOH) before web content will be considered a qualified deliverable under the contract or procurement.

N. Information Security Breach and Notification Act

Section 208 of the State Technology Law (STL) and Section 899-aa of the General Business Law (GBL) require that State entities and persons or businesses conducting business in New York who own or license computerized data which includes private information including an individual’s unencrypted personal information plus one or more of the following: social security number, driver’s license number or non-driver ID, account number, credit or debit card number plus security code, access code or password which permits access to an individual’s financial account, must disclose to a New York resident when their private information was, or is reasonably believed to have been, acquired by a person without valid authorization. Notification of breach of that private information to all individuals affected or potentially affected must occur in the most expedient time possible without unreasonable delay, after measures are taken to determine the scope of the breach and to restore integrity; provided, however, that notification may be delayed if law enforcement determines that expedient notification would impede a criminal investigation.

When notification is necessary, the State entity or person or business conducting business in New York must also notify the following New York State agencies: the Attorney General, the Office of Cyber Security



& Critical Infrastructure Coordination (CSCIC) and the Consumer Protection Board (CPB). Information relative to the law and the notification process is available at:

<http://www.cscic.state.ny.us/security/securitybreach/>

O. Public Information (Freedom of Information Law)

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

P. New York State Tax Law Section 5-A

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to 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.

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

Contractor must complete and submit to Department of Health (DOH) the form ST-220-CA attached hereto, certifying that the contractor filed the ST-220-TD with DTF. Failure to make either of these filings may render an Offeror non-responsive and non-responsible. Offerors shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

NYS Taxation and Finance Contractor Certifications Form ST-220-TD may be accessed electronically at: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf.

NYS Taxation and Finance Contractor Certification Form ST-220-CA may be accessed electronically at: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf.



Q. Piggybacking

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

R. Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority and Women Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

NEW YORK STATE EXECUTIVE LAW ARTICLE 15-A

Pursuant to New York State Executive Law Article 15-A, the New York State Department of Health 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 New York State Department of Health 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 New York State Department of Health 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, New York State Department of Health hereby establishes an overall goal of 0% for MWBE participation, 0% for Minority-Owned Business Enterprises ("MBE") participation and 0% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs).

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women.

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, shall 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.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form #4) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the New York State Department of Health, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

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.

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.

S. 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 at: <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 the New York State Department of Health receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the New York State Department of Health 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 New York State Department of Health 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.

The New York State Department of Health 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.



T. 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 7 to indicate their intent to use/not use New York Businesses in the performance of this contract.



U. Appendices

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

APPENDIX A - Standard Clauses for All New York State Contracts

APPENDIX B - Request for Proposal

APPENDIX C - Proposal

The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.

APPENDIX D - General Specifications

APPENDIX E – Workers Compensation and Disability 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:

Workers' Compensation, for which one of the following is incorporated into this contract as

Appendix E-1:

o **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

o **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

o **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.

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

o **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

o **DB-120.1** – Certificate of Disability Benefits Insurance

o **DB-155** – Certificate of Disability Benefits Self-Insurance

Appendix G - Notices

Appendix H - Health Insurance Portability and Accountability Act (HIPAA) (if applicable)

Appendix M - Participation by Minority Group Members and Women with Respect to State Contracts: Requirements and Procedures

Appendix X – Modification Agreement Form (to accompany modified appendices for changes in

V. Attachments

1. Hosting Solution Requirements
2. Maintenance and Support Requirements
3. No Bid Form
4. Lobbying Form
5. Boilerplate Contract with Appendices
 - Appendix A
 - Appendix D
 - Appendix G
 - Appendix H
 - Appendix M
 - Appendix X
6. M/WBE Procurement Forms
7. Encouraging Use of New York Businesses in Contract Performance
8. Vendor Responsibility Attestation
9. Fee Schedule (Price Proposal)

Attachment 1
Hosting Solution Requirements

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Attachment 1
Hosting Solution Requirements

ID	Requirement
	1 Hardware and Software
H-1	The Contractor shall provide the hardware, software, communications, and other infrastructure necessary to meet the requirements of this contract at no additional cost to the State, including any licenses that must be procured and maintained.
	2 Hosting Environment
H-2	The Contractor shall maintain a hosting environment secured as described in policies and standards at https://www.its.ny.gov/tables/technologypolicyindex.htm to provide required services under this Contract.
H-3	The Contractor shall provide a secure, Tier 3 data center to house equipment, with 24/7 system monitoring, managed firewall services, and managed backup services.
H-4	The data center shall meet the specifications of at a minimum a Tier 3 data center as per the Uptime Institute guidelines.
H-5	The Contractor main data center must utilize redundant components so that no single point of failure exists on any equipment supporting the Seed To Sale (STS) Solution as specified for Uptime Institute Tier 3 data center classification.
H-6	The Contractor shall have an alternate secure hosting site available in the event that it is not possible to restore operations in the primary site within the Recovery Time Objective of four (4) hours.
H-7	The contractor must provide separate QA and Training environments identical in configuration to the one in production and such environment must be accessible by the State for testing, prototyping and training.
H-8	The hosting environment will be scalable to meet the needs of the STS Solution to support future growth of the Medical Marijuana program.
H-9	All STS Solution data will be retained for a duration of the remaining portion of the current year, plus six (6) additional years, and will be backed up, co-located and replicated to be in compliance with State and Federal requirements. In addition, upon contract termination or expiration, all data must be provided to the State using an agreed upon format and method of delivery at no additional cost to the state.
H-10	Policies and procedures for destruction of data must be defined and approved by the state. Contractor will remove or destroy the data, if requested by the state, based on these established procedures at no additional cost to the state.
H-11	Acknowledging that not all tasks and activities needed to operate, administer and maintain software applications in a data center may be specifically listed in this RFP, Contractor agrees to perform all tasks considered normal and routine hosting services consistent with the scope of this RFP excluding those tasks expressly excluded in this document.

Attachment 1
Hosting Solution Requirements

ID	Requirement
	2.1 Network
H-12	The data center shall have a redundant, fault-tolerant network and connections to the Internet.
H-13	The Contractor shall benchmark speed and performance of data upload based on expected file sizes as provided by the State.
H-14	The Contractor shall maintain sufficient network bandwidth to support concurrent multiple users, maintaining acceptable performance with 95% of the executed transactions averaging 7.0 seconds or less.
H-15	The Contractor shall not be responsible for issues on State networks or the public Internet.
	2.2 Environmental Systems
H-16	The data center shall have fault tolerant, redundant environmental systems, including power, temperature and humidity control, and fire suppression as specified for Uptime Institute Tier 3 data center classification.
	2.3 Physical Security
H-17	The data center shall be physically secured as specified for Uptime Institute Tier 3 data center classification.
H-18	Access to the data center shall be restricted to authorized personnel using multi-layered controls and procedures.
H-19	The Contractor must establish and follow policies for granting access to the data center. These policies must be reviewed and approved by the State.
H-20	Access shall only be granted to those with a need to perform tasks in the data center.
	2.4 Network, Server and Application Security
H-21	The data center network shall include robust firewall, intrusion prevention and intrusion detection systems to prevent and detect unauthorized access.
H-22	All software, including operating systems and middleware, used to host the system shall be patched no more than one month after patch availability to minimize security vulnerabilities.
H-23	Contractor shall perform vulnerability scans of its systems and application(s) prior to the release of new versions of the software. The software used to perform this scan must be approved by the State and the result of the scans must be provided to and approved by the State prior to releasing new systems or new versions of the application to production.
H-24	Contractor must have a process to manage user accounts and system access permissions compliant with NYS standards found at https://www.its.ny.gov/tables/technologypolicyindex.htm .

Attachment 1
Hosting Solution Requirements

ID	Requirement
	3 System Management and Monitoring
H-25	The Contractor shall monitor all servers and applications in accordance with NYS standards found at https://www.its.ny.gov/tables/technologypolicyindex.htm , including NYS Security Logging Standard.
H-26	The Contractor shall use appropriate automated and manual tools and processes to monitor performance, as well as prevent and detect unauthorized access.
H-27	All servers and devices shall have currently-supported and hardened operating systems, employing up to date anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities.
H-28	System must retain a history of all network and application accesses including a history of all transactions performed while the user was logged on. This information must be retained for a minimum of 2 years unless otherwise specified by NYS law, regulations, policy and/or standards.
H-29	The State allows the Contractor to have system down time between the hours of 11:00 PM Saturdays and 6:00 AM Sundays. Contractor must schedule all system maintenance, upgrades patching and any other activity that requires system down time during this time period. If special situations require to temporarily make the system unavailable outside the established down time, the Contractor will notify the State as soon as possible of the situation and provide information such as the reason and length of the down time.
H-30	The Contractor will notify the State about unscheduled downtime and complete required reports as prescribed in Attachment 2 STS Maintenance and Support Requirements.
H-31	The Contractor shall notify the State about any breach of cyber or physical security within one (1) hour of the incident.
	4 Maintenance
H-32	The Contractor shall perform all required system Maintenance of hardware and software components in compliance with Attachment 2 – Maintenance and Support Requirements.
	5 Business Continuity and Disaster Recovery
H-33	The Contractor shall define, implement and exercise adequate business continuity and disaster recovery procedures. These procedures will be reviewed and approved by the State prior to implementation.
H-34	The Contractor shall develop business continuity and disaster recovery plans that address the recovery of business, hardware, software and data that meet the State Recovery Time and Recovery Point Objectives
H-35	The Contractor shall adhere to a defined and documented back-up schedule and procedure, including regular full and incremental back-up.

Attachment 1
Hosting Solution Requirements

ID	Requirement
H-36	The Contractor shall conduct and annually verify the proper functionality of its back-ups, off-site data storage, and restore operations.
H-37	Tapes or other back-up media shall be securely transferred from the primary site to another secure location to avoid complete data loss with the loss of a facility.
H-38	Data on media being transferred shall be encrypted with an algorithm and Key approved by the State.
H-39	Disaster recovery site must be located at a minimum distance of fifty (50) miles from the main site where the primary system is hosted.

ATTACHMENT 2

MAINTENANCE AND SUPPORT REQUIREMENTS

1. **Definitions.** The definitions below shall apply to this Attachment. All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Seed-to-Sale (STS) Software as a Service Agreement (the “Agreement”).
 - 1.1. **“Best Practices”** means the industry standard as adopted by NYS ITS for IT Service Management, ITIL v 3 (Information Technology Infrastructure Library) Service Level Management standard http://wiki.servicenow.com/index.php?title=ITIL_Service_Level_Management.
 - 1.2. **“Defect”** An error, flaw, mistake, failure, fault or “undocumented feature” in the STS Solution that causes a deviation, which in the State’s reasonable discretion is detrimental, from its intended behavior or performance as specified in its written specifications.
 - 1.3. **“Designated Representatives”** means the State and Registered Organization’s support and management staff, who shall be authorized to contact Contractor for the purpose of obtaining Call Center assistance.
 - 1.4. **“Incident”** is an unplanned disruption or degradation of service capabilities. An incident is something that needs to be resolved immediately. This can either be through a permanent fix or a workaround. An example of an incident would be a disruption in the system services caused by a server crash. If a server is used only during Registered Organization hours, a crash after Registered Organization hours is, not yet an incident since no system service was affected. It becomes an incident only when the outage extends to the hours of use. If an outage is planned, for example, a scheduled maintenance, this is not an incident and should not be counted as part of the system performance metrics. If the planned outage exceeds the scheduled time, then the over time for the outage becomes an incident if service capabilities are affected. Other examples would be if a system service becomes unusable, or service capabilities are degraded. (Note: Severity of the issue is determined by the impact. Incidents are addressed by severity first then age, oldest being addressed first.)
 - 1.5. **“Maintenance Services”** means the maintenance services to be provided by Contractor pursuant to this Attachment and the Contract.
 - 1.6. **“Support Level”** refers to the extent of technical assistance, which must be provided by the Contractor for the STS Solution users. Contractor’s support level definitions must be described within their proposals. The State has listed the ITIL support levels for the purpose of this Contract evaluation, as shown below.

1st Level Support

- The responsibility of 1st Level Support is to register and classify received Incidents and to undertake an immediate effort in order to restore a failed IT service as quickly as possible.
- If no ad-hoc solution can be achieved, 1st Level Support will transfer the Incident to expert technical support groups (2nd Level Support).
- 1st Level Support also processes Service Requests and keeps users informed about their Incidents' status at agreed intervals.

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MAINTENANCE AND SUPPORT REQUIREMENTS

2nd Level Support

- 2nd Level Support takes over Incidents which cannot be solved immediately with the means of 1st Level Support.
- If necessary, it will request external support, e.g. from software or hardware manufacturers.
- The aim is to restore a failed IT Service as quickly as possible.
- If no solution can be found, the 2nd Level Support passes on the Incident to Problem Management.

1.7. “Normal Business Hours” refers to the customer service support center hours which must be maintained at a minimum between 7:00 a.m. and 9:00 p.m. Eastern United States time zone.

1.8. “Problem” is a cause of one or more incidents. Problems are not incidents. An incident can expose a problem. You may raise a problem in a support request ticket and reference it to a known incident. The cause of the problem may be known or not known

1.9. “Support Services” means the support services to be provided by Contractor pursuant to this Attachment and the Contract.

1.10. “Term” means the duration of the contract set forth in the Agreement.

1.11. “Workaround” is a bypass of a recognized incident in a system. A workaround is typically a temporary fix and indicates that a permanent solution to the underlying problem is needed. Typically, workarounds are considered ‘brittle’ because they are implemented before extensive testing can be completed and may not respond well to the expected range of system inputs. It is required that Workarounds are tracked and managed to address risk and that the development of a permanent solution is analyzed and designed. Furthermore, the vendor is required to schedule and complete the development of a permanent solution expeditiously.

1.12. “Service Capabilities” are the functional business related capabilities the STS Solution provides. An example of a System Service is the ability to record the dispensing of Medical Marijuana to a particular individual. Another example is the maintenance of the current product inventory at the Registered Organization’s dispensing facility. The loss or degradation of a System Service may impact the business of the Registered Organization.

1.13. “Service Level” is the specific performance metric that applies to each requirement in this document. “Service Levels” refers to multiple such metrics that apply to a set of requirements grouped by Support Service. In some cases, the minimum Service Level is made explicit in the text and tables. In other cases, the specific Service Level is not defined. The proposal is required to outline and document applicable Service Level that the proposed system will meet for each requirement.

2. Support Service Objectives - to ensure reasonable, consistent, high quality delivery of Support and Maintenance Services for the STS Solution. Contractor shall apply Best Practices to provide the Maintenance and Support Services defined in this Attachment in accordance with the Service Objectives, Procedures, Service Levels and liquidated damages defined in this Attachment.

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MAINTENANCE AND SUPPORT REQUIREMENTS

- 2.1. Contractor shall diligently process, categorize and assess all changes to the STS Solution environment, validating that changes to the STS Solution are tested and controlled, and unplanned services disruptions are resolved in the shortest time possible.
 - 2.2. Contractor shall oversee and maintain the STS Solution so that all software and hardware are current and supported technology, as deemed appropriate for the State business functions.
 - 2.3. Contractor shall provide Support Services via the Call Center, E-mail Support and Web-based Support during Normal Business Hours for the Term to Designated Representatives. Contractor shall provide access to Contractor's support resources for quick resolution, feedback, troubleshooting, and support. All Contractor personnel providing the Support Services pursuant to this Attachment shall have expertise and be fully trained in issue (incident and problem) identification and resolution or escalation relating to the STS Solution. Contractor personnel shall provide access to Contractor's software engineering and technical resources for quick resolution, feedback, troubleshooting, and support. All incidents and problems shall be logged in designated on-line support management software. The reported incidents and problems shall be viewable in detail and summary format by Designated Representatives.
 - 2.4. Contractor shall provide to the State monthly Maintenance and Support reports, in a mutually agreed upon format. The report(s) shall document past performance, future scheduled maintenance activities and system changes.
3. **General Responsibilities.** The following are general Support Services for which the Contractor shall be responsible:
- 3.1. **Security.** Comply with New York State and NYSDOH security policies, regulations, and standards applicable to the STS Solution for information, information systems, and personnel, physical and logical security.
 - 3.2. **Termination Data.** Upon termination of the Agreement, Contractor will provide or make available an encrypted copy of the State's Data to the State. Upon written acknowledgement of verified receipt and decryption of the data by the State, the Contractor shall irreversibly erase all State Data from its systems.
 - 3.3. **Policies, Procedures and Standards.** The Contractor is responsible for conforming to the policies and procedures of the State as outlined in the RFP, including governance standards. Contractor employees using the State resources shall adhere to all the State policies and procedures as outlined in the RFP.
 - 3.4. **The policies and procedures shall be provided as needed by the State.** This includes but is not limited to policies and procedures for Security and Code of Conduct (e.g., Internet usage, passwords, access to the State production systems and intellectual property rights, etc.). Changes in policies will be subject to the Change Control Management process as set forth in the Agreement.
4. **Maintenance Services.** Subject to the terms and conditions of the Agreement and all Appendices and Attachments thereto, Contractor shall provide Maintenance Services for the STS Solution. Maintenance Services shall consist of the following:

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MAINTENANCE AND SUPPORT REQUIREMENTS

4.1. STS Solution Maintenance and Updates

- 4.1.1. Contractor periodically deploys releases of the STS Solution into the STS Solution technical environments as defined in the RFP.
- 4.1.2. Except in cases of emergency, Contractor shall notify the State at least thirty days prior to activating each Update. If it is determined that additional time is necessary to address any impact on the integration of STS Solution with other system components of the overall solution the Update shall be rescheduled to a later date as mutually agreed upon by the Contractor and the State. Notification shall include the following, at a minimum:
 - 4.1.2.1. Date of Update activation;
 - 4.1.2.2. Notes describing the Update content;
 - 4.1.2.3. Date, time, and duration of time required to deploy the Update; and
 - 4.1.2.4. Results of tests that document satisfactory test run of the Update in Pre-production (Staging) environment of STS Solution.
- 4.1.3. Contractor shall apply continuous efforts and resources to resolve any Defect in the STS Solution identified by the State, otherwise brought to Contractor's attention, or a Defect of which Contractor should reasonably become aware.

4.2. Maintenance Schedule

- 4.2.1. Current and Supported -- The Contractor shall assure fully-supported, current versions of all hardware and software components are used to support the system(s).
 - 4.2.2. Scheduled Maintenance – Contractor shall perform routine maintenance on a regular basis to ensure proper operation. The maintenance shall be within the Service Levels defined in this Attachment. The maintenance shall be performed between the hours of 11:00PM on Saturday and 6:00AM Sunday EST. The Contractor shall provide the State with seventy-two hours advanced notice of scheduled maintenance whenever possible.
 - 4.2.3. Emergency Maintenance – Contractor may need to perform emergency maintenance, such as when a Service Capability cannot be met by a nonperforming application with no workaround, or caused by a security patch installation or hardware replacement. The Contractor shall provide the State with notice of emergency maintenance in accordance with the Change Management as defined.
- 5. Update Management** activities include services required to appropriately manage and document changes to the application(s) and/or any of the STS Solution (Hardware, Software, Hosting etc., excluding services related to implementation) components including associated costs if outside of agreed upon scope. Update management also includes services required to appropriately manage and document changes to the underlying STS Solution hardware and software components.

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MAINTENANCE AND SUPPORT REQUIREMENTS

- 5.1. Patching - The Contractor shall install all hardware and software patches, updates, and other utilities according to vendor recommendations and Best Practices, as required to maintain system operations and security. All critical patches shall be applied within thirty (30) days of general release, or sooner if requested by the State
- 5.2. Version Control - the maintenance, tracking and auditing of modifications to an application’s components over time, facilitating the restoration of an application to prior development stages
- 5.3. Turnover Management—the promotion of software changes across different phases of the life cycle (e.g., development, unit test, systems test and production), including management of the approval process, production turnover and software migration control.
- 5.4. Platform Change – the coordinated activities with the State prior to any requested or required changes to the STS Solution and hosting platform that may affect the Service Capability performance of any of the STS environments. Any changes to the STS Solution and hosting platform must be managed consistent with the SOW and documented change management procedures defined during the STS Solution implementation.
- 5.5. All patches and updates shall be fully tested prior to implementation in the production environment. The Contractor will maintain a QA environment to be used for such testing, as well as other functions as may be required.

6. **Change Management** - Contractor shall provide change management services to manage changes to the STS Solution that alter the existing state of the STS Solution, including software, hardware, networks and facilities. Contractor shall use a standard process to communicate and implement changes, in accordance with the change management Service Levels summarized in the table below:

Contractor Change Management		Business impact	the State notification and confirmation	Example
Planned	Standard	Minor or repetitive changes considered part of the normal workflow with <i>no effect</i> on the State’s business	None.	Password reset.
	Minor	Small changes that have a documented and proven implementation process with <i>little impact</i> to the State’s business.	Contractor shall advise the State 48 hours in advance. Unconfirmed notification to the State is acceptable.	Installing patch on the application server.
	Moderate	Changes that may affect multiple applications and have a <i>broad business impact</i> .	Contractor shall advise the State five working days in advance. The State must confirm notification.	New OS or version Update. Update in network infrastructure.

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MAINTENANCE AND SUPPORT REQUIREMENTS

Contractor Change Management		Business impact	the State notification and confirmation	Example
	Major	Changes that may affect multiple applications across multiple departments, with a <i>significant impact</i> to the State business.	Contractor shall advise the State ten working days in advance. The State must confirm notification.	Replacing old information system with new.
Un-planned	Critical (After-hours)	Changes that must be performed in order to correct a faulty IT service having <i>some impact</i> on the State's business. Impact to business does not warrant immediate correction.	Contractor shall advise the State as soon as possible but no later than 24 hours after learning such a change is required. Confirmed notification is preferred.	Hung process on a server – needs to be corrected before next tape backup is scheduled.
	Emergency (Immediate)	Changes that must be performed in order to correct a faulty IT service having a <i>major impact</i> on the State's business. Impact to business requires immediate resolution.	Contractor shall advise the State immediately after the change implementation. Confirmed notification is preferred.	Application server crash.

7. Monitoring and Reporting Services - Contractor shall provide monitoring and reporting services that include the activities associated with the ongoing surveillance, tracking, escalation, resolution and reporting of application development problems. These problem management activities require coordination with the designated Level 1 and Level 2 help desk. This monitoring shall include, but is not limited to:

7.1. Monitoring the health of the application and notifying the operations team of potential issues.

7.2. Monitoring the connections between the different layers of the STS Solution.

7.3. Monitoring for critical exceptions within the application.

7.4. Monitoring the transaction and login rates for capacity and security.

7.5. Monitoring the connections between the different layers of the system and the public internet.

7.6. The Monitoring Plan shall provide a specific list of all physical devices (if dedicated hardware is used to host the Solution), hosts, ports, URLs, Web sites and other components that are required to be actively monitored.

7.7. The Monitoring Plan shall include the provisions for the detection of actions that attempt to compromise the confidentiality, integrity or availability of resources or data.

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MAINTENANCE AND SUPPORT REQUIREMENTS

7.8. The Contractor shall generate and provide to the State system usage and performance reports on a monthly and on an exception basis, including the following:

- Server up-time and down-time
- All critical outages; including issue and resolution
- All changes, patches and upgrades implemented
- System access and
- Any other issues and resolution

On a quarterly basis Contractor shall provide to the State a consolidated list of major activities being performed, their status and plans for the next reporting period.

8. Support Services. Subject to the terms and conditions of the Agreement and all Appendices and Attachments thereto, Contractor shall provide Support Services as described herein for all components of the STS Solution, including hardware and third party supplied system software chosen by Contractor. Support Services shall consist of the following:

8.1. Support Center. Standard customer care services are required to provide continued proper and effective use of the STS Solution by Users throughout the Term of this Agreement. The primary mechanism for delivering this service is the Support Center.

8.1.1. Support Center services are provided as follows:

8.1.1.1. The Contractor will provide Level One and Level Two support for the STS Solution.

8.1.1.2. Support Center staff may be contacted by STS Solution end-users for support via toll-free telephone number provided by Contractor. The Support Center must also provide for E-Mail Support and Web based Support.

8.1.1.3. Support Center staff provide assistance in the following areas:

8.1.1.3.1. Assistance related to the use of the STS Solution;

8.1.1.3.2. Advice on work-arounds for verified Defects;

8.1.1.3.3. Information on verified Defects previously identified by the State and reported to Contractor.

8.1.1.3.4. Advice on completion and authorization for submission of the Contractor Incident Report Form to report identified Incidents which may indicate a Problem in the STS Solution.

8.1.1.3.5. Contractor shall create and add appropriate documentation to the STS Solution help files or other mutually agreed upon tools to address the State issues.

8.2. Escalation Procedures. All incidents shall be reported as follows:

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MAINTENANCE AND SUPPORT REQUIREMENTS

- 8.2.1. Users record incident in the designated help desk system (e.g. E-Mail, Web-based, Phone).
- 8.2.2. Contractor records incident in the Support System with ticket number and specified severity level as determined by the Severity Level Table (see Subsection 9.2).
- 8.2.3. Designated Representatives may escalate incidents in Support System via:
 - 8.2.3.1. Support Center (Phone);
 - 8.2.3.2. E-mail Support; or
 - 8.2.3.3. Web-based Support.
- 8.2.4. Contractor personnel shall respond to Designated Representative based on the State-assigned severity level in accordance with the Severity Levels herein. Contractor personnel shall resolve incidents as expeditiously as possible, consistent with Best Practices and industry standards.

8.3. Complaints. The State shall escalate to Contractor personnel manager upon unsatisfactory results not in compliance with Severity Level or if an issue is not resolved within a reasonable time for any incident or problem.

9. Support Service Availability. Contractor shall provide support via helpdesk during Normal Business Hours, as set forth in the Contractor's SOW, with compliance to the severity levels defined in 9.2. Outside Normal Business Hours requests must be initiated through E-Mail, or Web-based support. The Initial Response time requirement begins at the next business hour following the user's report of the issue. The State, within its reasonable discretion, shall review the assigned severity level based on the above definitions and shall convey its designation to Contractor after the issue is reported. If Contractor does not agree with the State's designation of the severity level for any issue, it shall indicate the severity level Contractor attributes to the issue as soon as possible but in any event by the end of the Initial Response time for the severity level originally designated for the incident. The Parties shall work in good faith to agree upon the appropriate severity level provided that such determination shall not unreasonably delay the implementation of a solution to the issue.

9.1. Support Service Response Requirements. The Contractor shall record help desk activities and provide a monthly report. In addition the Contractor shall provide access to the system(s) that support helpdesk operations, or equivalent information, to Designated Representatives upon request.

9.2. Severity Table – Incident Resolution Times.

The scope of Incident Management includes any event that disrupts, or could disrupt, a Service Capability. This includes events that are communicated by users, as well as incidents detected and reported by technical staff or monitoring tools. Incident models can help ensure that standard approaches are followed and timescales are met - for example, for managing security incidents, or using well-defined solutions for common types of incidents.

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MAINTENANCE AND SUPPORT REQUIREMENTS

Severity Level	Title	Description	Initial Response ¹	Incident Categorization ²	Incident Resolution ³
1	Critical	Production system is halted and/or data has been corrupted. If there is no reasonable work-around available, a patch may be produced. When an acceptable workaround is provided the incident shall be downgraded to a lower priority.	05 min ⁴ 20 min ⁵	1 hour	If Workaround is available in 4 hours or less, incident closes and problem is opened to evaluate.
2	High	Incidents render a feature inoperable without a work-around. They do not cause the production system to be inoperative, but they disrupt the normal business operations.	15 min ⁴ 2 hours ⁵	2 hours	If Workaround is available in 8 hours or less incident closes and problem is opened to evaluate.
3	Medium	Incidents render a feature inoperable with acceptable work around to be used on an interim basis until incident addressed with a more effective work around and/or fix.	20 min ⁴ 4 hours ⁵	12 hours	If the incident cannot be resolved in 24 hours, it leads to a problem. The incident is closed and a problem is opened to evaluate further.
4	Low	Incidents have little impact on the business and application including questions not answered in the vendor documentation and documentation errors. Incidents may be addressed in a future release.	30 min ⁴ 8 hours ⁵	24 hours	If the incident cannot be resolved with a bug fix or patch in the next release, it leads to a problem. The incident is closed and a problem is opened to evaluate further.

¹ Initial response is time for Contractor acknowledging incident and assignment of severity level.

² Contractor shall determine and communicate the type of problem and approach to resolution with the State.

³ Contractor shall provide correction or a satisfactory interim workaround to the State.

⁴ Incident reported during Normal Business Hours.

⁵ Incident reported outside Normal Business Hours, time starts at beginning of next business hour.

9.3. Severity Table – Problem Resolution Times.

The scope of Problem Management includes diagnosing causes of Incidents, determining the resolution and ensuring that this is implemented. Problem Management uses the same tools as Incident Management, and

ATTACHMENT 2

MAINTENANCE AND SUPPORT REQUIREMENTS

similar categorization, impact and severity levels. Problem models can be used to help ensure consistent handling of similar types of Problem. Reactive Problem Management is part of Service Operation; proactive Problem Management is the activity in Continual Service Improvement that identifies Problems based on analysis of Incident data.

Severity Level	Description	Problem Resolution Time		
		Root-Cause Analysis ^{A,B}	Root-Cause Report ^C	Problem Remediation Plan ^D
1 – Critical	Production system is halted and/or data has been corrupted and a workaround is available. An emergency hotfix or patch must be produced.	24 hours	36 hours	48 hours
2 – High	Problem renders a feature inoperable and a workaround is available. Production system is operative, but there may be disruptions in normal business operations.	36 hours	48 hours	3 days
3 – Medium	Problem renders a feature inoperable and no workaround is available.	2 weeks	5 days	15 days
4 – Low	Problem has little impact on the business and application including questions not answered in the vendor documentation and documentation errors. Problem may be addressed in a future release.	4 months	5 months	6 months

^{A,B,C,D} Refers to steps of the problem resolution lifecycle in the Table below.

Problem Resolution Step	Title
A – Categorization	<ul style="list-style-type: none"> • Acknowledgement the problem has been logged • Provides reassurance that the problem is going to be dealt with • Adopt incident severity initially
B – Root Cause Analysis	<ul style="list-style-type: none"> • Incident management may have resulted in a temporary fix • Problem management works out the root cause • This is an OLA about identifying and not resolving the root cause • The outcome that is being measured by the OLA is going to be the production of a deliverable • Policy will determine what that deliverable might contain • The OLA measures the time between the formal closure of the incident and the formal delivery of the root cause analysis • Re-evaluate severity (increase or decrease)
C – Root Cause Report	<ul style="list-style-type: none"> • This OLA ensures that a formal document is delivered in a timely fashion • The document describes the timeline of events that caused the problem and actions taken to provide a workaround

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Problem Resolution Step	Title
	<ul style="list-style-type: none">It lists all of the actions and recommendations with identified owners and realistic dates in order to fix the problem
D – Remediation Plan	<ul style="list-style-type: none">The root cause analysis identifies actions that need to affect a permanent fix to the original issueAll resolutions will not be equal in complexity, effort and durationThere will be an initial estimation of a target date for live implementation of a permanent fixMoving the target completion date is allowed, however this OLA limits how often this can occur

9.4 Failure to Meet Performance Requirements

Contractor's failure to satisfy performance standards or requirements set forth herein may result in a chargeback in the amount as articulated below. The Department's determination of the amount is final and binding. The chargeback shall be paid to the Department in the form of a credit against the Contractor's invoice submitted to the Department immediately following the month in which the Contractor failed to satisfy the standard or requirement.

- 9.4.1. Failure to meet Incident or Problem Resolution Times as listed in Sections 9.2 and 9.3 respectively, shall result in a credit to the State per incident based on the following scale: Critical = \$500; High = \$400; Medium = \$300; and Low = \$200.
- 9.4.2. Failure to provide Incident or Problem Resolution for any incident or problem beyond thirty days of the listed resolution times in Sections 9.2 and 9.3 shall result in a credit to the State, based on the following scale: Critical = \$250; High = \$200; Medium = \$150; and Low = \$100 which will be imposed per incident for each month until such issue is resolved to the satisfaction of the State.
- 9.4.3. Failure to provide customer service support during the Normal Business Hours as defined in Section 1.7 shall result in a \$50 credit per hour to the State for the first eight (8) hours per month and \$100 credit per hour thereafter for every hour after that per month.
- 9.4.4. Failure to resume operation after scheduled maintenance hours as defined in Section 4.2.2 shall result in a \$100 credit per hour to the State for the first 24 hours and \$200 credit per hour, thereafter.
- 9.4.5. Failure to ensure that all contractor, state, and other stakeholder elements of the production environment are operational and available without interruption 24 hours a day, seven days a week, except for the scheduled maintenance hours defined in 4.2.2, shall result in a \$100 credit per hour to the State for the first 24 hours and \$200 credit per hour, thereafter.
- 9.4.6. Failure to maintain sufficient network bandwidth to support concurrent multiple users shall result in a \$50 credit per hour to the State for the first eight (8) hours per month and \$100 credit per hour thereafter for every hour after that per month, or any portion thereof, that response time does not meet the times designated

ATTACHMENT 2

MAINTENANCE AND SUPPORT REQUIREMENTS

- 9.4.7. Failure to implement the approved disaster recovery plan, as defined in H-6 of the Hosting Solution Requirements Attachment, by the agreed upon implementation date shall result in a \$500 credit per day credit to the State.

Attachment 3

**NEW YORK STATE
DEPARTMENT OF HEALTH**

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.

Attachment 4

**NEW YORK STATE
DEPARTMENT OF HEALTH**

Lobbying Form

PROCUREMENT TITLE: _____ RFP #**15978**

Bidder Name:
Bidder Address:

Bidder Vendor ID #:
Bidder Federal ID#:

A. 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://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

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

No Yes

If yes, please answer the next questions:

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

No Yes

1b. Was the basis for the finding of non-responsibility due to the intentional

Attachment 4

provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

(Add additional pages as necessary)

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

No Yes

2b. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding:

(Add additional pages as necessary)

B. 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)

Attachment 4

(Officer Title)

(Telephone)

(e-mail Address)

Attachment 5

MISCELLANEOUS / CONSULTANT SERVICES

STATE AGENCY (Name and Address):

Department of Health
Corning Tower
Albany, NY 12237

NYS COMPTROLLER'S NUMBER: C#XXXX

ORIGINATING AGENCY GLBU: DOH01
DEPARTMENT ID: 345XXXX

CONTRACTOR (Name and Address):

TYPE OF PROGRAM(S):

CHARITIES REGISTRATION NUMBER:

CONTRACT TERM

FROM:
TO:

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

FUNDING AMOUNT FOR CONTRACT
TERM:

FEDERAL TAX IDENTIFICATION NUMBER:

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
N Y STATE BUSINESS ENTERPRISE

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

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT

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

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

Contract No.: C#XXXX

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: _____

GLBU: DOH01
APPENDIX X

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), 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: _____

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). 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 State of

any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the 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: mwbecertification@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.

STATE OF NEW YORK
AGREEMENT

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

WITNESSETH:

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

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

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

I. Conditions of Agreement

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

II. Payment and Reporting

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

1. Preferred Method: Email a .pdf copy of your signed voucher to the BSC at: DOHaccounts payable@ogs.ny.gov with a subject field as follows:
Subject: <<Unit ID: 345XXXX>> <<Contract #XXXX>>

(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 345<<xxxx>>
PO Box 2093
Albany, NY 12220-0093**

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

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at 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.state.ny.us/vendors/vendorguide/guide.htm>.

III. Term of Contract

- A. Upon approval of the Office of the State Comptroller, this AGREEMENT shall be effective for the term as specified on the cover page.
- B. This Agreement may be terminated by mutual written agreement of the contracting parties.
- C. This Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including the attachments hereto, provided that the Department shall give the contractor written notice via registered or certified mail, return receipt requested, or shall deliver same by hand-receiving Contractor's receipt therefor, such written notice to specify the Contractor's failure and the termination of this Agreement. Termination shall be effective ten (10) business days from receipt of such notice, established by the receipt returned to the Department. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.
- D. This Agreement may be deemed terminated immediately at the option of the Department upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligations by the Department to the Contractor.
- E. This agreement may be canceled at any time by the Department of Health giving to the

contractor not less than thirty (30) days written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

IV. Proof of Coverage

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

- A. Workers' Compensation, for which one of the following is incorporated into this contract as Appendix E-1:
 - 1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - 2. C-105.2 – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR
 - 3. SI-12 – Certificate of Workers' Compensation Self-Insurance, OR GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance.

- B. Disability Benefits coverage, for which one of the following is incorporated into this contract as Appendix E-2:
 - 1. CE-200, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - 2. DB-120.1 – Certificate of Disability Benefits Insurance OR
 - 3. DB-155 – Certificate of Disability Benefits Self-Insurance

V. Indemnification

- A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.

- B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claims, demand or application to or for any right based upon any different status.

APPENDIX D
GENERAL SPECIFICATIONS

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

- c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

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

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

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

SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.

3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.

N. Date/Time Warranty

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

"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 or 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.

Appendix H

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.
 - 1. Except as provided in paragraph (c)(2) below, upon termination of this AGREEMENT, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Program, or created or received by Business Associate on behalf of Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - 2. In the event that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of Business Associate and Covered Program that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this AGREEMENT to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

V. Violations

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

VI. Miscellaneous

- A. Regulatory References. A reference in this AGREEMENT to a section in the Code of Federal Regulations means the section as in effect or as amended, and for which compliance is required.

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

Appendix G

NOTICES

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

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

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

State of New York Department of Health

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

[Insert Contractor Name]

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

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

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

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 procurement, the New York State Department of Health hereby establishes an overall goal of 0% for Minority and Women-Owned Business Enterprises (“MWBE”) participation, 0% for Minority-Owned Business Enterprises (“MBE”) participation and 0% 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.

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

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

M/WBE Form#1: N/A

M/WBE Form#2: N/A

M/WBE Form#3: N/A

M/WBE Form#4: M/WBE Staffing Plan

M/WBE Form#5: Equal Employment Policy Statement -
Sample

M/WBE Form#6: N/A

New York State Department of Health

BIDDER/CONTRACTOR M/WBE UTILIZATION PLAN

Bidder/Contractor Name:	
Vendor ID:	Telephone No.
RFP/Contract Title:	RFP/Contract No.

Description of Plan to Meet M/WBE Goals

--

PROJECTED M/WBE USAGE

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

Form: Page 1 of 3

“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.”

**New York State Department of Health
 BIDDER/CONTRACTOR PROPOSED 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 () -		\$ _____

**New York State Department of Health
 BIDDER/CONTRACTOR PROPOSED 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 () -		\$ _____

New York State Department of Health

M/WBE UTILIZATION WAIVER REQUEST

Bidder/Contractor Name:	
Vendor ID:	Telephone No.
RFP/Contract Title:	RFP/Contract No.

Explanation why Bidder/Contractor is unable to meet M/WBE goals for this project:

Include attachments below to evidence good faith efforts:

- Attachment A. List of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.
- Attachment B. List of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
- Attachment C. Descriptions of the contract documents/plans/specifications made available to certified MWBEs by the contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.
- Attachment D. Description of the negotiations between the contractor and certified MWBEs for the purposes of complying with the MWBE goals of this contract.
- Attachment E. Identify dates of any pre-bid, pre-award or other meetings attended by contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the contract.
- Attachment F. Other information deemed relevant to the request.

Section 4: Signature and Contact Information

By signing and submitting this form, the contractor certifies that a good faith effort has been made to promote MWBE participation pursuant to the MWBE requirements set forth under the contract. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, and a suspension or termination of the contract.

Submitted by : _____ Title: _____

Signature

- M/WBE Form #4 -

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

For project staff, consultants and/or subcontractors working on this project please complete the following plan. This has no bearing on meeting MWBE goals, or the submitted Utilization Plan - Form#1.

Contractor

Name _____

Address _____

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

(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:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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

Signature & Date

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex 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

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.

Vendor Responsibility Attestation

To comply with the Vendor Responsibility Requirements outlined in Section XV, Administrative Requirements, J. 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 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 9 FEE SCHEDULES

Fee Schedule A

Fee Schedule A compiles the costs for all Contractor activities.

Fee Schedule A-1: Fixed Initial Setup Fee

In Fee Schedule A-1, the Vendor must specify a fixed price to provide initial setup services for the Seed-to-Sale Software-as-a-Service (SaaS). This will include Requirements Analysis, Solution Design, Configuration, Integration with other Systems, Testing, Training, Go-Live and Post-Go-Live Support services as outlined in Section XIII Deliverables.

Fee Schedule A-2: SaaS Subscription Fee

In Fee Schedule A-2, the Vendor must specify a monthly subscription fee for the SaaS based on number of users. The monthly subscription fee must be specified and remain fixed for months five (5) through thirty six (36). At the end of month 36, contract prices will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U). See RFP Section XV. E. 3. Contract Pricing Increase and RFP Section XV. E. 4. Contract Extension Pricing

Fee Schedule A-3: System Change Management Project Staff Fee

In Fee Schedule A-3, the Vendor must specify the blended hourly rate. This blended rate should, at a minimum, include: a Project Lead, Subject Matter Expert, Business Analyst, Configuration Specialist which includes system integration, and a Tester. The hourly rate is a fully loaded rate and includes but is not limited to all personnel, overhead, indirect, travel, profit, equipment usage, and other miscellaneous costs. The proposed rate will remain fixed for month five (5) through thirty six (36). At the end of month 36, contract prices will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U). See RFP Section XV. E. 3. Contract Pricing Increase and RFP Section XV. E. 4. Contract Extension Pricing. The State not make any guarantees regarding the use of System Change Project hours over the term of the contract. The anticipated numbers/quantities provided do not represent a commitment or guarantee to utilize a specific quantity of hours or level of services.

Fee Schedule A-4: Onboarding and/or Off-Boarding Registered Organization (RO) Fee

In Fee Schedule A-4, the Vendor must specify the cost to onboard an additional RO, including the four dispensing facilities associated with the RO, that needs to be brought on after the initial launch of the program. This price will also be used to off-board any registered organizations or registered organization facilities that cease operation. The State does not make any guarantees regarding the quantity of off-boarding or onboarding of ROs over the term of the contract. The proposed fee must be specified and remain fixed for months five (5) through thirty six (36). At the end of month thirty six (36), contract prices will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U). See RFP Section XV. E. 3. Contract Pricing Increase and RFP Section XV. E. 4. Contract Extension Pricing.

Fee Schedule A-5: Fixed Transition Fee

In Fee Schedule A-5, the Vendor must specify the fixed price to provide the transition services for the Seed-to-Sale SaaS as outlined in their Technical Proposal. This blended rate price must, at a minimum, include access to the system for appropriate staff and data exporting capabilities. This price will remain the same for the first 36 months of the contract. At the end of month 36, contract prices will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U). See RFP Section XV. E. 3. Contract Pricing Increase and RFP Section XV. E. 4. Contract Extension Pricing.

Fee Schedule A

A-1 Fixed Initial Setup Fee

Fixed Initial Set-Up Fee	
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A-2: SaaS Subscription Fee

User Volume Band (1)	Number of months *	Monthly Subscription Fee
#Users: 1-100	32	
#Users: 101-250	32	
#Users: 251-500	32	
#Users: 501 and over	32	

(1) The State estimates the user band to fall within 101 and 250 users.

* Based on an estimated SaaS start date of four (4) months after the Contract start date, Contract Year 1 will only be for 8 months.

A-3: System Change Management Project Staffing Fee

	Month 5 - 36
Average Hourly Rate (1)(2)	
Estimated Hours (3)	1550
Total Cost (4)	

(1) This blended rate should, at a minimum, include: a Project Lead, Subject Matter Expert, Business Analyst, Configuration (including Integration) Specialist, and a Tester.

(2) The blended rate applies to the first 36 months. The blended rate for months 37-60 will be determined by applying CPI - See RFP Section XV. E. 3. Contract Pricing Increase.

(3) This is an estimated number of hours over the first 36 months of this contract. The State does not make any guarantees regarding the use of System Change Project hours over the term of the contract. An estimate of hours is shown in the table below.

(4) The Average Hourly Rate, multiplied by the Estimated Hours of 1550, equals Total Cost

Estimated Hours	
Months	Hours
0-12	100
13-24	1000
25-36	450
37-48	1000
49-60	450

A-4: Onboarding and/or Off-Boarding Registered Organization Fee

	Month 5 through 36
Per Registered Organization Fee	

A-5: Fixed Transition Fee

Fixed Transition Fee	
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